



**FARRAGUT BOARD OF MAYOR AND ALDERMEN
MINUTES
April 13, 2017**

**BUDGET WORKSHOP
Capital Investment Program & Equipment Fund
5:30 PM**

**BEER BOARD MEETING
6:55 PM**

**BMA MEETING
7:00 PM**

- I. Silent Prayer, Pledge of Allegiance, Roll Call**
- II. Approval of Agenda**
- III. Mayor's Report**
- IV. Citizens Forum**
- V. Approval of Minutes**
 - A. March 23, 2017
- VI. Business Items**
 - A. Approval of Re-Appointment to the Museum Advisory Committee
 - B. Approval of a Contract for Removal and Abatement of materials at 11409 Kingston Pike
 - C. Approval of Bids for Contract 2017-05, Resurfacing Contract
 - D. Approval of Agreement with TDOT for development of CMAQ Traffic Signal Improvement project
- VII. Ordinances**
 - A. Public Hearing and Second Reading
 - 1. Ordinance 17-02, an ordinance to amend the Farragut Municipal Code, Title 14, Land Use Controls, Chapter 6., Farragut Architectural Design Standards, Standard 2.17, to provide for new requirements associated with building materials

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B. First Reading

1. Ordinance 17-03, Ordinance to amend the text of the Farragut Zoning Ordinance by amending Chapter 3., Specific District Regulations, Section XXVI., Planned Commercial Development District (PCD)., to provide for new requirements
2. Ordinance 17-04, Ordinance to amend the text of the Farragut Zoning Ordinance by amending Chapter 3., Section XI., Multi-Family Residential District (R-6), Subsection G., by providing new requirements related to Building Facades, as authorized pursuant to Section 13-4-201, Tennessee Code Annotated.
3. Ordinance 17-05, Ordinance to amend text of the Farragut Zoning Ordinance by amending Chapter 3., Section XXVIII., Open Space Multi-Family Residential Overlay District (OSMRF), Subsection H., by providing for new requirements related to Building Facades, as authorized pursuant to Section 13-4-201, Tennessee Code Annotated.
4. Ordinance 17-06, Ordinance to amend text of the Farragut Zoning Ordinance by amending Chapter 4., General Provisions and Exceptions, Section XXIV., Special Events Permit, Subsection A., 1., E., by providing for new requirements related to sales from trucks, as authorized pursuant to Section 13-4-201, Tennessee Code Annotated.
5. Ordinance 17-08, Ordinance to amend the text of the Farragut Zoning Ordinance by amending Chapter 4., General Provisions and Exceptions, Section III., Antennas and Towers, to provide for new requirements.

VIII. Town Administrator's Report

IX. Town Attorney's Report

Mayor McGill called the meeting to order at 7:00 PM. Members present were Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams.

Approval of Agenda

Motion was made to approve the agenda with the deletion of item VI.A. Moved by Alderman Povlin, seconded by Alderman Pinchok; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Mayor's Report

The Farragut Food and Wine Festival is May 5.

Approval of Minutes

Motion was made to approve the minutes of March 23, 2017 as presented. Moved by Alderman Povlin, seconded by Alderman Williams; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Business Items

Approval of a Contract for Removal and Abatement of materials at 11409 Kingston Pike

Motion was made to approve the contract with E. Luke Green in the amount of \$39,500. Moved by Alderman Povlin, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Approval of Bids for Contract 2017-05, Resurfacing Contract

Motion was made to award Contract 2017-05 to APAC-Atlantic, Inc. in the amount of \$454,574.70. Moved by Alderman Markli, seconded by Alderman Pinchok; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Approval of Agreement with TDOT for development of CMAQ Traffic Signal Improvement project

Motion was made to approve the contract with TDOT for development of CMAQ Traffic Signal Improvement project. This is 100% funded by the state. Moved by Alderman Povlin, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Ordinances

Public Hearing and Second Reading

Ordinance 17-02, an ordinance to amend the Farragut Municipal Code, Title 14, Land Use Controls, Chapter 6., Farragut Architectural Design Standards, Standard 2.17, to provide for new requirements associated with building materials

Motion was made to approve Ordinance 17-02 on first reading. Moved by Alderman Pinchok, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

First Reading

Ordinance 17-03, Ordinance to amend the text of the Farragut Zoning Ordinance by amending Chapter 3., Specific District Regulations, Section XXVI., Planned Commercial Development District (PCD)., to provide for new requirements

Motion was made to approve Ordinance 17-03 on first reading. Moved by Alderman Povlin, seconded by Alderman Markli. After some discussion Alderman Povlin amended the original motion to add a flexibility component to the guidelines as well as the requirement to consult with a land designer/planner. Moved by Alderman Povlin, seconded by Alderman

Markli; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Ordinance 17-04, Ordinance to amend the text of the Farragut Zoning Ordinance by amending Chapter 3., Section XI., Multi-Family Residential District (R-6), Subsection G., by providing new requirements related to Building Facades, as authorized pursuant to Section 13-4-201, Tennessee Code Annotated.

Motion was made to approve Ordinance 17-04 on first reading. Moved by Alderman Povlin, seconded by Alderman Pinchok; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Ordinance 17-05, Ordinance to amend text of the Farragut Zoning Ordinance by amending Chapter 3., Section XXVIII., Open Space Multi-Family Residential Overlay District (OSMRF), Subsection H., by providing for new requirements related to Building Facades, as authorized pursuant to Section 13-4-201, Tennessee Code Annotated.

Motion was made to approve Ordinance 17-05 on first reading. Moved by Alderman Povlin, seconded by Alderman Williams; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Ordinance 17-06, Ordinance to amend text of the Farragut Zoning Ordinance by amending Chapter 4., General Provisions and Exceptions, Section XXIV., Special Events Permit, Subsection A., 1., E., by providing for new requirements related to sales from trucks, as authorized pursuant to Section 13-4-201, Tennessee Code Annotated.

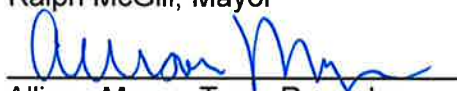
Motion was made to approve Ordinance 17-06 with the language "and shall be subject to a fee, as provided for in the adopted Town of Farragut Fee Schedule" on first reading. Moved by Alderman Povlin, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Ordinance 17-08, Ordinance to amend the text of the Farragut Zoning Ordinance by amending Chapter 4., General Provisions and Exceptions, Section III., Antennas and Towers, to provide for new requirements.

Motion was made to approve Ordinance 17-08 on first reading. Moved by Alderman Povlin, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Meeting adjourned at 9:05 PM.


Ralph McGill, Mayor


Allison Myers, Town Recorder



**FARRAGUT BOARD OF MAYOR AND ALDERMEN
AGENDA
April 13, 2017**

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Capital Investment Program & Equipment Fund
5:30 PM

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6:55 PM

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VIII. Town Administrator's Report

IX. Town Attorney's Report



FARRAGUT BEER BOARD

April 13, 2017

6:55 PM

I. Approval of Minutes

A. March 9, 2017

II. Beer Permit Request

A. Approval of a Class 6, Special Occasion Beer Permit for the Remote Area Medical's Cinco Festival

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FARRAGUT BEER BOARD

March 9, 2017

6:55 PM

Alderman Pinchok, Chairman, called the beer board meeting to order at 6:55 PM. Members present were Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams.

Approval of Minutes

Motion was made to approve the minutes of September 22, 2016 as presented. Moved by Alderman Povlin, seconded by Alderman Williams; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams.

Beer Permit Request

Approval of a Class 6, Special Occasion Beer Permit for the Farragut Food and Wine Festival

Motion was made to approve the Special Occasion Beer Permit for the Farragut Food and Wine Festival. Moved by Alderman Povlin, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams.

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REPORT TO THE BEER BOARD

PREPARED BY: Allison Myers, Town Recorder

SUBJECT: Consider Approval of a special occasion beer permit for Special Occasion Beer Permit for the Remote Area Medical Cinco Festival, April 28, 2017.

DISCUSSION:

The Remote Area Medical is planning a Cinco Festival and is requesting a special event beer permit. The Town's Municipal Code governing special occasion beer permits is below.

Sec. 8-212. - Special occasion beer permit.

The special occasion beer permit request shall be made on such form as the board shall prescribe and/or furnish and shall be accompanied by a non-refundable application fee of one hundred dollars (\$100.00).

- (1) The beer board is authorized to issue a special occasion beer permit to bona fide charitable or nonprofit organizations for special events.
- (2) The special occasion beer permit shall not be issued for longer than one (1) forty-eight-hour period, unless otherwise specified by the beer board, subject to the limitations on the hours, imposed by law.
- (3) The application for the special occasion beer permit shall state whether the applicant is a charitable or nonprofit organization, include documents showing evidence of the type of organization, and state the location of the premise upon which alcoholic beverages shall be served and the purpose for the request of the license.
- (4) For purposes of this section:

Bona fide charitable or nonprofit organization means any corporation or other legal entity which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code.
- (5) No charitable or nonprofit organization possessing a special occasion beer permit shall purchase, for sale or distribution, beer from any source other than a licensee as provided pursuant to state law.
- (6) Failure of the special occasion permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the Town of Farragut will result in a denial of a special occasion beer permit for the sale of beer for a period of two (2) years.

The Remote Area Medical is a nonprofit organization and is requesting the permit for April 28, 2017.

RECOMMENDATION BY:

Allison Myers, Town Recorder, for approval.

PROPOSED MOTION:

Motion to approve the special occasion beer permit for the Remote Area Medical Cinco Festival, April 28, 2017.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

paid \$100.00
3/6/17

Rec 21344

APPLICATION FOR BEER PERMIT

STATE OF TENNESSEE

TOWN OF FARRAGUT

I hereby make application for a permit to sell, store, manufacture, or distribute Beer under the provisions of Tennessee Code Annotated Section 57-5-101 et seq. and base my application upon the answers to the following questions:

- Reason for application: New Business ____ New Ownership ____ Name Change ____ Other X
- Type of permit requested, please circle all that apply:

Class 1 On-Premise

Class 2 On-Premise, Other

Class 3 On-Premise, Hotel/Motel

Class 4 On-Premise, Tavern

Class 5 Off-Premise

Class 6, Special Occasion

- Name of Applicant(s) (Owner(s) of Business) REMOTE AREA MEDICAL

- Type of applicant (check one):

Person ____ Firm ____ Corporation ____ Joint-Stock Company ____ Syndicate ____ Other X SOLIC-3

- List all persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a 5% ownership interest in the business:

- Applicant's present home address: 149 COUNTY ROAD 657 ATHENS TN 37033
2200 STOCK CREEK BLVD ROCKFORD TN 37853

- Date of Birth 9/12/1952 Home Telephone Number 423-506-6868
Business Telephone Number 865-579-1530 Social Security Number 11-42-7631

- Representative Email Address: jessecastman@bamusa.org

- Under what name will the business operate? REMOTE AREA MEDICAL

- Business address 2200 STOCK CREEK BLVD ROCKFORD TN
Business Telephone number 865-579-1530

11. Specify the identity, email and physical address of the person to receive annual privilege tax notices and any other communication from the Town:
Remote Area Medical c/o Jeff Eastman 2200 Stock Creek Blvd,
Rockford TN 37853 JEFF.EASTMAN@RAMUSA.org
12. Information of any manager, other than the applicant:
Name: _____ Birth Date: _____
Address: _____
Phone Number: _____
13. Has any person having at least a 5% ownership interest, any of the managers, or any other employee of the business, been convicted of any violation of the beer or alcoholic beverage laws or any crime within the last ten (10) years: ___ Yes ☒ No. If yes, give particulars of each charge, court, and date convicted.

14. Have you or your organization ever had a Beer Permit revoked, suspended, or denied in the State of Tennessee? NO If so, specify, where, when, and why:

15. Name and address of property owner, if other than the business owner:
Garden Mountain 11501 Parkside Dr Knoxville TN
16. What is the name and address of the Church (or other place of worship) nearest to your business?
Hatten Day Saints 11320 Station W Dr #101 Knoxville TN
17. What is the name and address of the school nearest to your business?
Farragut Middle School 200 Westwood Ave Knoxville TN
18. Special Occasion Event Name: CINCO FESTIVAL
Location of the special occasion event: 11501 Parkside Dr Knoxville TN
Event Date & Times: April 28 2017 6-9 PM
Representative name & phone number: JEFF EASTMAN 423-506-6868
Have you received a special event permit to hold the event in the Town of Farragut? Applied For
19. Tennessee Sales Tax Number: _____
20. Town of Farragut Business License Number _____



FARRAGUT BOARD OF MAYOR AND ALDERMEN MINUTES

March 23, 2017

BUDGET WORKSHOP
Capital Investment Program
5:30 PM

BMA MEETING
7:00 PM

- I. Silent Prayer, Pledge of Allegiance, Roll Call**
- II. Approval of Agenda**
- III. Mayor's Report**
- IV. Citizens Forum**
- V. Approval of Minutes**
 - A. March 9, 2017
- VI. Business Items**
 - A. Approval of Re-Appointment to the Economic Development Committee
 - B. Approval of Professional Services Agreement between the Town of Farragut and Brewer Ingram Fuller for the Stabilization Phase of the Campbell Station Inn Renovation
- VII. Ordinances**
 - A. Public Hearing and Second Reading
 - 1. Ordinance 16-28, Ordinance to amend the Farragut Municipal Code Title 14, Chapter 6., Farragut Architectural Design Standards to provide for Appendix A, being an Adopted Color Palette.
 - B. First Reading
 - 1. Ordinance 17-02, an ordinance to amend the Farragut Municipal Code, Title 14, Land Use Controls, Chapter 6., Farragut Architectural Design Standards, Standard 2.17, to provide for new requirements associated with building materials

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- VIII. Town Administrator's Report**
- IX. Town Attorney's Report**

Mayor McGill called the meeting to order at 7:00 PM. Members present were Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams.

Approval of Agenda

Motion was made to approve the agenda as presented. Moved by Alderman Povlin, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Mayor's Report

Mayor McGill reported that he and other members of the Board attend the Tennessee Municipal League conference in Nashville.

Approval of Minutes

Motion was made to approve the minutes of March 9, 2017 as presented. Moved by Alderman Pinchok, seconded by Alderman Williams; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Business Items

Approval of Re-Appointment to the Economic Development Committee

Motion was made to reappoint Knick Myers to the Economic Development Committee. Moved by Alderman Markli, seconded by Alderman Williams; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Approval of Professional Services Agreement between the Town of Farragut and Brewer Ingram Fuller for the Stabilization Phase of the Campbell Station Inn Renovation

Motion was made to approve the agreement with Brewer Ingram Fuller for the Stabilization Phase of the Campbell Station Inn Renovation, in the amount, not to exceed \$90,000. Moved by Alderman Povlin, seconded by Alderman Pinchok; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Ordinances

Public Hearing and Second Reading

Ordinance 16-28, Ordinance to amend the Farragut Municipal Code Title 14, Chapter 6., Farragut Architectural Design Standards to provide for Appendix A, being an Adopted Color Palette.

Motion was made to approve Ordinance 16-28 on second and final reading. Moved by Alderman Povlin, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

First Reading

Ordinance 17-02, an ordinance to amend the Farragut Municipal Code, Title 14, Land Use Controls, Chapter 6., Farragut Architectural Design Standards, Standard 2.17, to provide for new requirements associated with building materials.

Motion was made to approve Ordinance 17-02 on first reading. Moved by Alderman Povlin, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Markli, Pinchok, Povlin and Williams; no nays; motion passed.

Meeting adjourned at 7:35 PM.

Ralph McGill, Mayor

Allison Myers, Town Recorder

AGENDA NUMBER V1.A.

MEETING DATE April 13, 2017

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Allison Myers, Town Recorder

SUBJECT: Approval of Re-Appointment to the Farragut Museum Committee

INTRODUCTION: The purpose of this business item is to consider the re-appointment to the Farragut Museum Committee. The Charter states that "The term of any member shall expire on the third absence from committee meetings during the fiscal year. Members may seek reappointment by the Board of Mayor and Aldermen."

DISCUSSION: Libbie Haynes is seeking re-appointment due to missing three meetings. Her letter is attached.

RECOMMENDATION BY: Allison Myers, Town Recorder/Treasurer, for approval.

PROPOSED MOTION: To re-appoint Libbie Haynes to the Farragut Museum Committee.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>MARKLI</u>	<u>PINCHOK</u>	<u>POVLIN</u>	<u>WILLIAMS</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

March 23, 2017

To Whom It May Concern,

I have missed three Museum Committee Meetings due to prolonged illness and I would like to formally request to be re-appointed to the committee. I expect to be able to attend regularly in the future.

Sincerely,

Libbie Haynes

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: G. Palmer, Assistant Town Manager

SUBJECT: Consideration of an agreement between the Town of Farragut and E. Luke Greene for the removal and abatement of materials at the Campbell Station Inn

ATTACHMENTS: Agreement for Professional Services between the Town of Farragut and E. Luke Greene Inc. w/ Attachments

INTRODUCTION: Approval of this agreement will initiate a project to abate the asbestos and lead based paint found during a survey of the Campbell Station Inn and Dairy Barn building. This abatement must occur prior to our renovation project commencement.

DISCUSSION: The Town recently approved phase II of our contract with Brewer Ingram Fuller to initiate specific renovations of the Campbell Station Inn and demolition of the Dairy Barn building. In accordance with the many laws governing this activity, the Town must survey for and abate any hazardous materials found within the structures. Asbestos Containing Material (ACM) and Lead Based Paint (LBP) were found in both buildings. Thus, the Town must properly deal with these materials before commencing any additional work.

The Town solicited proposals from qualified firms and determined **E. Luke Greene to be the lowest qualified respondent for this project for the amount of \$39,500.00**

FINANCIAL SECTION:

Account Number: 310-46230 Campbell Station Inn

<u>Total Budget</u>	<u>Contracted Amount</u>	<u>Expenditures to Date</u>	<u>Remaining Amount</u>
\$1,350,000	\$39,500	\$49,000	\$1,261,500

Approved By: 

RECOMMENDATION BY: G. Palmer, Assistant Town Manager with review and recommendation for approval of the agreement in its proposed form by T. Hale, Town Attorney.

PROPOSED MOTION: Approve the Professional Services Agreement between the Town and E. Luke Greene for the removal and abatement of materials at the Campbell Station Inn and Dairy Barn building for a lump sum cost of \$39,500.00.

BOARD ACTION:

MOTION BY: _____ SECONDED BY: _____

<u>VOTE/TOTAL</u>	<u>MCGILL</u>	<u>WILLIAMS</u>	<u>POVLIN</u>	<u>MARKLI</u>	<u>PINCHOK</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

TOWN OF FARRAGUT

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made by and between Town of Farragut a Tennessee municipal corporation ("Client"), and E. Luke Greene a Tennessee for-profit corporation ("Contractor"), for hazardous materials abatement services on the Town-owned structures located at the NW corner of Campbell Station Road and Kingston Pike (Vacant Dog Day Care: 101. N Campbell Station Road and Campbell Station Inn: 11409 Kingston Pike) in the Town of Farragut.

WHEREAS, the Town desires to restore the principal residential structure commonly known as the Campbell Station Inn to its period condition and raze the accessory building located on the same property (vacant dog day care); and

WHEREAS, hazardous materials (HAZMAT) have been found within the Campbell Station Inn and accessory structure; and

WHEREAS, the HAZMAT must be abated in accordance with the law; and

WHEREAS, such abatement must occur prior to any renovation.

NOW, THEREFORE, for and in consideration of the promises contained in this AGREEMENT, the parties agree as follows:

1. **Professional HAZMAT Abatement Services.** Upon request of Client, Contractor agrees to perform specific professional HAZMAT abatement services as agreed upon in Attachment A Scope of Work.
2. **Compensation.** Contractor agrees to provide the services necessary to complete the work listed in Attachment A Scope of Work for the lump sum amount of thirty-nine thousand five-hundred dollars (\$39,500.00).
3. **Schedule.** Upon written notice to proceed by the Client, the Contractor will immediately commence work. Excluding any issues outside of the control of the Contractor, the work listed in Attachment A Scope of Work should be completed on or around May 14, 2017.

4. **Contract Administration/Communication/Work Authorization/Notice**

Contract Manager; Client. Client shall assign the Assistant Town Manager as the contract manager. When possible, communication and notice related to the terms of this agreement, from the Contractor to the Client, shall be directed through the contract manager by digital transmission or mailed to:

Assistant Town Manager
Town of Farragut
11408 Municipal Center Dr.
Farragut, Tennessee 37934

Approved Email Addresses for all digital transmissions:

gpalmer@townoffarragut.org (Asst. Town Manager)

with copy to:

jhatmaker@townoffarragut.org (Ex. Assistant to the Town Manager)

Contract Manager; Contractor. Contractor shall assign _____ as the contract manager. When possible, communication and notice related to the terms of this agreement, from the Client to Contractor, shall be directed through the contract manager by digital transmission or mailed to:

E. Luke Greene
10909 McBride Lane
Knoxville TN 37932

Approved email addresses for all digital transmissions:

With copy to:

Work Authorization. Only the following positions within the Town organization may authorize work under this agreement: Town Attorney, Town Administrator, Assistant Town Administrator, Town Engineer, Community Development Dir., Building Official.

5. **Invoicing and Payments.** Typically utilized invoices or payment requests shall be submitted to Client, by digital transmission when possible, no more than monthly and shall include such information, documentation or data as Client may require.

- a. Upon request by Client, Contractor shall provide information including, but not limited to, the amount and breakdown of the payment requested, the period covered by the request, and the work performed during the period covered by the payment request. After review, Client will indicate approval of the payment request, or shall explain to Contractor, in writing, reasons for not approving any

portion or all of the request, and authorize payment of the amount approved. In the event Client does not approve any portion of a payment request, and has communicated the reasons to Contractor, Contractor will then take the necessary action to satisfy the reasons for non-approval and resubmit the payment request. Client shall endeavor to remit payment of payment requests or portions thereof which are approved by Client within thirty (30) days of receipt by Client. From time to time approval of a payment request may require action by the Board of Mayor and Aldermen which meets on the second and fourth Thursday of most months.

6. **Time.** Time for performance may be extended as necessary for delays or suspensions due to circumstances beyond Contractor's control. Any time extension must be mutually agreed upon in writing by both parties' authorized representatives and attached as an addendum to this contract.

7. **Standard of Care.** Notwithstanding any other provision of this Agreement or any other document describing the services produced by Client, Contractor shall perform its services in accordance with the standard of professional care ordinarily exercised under similar circumstances by reputable members of its profession in the same locality at the time the services are provided. Beyond the foregoing and unless otherwise provided herein or in other documents produced, generated or provided by Contractor, no warranty, expressed or implied, is made or intended by Contractor. The parties further agree that Contractor is not a fiduciary of Client.

8. **Termination.** The obligation to provide further services under this Agreement may be terminated with or without cause by either party upon three (3) day's written notice to the other party. On termination by either Client or Contractor, Client shall pay Contractor all amounts due for any services performed to the date of termination (plus all reimbursable expenses incurred) as Contractor's sole and exclusive remedy, subject to any setoffs to which the Client is entitled as a result of Contractor's failure to perform as required by this Agreement.

9. **Reuse of Documents.** All documents, including drawings, specifications, and reports, prepared by Contractor pursuant to this Agreement are instruments of professional service and shall become the property of the Client. They are not intended or represented to be suitable for reuse by Client or others for additions or modifications of the Project or on any other project. Any reuse without written consent, verification or adaption by Contractor for the specific purposes intended shall be at Client's sole risk and without liability or legal exposure to Contractor. Any such verification and adaption will entitle Contractor to further compensation at rates to be agreed upon by Client and Contractor.

10. **Access to the Site/Jobsite Safety.** Contractor will have reasonable access to the site for activities necessary for the performance of its services.

11. **Insurance.** Upon execution of this agreement, Contractor shall deliver to Client a certificate of insurance evidencing general liability coverage with a limit of not less than \$1,000,000 each occurrence for bodily injury, personal injury and property damage. If such insurance contains a general aggregate limit, it shall apply separately to the work/location of any site authorized for work under this Agreement or be no less than \$2,000,000. In addition, Contractor shall endeavor to secure and maintain insurance in such amounts as it deems necessary to protect itself from claims of professional negligence arising from the performance of services under this Agreement. Such insurance shall:

a. Except for Professional Liability/Errors and Omissions, contain or be endorsed to contain a provision that includes Client, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work performed by or on behalf of the Contractor. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds.

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

12. **Risk Allocation.** In recognition of the relative risks, rewards, and benefits of the Project to both Client and Contractor, to the fullest extent permitted by law, the parties agree to allocate the risks such that Contractor's total liability to Client for any and all injuries, claims, losses, expenses, damages, and/or claim expenses arising out of Contractor's services under this Agreement from any cause or causes shall not exceed the amount of Contractor's fee, or One Hundred Thousand Dollars (\$100,000), or the amount of insurance coverage Contractor has, or is required to have, covering the risk or claim that is the basis for the injury, claim, loss, expense or damages, recovery for which is sought, whichever is greater. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

13. **Dispute Resolution.** It is agreed that all claims, disputes, or other matters in question arising out of or related to this Agreement shall be submitted to nonbinding mediation before any legal proceedings are commenced. The parties shall equally bear the fees and expenses charged by the mediator.

14. **Indemnification.**

a. The Contractor shall defend, indemnify and hold harmless the Client, its officers, employees and agents from any and all liabilities which may arise or be claimed against the Client, its officers, employees and agents or any third party for any and all lawsuits, claims, demands, losses or damages alleged to the extent have arisen from an act or omission of the Contractors, its employers, agents or contractors in performance of this Agreement or from the Contractor's failure to perform this Agreement using ordinary care and skill, except where such injury, damage, or loss was caused by the sole negligence of the Client, its agents or employees.

b. The Contractor shall save, indemnify and hold the Client harmless from the cost of the defense of any claim, demand, suit or cause of action made or brought against the Client 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 Client to the extent of the contractor's negligence; and the Contractor shall assume and take over the defense of the Client in any such claim, demand, suit, or cause of action upon written notice and demand for same by the Client. The Contractor will have the right to defend the Client with notice and demand for same by the Client. The Contractor will have the right to defend the Client with counsel of its choice that is satisfactory to the Client and the Client will provide reasonable cooperation in the defense as the Contractor may request. The Contractor 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 Client, such consent not to be unreasonably withheld or delayed. The Client shall have the right to participate in the defense against the indemnified claims with counsel of its choice at its own expense.

Client and Contractor waive indirect, or consequential damages, loss of revenues or profits from claims, disputes or other matters in question arising out of or relating to this Agreement or any Work Order, whether such claims arise from negligence, breach of contract, or strict liability. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination. This disclaimer and exclusion shall apply even if the express warranty set forth herein fails in its essential purpose.

c. The Contractor shall save, indemnify and hold Client harmless and pay judgments that shall be rendered in any such actions, suits, claims or demands against Client alleging liability referenced above.

d. The indemnification and hold harmless provisions of this Agreement shall survive termination of the Agreement.

15. **Miscellaneous.**

a. The Contractor will not assign or transfer any interest in this Agreement without obtaining the prior written approval of the Client.

b. The Contractor will not enter into a subcontract for any of the services performed under this Agreement without obtaining the prior written approval of the Client.

c. The contract between the parties consists of this Agreement, its attachments, any written request for services issued by Client and any response thereto made by Contractor, including any addenda thereto. To the extent there is a conflict between the terms of any of the documents that constitute the contract between the parties, the terms that are most specific to the matter in dispute shall govern over the more general. In the event the conflicting terms cannot be characterized as specific vs. general, then the terms that provide the greater benefit to the Client and/or impose the greater obligation on the Contractor shall control.

d. This Agreement may be modified only by a written amendment or addendum that has been executed and approved by authorized officials of each party. Minor amendments may be approved on behalf of Client by the Assistant Town Administrator or his/her designee. Major, substantive amendments shall be approved on behalf of Client by the governing body; Board of Mayor and Aldermen.

e. If any provision of this Agreement is determined to be unenforceable or invalid, such determination will not affect the validity of the other provisions contained in this Agreement. Failure to enforce any provision of this Agreement does not affect the rights of the parties to enforce such provision in another circumstance, nor does it affect the rights of the parties to enforce any other provision of this Agreement at any time.

f. In the event legal action is necessary to enforce the terms of the contract between the parties, the prevailing party shall be entitled to recovery of its attorney's fees, court costs, and other expenses of the legal action.

g. In the performance of this contract, Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of local, state and federal governments, including, but not limited to, the President's Executive Order No. 11246 and 11375, which prohibit discrimination in employment regarding race, color, religion, sex or national origin, Title VI of the Civil Rights Act of 1964, Copeland Anti-Kick Back Act, the Contract Work Hours and Safety Standards Act, Section 402 of the Vietnam Veterans Adjustment Act of 1974, Section 503 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, all of which are herein incorporated by reference.

h. This agreement will be governed and construed in accordance with the laws of the State of Tennessee. Any legal action arising from this agreement shall be under the jurisdiction of the appropriate State of Tennessee Court within Knox County, TN and/or the United States District Court, Eastern District of Tennessee Knoxville Divisional Office within Knox County, TN.

CLIENT:

Town of Farragut

By: _____

Printed

Name: _____

Title: _____

Date: _____

CONTRACTOR:

E. Luke Greene Company, Inc.

By: Josephine S. Greene

Printed

Name: Josephine S. Greene

Title: President

Date: 4/5/17

ATTACHMENT A: Scope of Work

Generally: Provide labor and materials for the proper removal and disposal of all asbestos containing material in both the vacant dog day care and Campbell Station Inn; and, removal or proper encapsulation of lead based paint. Contractor will be responsible for obtaining all required permits, approvals, and clearances pre and post abatement. All work will be conducted in accordance with the federally established guidelines for this activity.

Specifically, provide labor and materials for the proper removal and disposal of:

- Approximately 3,000 ft of green 9 x 9 floor tile with tan mastic from 1st floor bathroom
- Approximately 200 ft of brown 9 x 9 floor tile with black mastic from outside 1st floor bathroom
- Approximately 200 ft of red 9 x 9 floor tile with black mastic from 1st floor rear left room
- Approximately 200 ft of brown 9x9 floor tile from 1st floor rear left room
- Approximately 200 lf of duct tape from basement
- Approximately 50 lf of TSI pipe air cell insulation from basement
- Remove electrical wiring throughout the Campbell Station Inn
- Remove loose/peeling lead paint from both buildings
- Remove all regulated material, universal waste and biological hazards (PCB'S, Freon, mercury)
- Provide asbestos liability insurance, true occurrence with no sunset clause
- Provide documentation of disposal in an EPA-approved landfill
- PCM air clearance by an independent lab

REPORT TO THE BOARD OF MAYOR AND ALDERMEN**PREPARED BY: Darryl W. Smith, PE****SUBJECT: Approval of Bids for Contract 2017-05, Street Resurfacing**

INTRODUCTION: The purpose of this agenda item is to consider bids and award a contract for resurfacing of selected streets within the Town.

BACKGROUND: Each year the Engineering staff examines our street network and determines our priorities within the limits of our annual resurfacing budget. Staff has identified the following streets for resurfacing this year: Pleasant Forest Drive (Concord Hills Subdivision – approximately 730 linear feet), Harrow Road (Kingsgate Subdivision - Midhurst Drive to Finch Road), Old Colony Parkway (Village Green Subdivision), Woodchase Drive (Grigsby Chapel Road to East Fox Den Drive), Thornton Drive (Thornton Heights Subdivision), Boring Road (Kingston Pike to Boring Lane), Harbor Way (Turkey Creek Harbor Subdivision), Lake Breeze Drive, Hatteras Drive and Nautical Drive (Bridgewater Subdivision).

On March 30, we received three bids for Contract 2016-05:

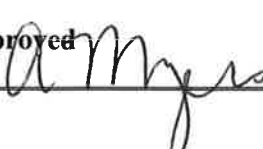
Greenback Asphalt Company, Inc. -	\$518,888.50
APAC-Atlantic, Inc. -	454,574.70
Duracap Asphalt Co., Inc. -	456,481.50

We have attached bid tabulations for your review.

FINANCIAL SECTION:**Project: Contract 2017-05, Resurfacing**

<u>Project Budget</u>	<u>Requested Amount</u>	<u>Expenditures to Date</u>	<u>Available Amount</u>
\$500,000	\$454,574.70	\$0	\$45,425.30

Approved

By: **RECOMMENDATION BY:** Darryl Smith, Town Engineer

PROPOSED MOTION: Approval of bids and award of Contract 2017-05 to APAC-Atlantic, Inc. for their low bid of \$454,574.70.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>MCGILL</u>	<u>WILLIAMS</u>	<u>POVLIN</u>	<u>MARKLI</u>	<u>PINCHOK</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

**Town of Farragut Contract 2017-05
(Annual Resurfacing of Various Streets)**



Bid Tabulations

ITEM #	DESCRIPTION	QUANTITY	UNIT	APAC-Atlantic		Duracap Asphalt Paving Co., Inc.		Patty Construction Inc.	
				UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
202-03.01	REMOVAL OF PAVEMENT SECTION TO SUBGRADE	610	SY	\$15.45	\$9,424.50	\$16.00	\$9,760.00	\$19.50	\$11,895.00
202-08.10	REMOVAL OF CURB (EXTRUDED)	915	LF	\$2.60	\$2,379.00	\$4.00	\$3,660.00	\$6.25	\$5,718.75
203-05	UNDERCUTTING	203	CY	\$23.00	\$4,669.00	\$20.00	\$4,060.00	\$35.25	\$7,155.75
203-07	FURNISH & SPREAD TOPSOIL (BACKFILLING CURB)	102	CY	\$41.40	\$4,222.80	\$36.00	\$3,672.00	\$83.75	\$8,542.50
303-01	MINERAL AGGREGATE, TYPE A BASE, GRADING D	277	TN	\$27.85	\$7,714.45	\$28.00	\$7,756.00	\$32.75	\$9,071.75
303.01	MINERAL AGGREGATE, TYPE A BASE, GRADING D (UNDERCUT BACKFIELD)	413	TN	\$25.00	\$10,325.00	\$28.00	\$11,564.00	\$36.50	\$15,074.50
307-01.08	ASPHALT CONCRETE MIX (PG64-22) (BPMB-HM) GR B-M2	86	TN	\$110.40	\$9,494.40	\$120.00	\$10,320.00	\$125.00	\$10,750.00
403-02.01	TRACKLESS TACK COAT (TTT-1)	20	TN	\$818.50	\$16,370.00	\$6.00	\$120.00	\$850.00	\$17,000.00
407-20.05	SAW CUTTING ASPHALT PAVEMENT	935	LF	\$3.25	\$3,038.75	\$2.00	\$1,870.00	\$3.00	\$2,805.00
411-01.11	ACS MIX (PG64-22) GRADING E RDWY	3,634	TN	\$72.10	\$262,011.40	\$72.00	\$261,648.00	\$79.50	\$288,903.00
415-01.01	COLD PLANING OF BITUMINOUS PAVEMENT	3,550	TN	\$22.40	\$79,520.00	\$22.00	\$78,100.00	\$22.30	\$79,165.00
702-01.01	EXTRUDED MOUNTABLE CURB	915	LF	\$5.00	\$4,575.00	\$7.50	\$6,862.50	\$6.75	\$6,176.25
712-01	TRAFFIC CONTROL	1	LS	\$9,600.00	\$9,600.00	\$15,000.00	\$15,000.00	\$26,850.00	\$26,850.00
712-04.01	FLEXIBLE DRUMS (CHANNELIZING)	20	EA	\$25.00	\$500.00	\$10.00	\$200.00	\$32.00	\$640.00
712-06	SIGNS (CONSTRUCTION) (W21-1)	36	SF	\$18.00	\$648.00	\$7.00	\$252.00	\$10.00	\$360.00
716-00	DURABLE REFLECTORIZED ALL WEATHER PAINT PAVEMENT MARKING (4" LINE) see note 2	0.16	LM	\$1,265.00	\$202.40	\$49,500.00	\$7,920.00	\$1,300.00	\$208.00
716-02.03	PLASTIC PAVEMENT MARKING (CROSSWALK)	410	LF	\$20.00	\$8,200.00	\$20.00	\$8,200.00	\$20.00	\$8,200.00
716-02.04	PLASTIC PAVEMENT MARKING (CHANNELIZATION STRIPING)	20	SY	\$20.00	\$400.00	\$20.00	\$400.00	\$21.00	\$420.00
716-02.05	PLASTIC PAVEMENT MARKING (STOP LINE)	23	LF	\$11.00	\$253.00	\$14.00	\$322.00	\$12.00	\$276.00
716-02.06	PLASTIC PAVEMENT MARKING (TURN LANE ARROW)	6	EA	\$165.00	\$990.00	\$220.00	\$1,320.00	\$164.00	\$984.00

Town of Farragut Contract 2017-05
(Annual Resurfacing of Various Streets)



Bid Tabulations

ITEM #	DESCRIPTION	QUANTITY	UNIT	APAC-Atlantic		Duracap Asphalt Paving Co., Inc.		Patty Construction Inc.	
				UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
716-03.01	PLASTIC PAVEMENT MARKING (ONLY)	1	EA	\$137.00	\$137.00	\$275.00	\$275.00	\$153.00	\$153.00
717-01	MOBILIZATION	1	LS	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$14,550.00	\$14,550.00
730-13.00	VEHICLE DETECTION LOOP (REPLACEMENT) see note 1	2	EA	\$2,000.00	\$4,000.00	\$2,300.00	\$4,600.00	\$1,500.00	\$3,000.00
801-01	SEEDING (WITH MULCH)	9	UNITS	\$100.00	\$900.00	\$400.00	\$3,600.00	\$110.00	\$990.00
TOTAL					\$454,574.70		\$456,481.50		\$518,888.50

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Darryl W. Smith, PE

SUBJECT: Approval of Agreement with TDOT for development of CMAQ Traffic Signal Improvement project

INTRODUCTION: The purpose of this agenda item is to consider approval of an agreement with the Tennessee Department of Transportation for development of a CMAQ-funded project that will upgrade our current system to a Town-wide centrally controlled system, including replacement of signal controllers, communications systems, and other hardware.

BACKGROUND: Early last year, the Town applied for Congestion Mitigation Air Quality (CMAQ) funding that would provide a centrally-controlled traffic management system. The request included upgrades and replacement of equipment at all of the Town's 26 signals, including the following:

- Central traffic signal control software
- Controller replacement
- Signal system communication
- Handicap ramps, pedestrian signals (as needed)
- Intersection detection devices (radar)
- Updated left-turn signal heads (flashing yellow arrows)
- Mast arms and poles

We were informed in December that our request had been approved, with a total cost of \$2,925,000. As this is CMAQ-funded, the agreement does not require a local match. The attached agreement from TDOT's Office of Local Programs is a standard format, outlining both TDOT's and the Town's responsibilities in development of the project. Once executed, we will work with the Local Programs office in selection of a traffic consultant and further project development.

RECOMMENDATION BY: Darryl Smith, Town Engineer, for approval.

PROPOSED MOTION: Approval of TDOT Agreement 170024 for development of CMAQ Signal Improvement project.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>MCGILL</u>	<u>WILLIAMS</u>	<u>POVLIN</u>	<u>MARKLI</u>	<u>PINCHOK</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

Agreement Number: 170024

Project Identification Number: 125462.00

Federal Project Number: CM-9109(178)

State Project Number: 47LPLM-F3-144

State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20__ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the Town of Farragut (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

Farragut Advanced Traffic Management System (ATMS) Phase 1

A. PURPOSE OF AGREEMENT

A.1 Purpose:

- a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

A.2 Modifications and Additions:

- a) Exhibit(s) are attached hereto and by this reference made a part hereof.

B. ACCOMPLISHMENT OF PROJECT

B.1 General Requirements:

- a)

	Responsible Party	Funding Provided by Agency or Project.
Environmental Clearance by:	AGENCY	PROJECT
Preliminary Engineering by:	AGENCY	PROJECT
Right-of-Way by:	AGENCY	AGENCY

Utility Coordination by: **AGENCY** **AGENCY**
 Construction by: **AGENCY** **PROJECT**

- b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.
- c) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

B.2 Completion Date:

- a) This Agreement shall be effective from the period beginning on the fully executed date, and ending **four (4) years from the fully executed date**. The Agency shall provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed to the Construction Phase by **two (2) years from the fully executed date**. If the Agency does not provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed to the Construction Phase by the aforesaid date, then the Department may terminate this Agreement. If the Agency does not complete the herein described phases of the Project within the time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. The Agency hereby acknowledges and affirms that the Department shall have no obligation for Agency services or expenditures that were not completed within this specified contract period.

B.3 Environmental Regulations:

- a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department's Local Government Guidelines.

- b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department's Local Government Guidelines.
- c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

B.4 Plans and Specifications

- a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.
 - 1) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.
- c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

B.5 Right-of-Way

- a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.
- b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.
- c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.
- d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

B.6 Approval of the Construction Phase

- a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Construction Agreement. If there is

any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

- c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.
- d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.
- e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

B.7 Detours

- a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

B.8 Utilities

- a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.
- b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:
 - 1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.
 - 2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.

B.9 Railroad

- a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS**C.1 Total Cost:**

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

- a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.

- b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.
- c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.
- b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.
- c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

- a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department

to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) **Misrepresentation:**

The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) **Litigation:**

There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) **Approval by Department:**

The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) **Conflict of Interests:**

There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) **Default:**

The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon

demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

- a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

- a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

- a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.
- b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

- a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be

made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

- a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

- a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

- a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- b) Nothing in this agreement shall be construed to limit the Department's right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

- a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

- a) The parties hereto, in the performance of this Agreement, shall not act as agents, employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting

entities and that nothing in this Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

- b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

- a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

- a) **DBE Policy:**
It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.

b) DBE Obligation:

The Agency and its Contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

- a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subContractor.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):**a) Instructions for Certification - Primary Covered Transactions:**

By signing and submitting this Agreement, the Agency is providing the certification set out below.

- 1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- 2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

- 3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
- 5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.
- 6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.
- 8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;
- 2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and
- 4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

- a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to

insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI – Civil Rights Act of 1964:

- a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

- a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

- a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.
- b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of its subcontracts, the following provision:
 - 1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

- a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

- a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.
- b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

D.19 Records:

- a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.
- b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

- a) The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.
- b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

- a) In the event that an Agency expends \$500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.
- b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.
- c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the

Department of Finance and Administration and shall be made available to the public.

D.22 Termination for Convenience:

- a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.23 Termination for Cause:

- a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.
- b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.
- c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.

D.24 How Agreement is Affected by Provisions Being Held Invalid:

- a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

- a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

- a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.
- b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.
- c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.
- d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

- a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

- a) The Department shall have no liability except as specifically provided in this Agreement.

D.29 Force Majeure:

- a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

- a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

- a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc
- b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

- a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

- a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

- a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.

D.35 Congestion Mitigation and Air Quality Requirement:

- a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.
 - 1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

- a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

Amount		Open to Public and Vehicular Traffic
\$1.00 - \$200,000	=	5 Years
>\$200,000 - \$500,000	=	10 Years
>\$500,000 - \$1,000,000	=	20 Years

- b) Projects over \$1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

D.37 Federal Funding Accountability and Transparency Act:

- a) **If the Project is funded with federal funds the following shall apply:** The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

TOWN OF FARRAGUT

**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

By: _____ Date _____ By: _____ Date _____
Ralph McGill **John C. Schroer**
Mayor **Commissioner**

**APPROVED AS TO
FORM AND LEGALITY**

**APPROVED AS TO
FORM AND LEGALITY**

By: _____ Date _____ By: _____ Date _____
Tom Hale **John Reinbold**
Attorney **General Counsel**

EXHIBIT "A"

AGREEMENT #: 170024

PROJECT IDENTIFICATION #: 125462.00

FEDERAL PROJECT #: CM-9109(178)

STATE PROJECT #: 47LPLM-F3-144

PROJECT DESCRIPTION: 2016 CMAQ Award. Upgrade existing closed loop signal system to a centrally controlled system, replace current controllers, upgrade to Ethernet communications as needed, upgrade pedestrian infrastructure, cabinet and detection upgrades, install flashing yellow arrow signal heads, replace span wire signals as needed, and update the traffic signal coordination timing. SR-01(US-11/70, Kingston Pk.) from Watt Rd. to Concord Rd., Campbell Station Rd. from Snyder Rd. to SR-01., SR-332(S. Campbell Station Rd., Concord Rd.) from SR-01 to Turkey Creek Rd., S. Northshore Dr. from SR-01 to SR-332, Parkside Dr. from Campbell Station Rd to City Limits.

CHANGE IN COST: Cost hereunder is controlled by the figures shown in the TIP and any amendments, adjustments or changes thereto.

TYPE OF WORK: Intelligent Transportation System

PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
PE-NEPA	CMAQ	100	0	0	\$165,000.00
PE-DESIGN	CMAQ	100	0	0	\$75,000.00
CONSTRUCTION	CMAQ	100	0	0	\$2,389,500.00
CONSTRUCTION-CEI	CMAQ	100	0	0	\$268,500.00
TDOT ES	CMAQ	100	0	0	\$27,000.00

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds following expenditure the most recently approved TIP cost or if the use of said federal funds is ruled ineligible at any time by the Federal Highway Administration.

TDOT ENGINEERING SERVICES (TDOT ES): In order to comply with all federal and state laws, rules, and regulations, the TDOT Engineering Services line item in Exhibit A is placed there to insure that TDOT's expenses associated with the project during construction are covered. The anticipated TDOT expenses include but are not necessarily limited to Construction Inspection and Material and Testing Expenses (Quality Assurance Testing).

LEGISLATIVE AUTHORITY: CMAQ: 23 U.S.C.A., Section 149, Congestion Mitigation and Air Quality Improvement Program funds allocated or subject to allocation to the Agency.

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Mark Shipley, Community Development Director

SUBJECT: Ordinance 17-02, an ordinance to provide for new requirements associated with building materials as they relate to the implementation of the Architectural Design Standards (ADS)

INTRODUCTION AND BACKGROUND: This item was discussed at the January and February Planning Commission meetings in relation to a discussion involving the adoption of a color palette for accent treatments on buildings. The staff asked the Planning Commission if the existing percentage of masonry required on the net façade of buildings should be re-visited. The thought was that this could help address the percentage of a building that could have an accent color as well as promote a more traditional building style and form.

DISCUSSION: At these workshop sessions, the staff conveyed to the Commission that currently, for new construction on one-story buildings, masonry must be used as the primary material on at least 60% of the net façade area. For new construction that is taller than one-story, masonry must be used as the primary material on at least 75% of the net façade area of a ground floor façade. After discussing this in more detail at the February Planning Commission meeting, the Commission asked the staff to prepare an amendment to the ADS that would increase the percentage of masonry for all new construction from 60% to 75% of the net façade area.

The staff has included with this report some applicable pages from the ADS. These include the page which defines “Masonry” and “Net Façade Area,” the page that includes Standard 2.17 (the standard which provides for the required amount of masonry on the net façade area), and the page which illustrates different building materials and which materials be considered “Primary” vs. “Accent.”

RECOMMENDATION: Included in your packet is a copy of Ordinance 17-02 which would increase the percentage of masonry required on new buildings from 60% to 75% of the net façade area. This would apply to all buildings, including those that are more than one-story. At their meeting on March 16, the Planning Commission unanimously recommended approval of Ordinance 17-02. The Board of Mayor and Alderman, at their meeting on March 23, unanimously approved Ordinance 17-02 on first reading. The staff recommends approval of Ordinance 17-02 on second reading. Increasing the masonry percentage would better promote a number of standards that are provided for in the ADS.

PROPOSED MOTION: To approve Ordinance 17-02 on second reading.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>WILLIAMS</u>	<u>MARKLI</u>	<u>PINCHOK</u>	<u>POVLIN</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

Infill. New construction where there had been vacant land before, such as a new building between two older structures.

Landscape. The totality of the built or human influenced habitat experienced at any one place. Dominant features are topography, plant cover, buildings or other structures and their patterns.

Lattice. An openwork grill of interlacing wood strips used as screening.

Low-Impact Development (LID). A stormwater management approach to manage rainfall in a way which more closely mimics the natural hydrologic system at the site prior to any development. Techniques include those which infiltrate, store, filter, evaporate and detain stormwater close to the location where the rain fell.

Masonry. Construction of brick, stone, or other material requiring mortar, as well as concrete that has been detailed to resemble traditional masonry panels. Masonry does not include synthetic stucco (EIFS), concrete masonry units (CMU), fiber cement siding (hardie-board) or panelized brick.

Massing. The overall composition of the exterior of the major volumes of a building, especially when the structure has major and minor elements.

Materials. The physical elements that were combined or deposited in a particular pattern or configuration to form a property.

Metal Standing Seam Roof. A roof composed of overlapping sections of metal such as copper-bearing steel or iron coated with terne alloy of lead and tin. These roofs were attached or crimped together in various raised seams for which the roof is named.

Minor Project. Limited improvements to an existing site without new construction (except accessory buildings). Minor projects include replacement of existing landscaping, modification of existing parking lots, changes to utilities, mechanical equipment or service areas, renovation or improvements to an existing façade or new/modified accessory buildings.

Molding or Moulding. A construction or decorative element that has a variety of contours or outlines.

Mortar. A mixture of sand, lime, cement and water, used as a binding agent in masonry construction.

Net Façade Area. The surface area of a building façade without including the surface area occupied by windows and doors.

Offset. See "Wall Offset."

Orientation. The relationship of a structure to the compass points or a site feature; may refer to the direction a façade faces, such as the south elevation, or the direction of a main axis, as in an east-west orientation.

Parapet. A low wall at the edge of a roof, balcony, or deck.

Parapet Block. A block of buildings with a roof profile that results from being built directly against each other such as along a traditional main street.

Pediment. A triangular crowning element forming the gable of a roof; any similar triangular element used over windows, doors, etc.

Pergola. A functional or ornamental shade structure of vertical posts or pillars that usually support cross-beams and a sturdy open lattice.

Perpendicular Wall Sign. A sign that projects in a perpendicular direction from a building wall or hangs from a bracket that projects from a building wall above pedestrian height.

Pilaster. A square pillar attached, but projecting from a wall, resembling a classical column.

Pitch. The degree of the slope of a roof.

Pole Sign. A sign that is mounted on a freestanding pole.

Porch. A structure attached to a building to shelter an entrance.

Primary Façade. The main building face; the side of a building that faces the street.

Primary Structure. The main structure on a property.

Proportion. The relationship of the size, shape, and location of one building element to all the other elements; each architectural style typically has its own rules of proportion.

Redevelopment. Any repair, reconstruction, or improvement, excluding additions as defined herein, to an existing structure where the costs of which is less than fifty (50) percent of the total replacement cost of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

2.17 Use masonry materials to promote a cohesive community image.

- 75%
- For new construction, use masonry as the primary material on at least 60% of the net façade area. See Guideline 3.15 on page 58 for additional masonry requirements in the Town Center District.
 - For new construction that is taller than one-story, use masonry as the primary material on at least 75% of the net façade area of a ground floor façade. See Guideline 3.15 on page 58 for additional masonry requirements in the Town Center District.
 - Ensure that synthetic masonry materials convey an authenticity identical to that of genuine masonry.



For new construction that is taller than one-story, use masonry as the primary material on at least 75% of the net façade area of a ground floor façade.



Use masonry materials to promote a cohesive community image.

What is Masonry?

Masonry includes brick, stone, or other material requiring mortar, as well as concrete that has been detailed to resemble traditional masonry panels. Masonry does not include synthetic stucco (EIFS), concrete masonry units (CMU), fiber cement siding (hardie-board) or panelized brick.

Illustrated Building Materials

A number of building materials are illustrated below. As noted, they may be used individually, or in combination, to meet the intent of the design guidelines for building materials on page 46.

1. Masonry - Brick

(A) (P)

Brick is an appropriate primary façade material for buildings throughout Farragut.



2. Masonry - Stone

(A) (P)

Stone is also an appropriate primary façade material for buildings throughout Farragut.



3. Masonry - Detailed Concrete

(A) (P)

Concrete that has been detailed in modules similar in scale to genuine brick or stone is an appropriate primary façade material.



4. Synthetic Stone

(A)

Synthetic or manufactured stone is made of artificial materials or is crushed stone that is cast to resemble genuine stone units. It is appropriate only as an accent material.



5. Metal & Concrete Accents

(A)

Metal and concrete may be appropriate for use as accent materials.



6. Synthetic Stucco & Panelized Brick Accents

(A)

Synthetic stucco or panelized brick should only be used for accents or on less visible façade areas.



(P) = Appropriate as a Primary Material

(A) = May be acceptable as an Accent Material

Figure 23: Illustrated Building Materials

ORDINANCE:	17-02
PREPARED BY:	Shipley
REQUESTED BY:	Town Staff
CERTIFIED BY FMPC:	March 16, 2017
PUBLIC HEARING:	_____
PUBLISHED IN:	_____
DATE:	_____
1ST READING:	_____
2ND READING:	_____
PUBLISHED IN:	_____
DATE:	_____

AN ORDINANCE TO AMEND THE FARRAGUT MUNICIPAL CODE, PURSUANT TO AUTHORITY GRANTED BY SECTION 6-54-133, TENNESSEE CODE ANNOTATED, BY AMENDING TITLE 14, CHAPTER 6., FARRAGUT ARCHITECTURAL DESIGN STANDARDS, TO PROVIDE FOR NEW REQUIREMENTS ASSOCIATED WITH BUILDING MATERIALS

WHEREAS, the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, wishes to amend Title 14., Land Use Controls, Chapter 6., Architectural Design Standards, of the Farragut Municipal Code, Ordinance 15-03,

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Architectural Design Standards are hereby amended as follows:

SECTION 1.

The Farragut Municipal Code, Title 14, Land Use Controls, Chapter 6., Farragut Architectural Design Standards, Standard 2.17 - Use masonry materials to promote a cohesive community image, is amended by deleting subsection b. and renumbering subsection c. to b. and amending subsection a. to state "For new construction, use masonry as the primary material on at least 75% of the net façade area. See Guideline 3.15 on page 58 for additional masonry requirements in the Town Center District."

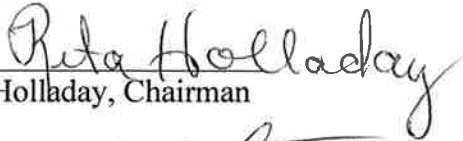
SECTION 2.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

Certified to the Farragut Board of Mayor and Aldermen this _____ day of _____, 2017,
with approval recommended.



Rita Holladay, Chairman



Edwin K. Whiting, Secretary

FARRAGUT MUNICIPAL PLANNING COMMISSION

RESOLUTION PC-17-02

FARRAGUT MUNICIPAL PLANNING COMMISSION

A RESOLUTION TO APPROVE AN AMENDMENT TO TITLE 14, CHAPTER 6., BEING THE FARRAGUT ARCHITECTURAL DESIGN STANDARDS, OF THE FARRAGUT MUNICIPAL CODE, ORDINANCE 15-03, TO PROVIDE FOR NEW REQUIREMENTS ASSOCIATED WITH BUILDING MATERIALS

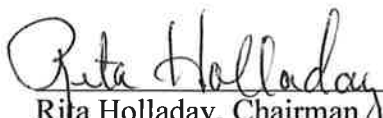
WHEREAS, the Tennessee Code Annotated, Section 6-54-133, provides that municipalities may create and adopt general guidelines for the exterior appearance of nonresidential property, multiple family residential property, and any entrance to a nonresidential development within the municipality; and

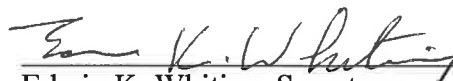
WHEREAS, the Farragut Municipal Planning Commission has been designated as the design review commission; and

WHEREAS, a public hearing was held on this request on March 16, 2017;

NOW, THEREFORE, BE IT RESOLVED that the Farragut Municipal Planning Commission hereby recommends approval to the Farragut Board of Mayor and Aldermen an ordinance, amending Title 14, Chapter 6., being the Farragut Architectural Design Standards, of the Farragut Municipal Code, by adding Ordinance 17-02.

ADOPTED this 16th day of March, 2017.


Rita Holladay, Chairman


Edwin K. Whiting, Secretary

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Mark Shipley, Community Development Director

SUBJECT: Ordinance 17-03, an ordinance to amend the Farragut Zoning Ordinance, Chapter 3, Specific District Regulations, Section XXVI. Planned Commercial Development District (PCD), to provide for residential uses and update other provisions (Kingston Pike Properties, LLC, Applicant)

INTRODUCTION AND BACKGROUND: This item was discussed at the previous two Planning Commission meetings. The applicant is interested in developing a mixed use planned development in the S. Watt Road/Kingston Pike area. As envisioned, the project would include a big box building, a smaller freestanding commercial/office building, mixed use buildings with residential on the non-ground floors, and freestanding multi-family buildings on the periphery of the development.

Since it would be a multiple phase master planned development, the Planned Commercial Development District (PCD) was seen as the most applicable to the request. The PCD was created in April of 2006 in conjunction with the Kroger Marketplace development and the construction of Brooklawn Street. The area associated with the Kroger Marketplace and Shops at Brooklawn are the only areas in the Town that are currently zoned PCD.

The PCD was created primarily to provide for variety and flexibility in design for larger multiple building developments that were part of a master planned project. At the time the PCD was adopted it was envisioned for commercial and office uses and did not include a residential component. However, in order to have the mixed use and residential component desired by the applicant, the applicant petitioned for a text amendment to the PCD to include residential as a permitted use.

DISCUSSION: When the applicant's amendment request was discussed with the Planning Commission in February the Commissioners and the staff viewed this as a favorable change to the PCD. This would help implement certain aspects of the Comprehensive Land Use Plan and would provide for an opportunity to have varied land use components within the same development that could support each other and help maintain a more timeless character.

RECOMMENDATION: As part of the requested update to the PCD, the staff also included updates that reflect some recent amendments that have been made to different sections of the zoning ordinance. These amendments mainly relate to implementing certain aspects of the Architectural Design Standards and include site elements that would fit in well with a planned development.

Specifically, the amendments to the PCD proposed in Ordinance 17-03 include the following:

- 1) Providing for residential as a permitted use;
- 2) Providing additional language concerning open space and how to use open space to provide focal points to be actively used within the development;
- 3) Providing for the use of Low Impact Development (LID) practices in the design;
- 4) Providing for a requirement to ensure vehicular and pedestrian connectivity;
- 5) Updating the front setbacks to allow for the opportunity to have buildings closer to the street;

- 6) Specifying that automobile oriented uses, if part of the planned development, be contained in the interior of the development;
- 7) Providing for screening of parking lots that are situated in a front yard;
- 8) Replacing the buffer strip language with transition language so that the project can better protect adjacent properties while integrating them into their project rather than isolating them from their project; and
- 9) Adjusting the permitted height to reflect changes that were made to the multi-family residential zoning district that would provide for appropriate height transitions to adjacent residential properties.

At their meeting on March 16, the Planning Commission unanimously recommended approval of Ordinance 17-03. An item that subsequently came up during the April 4 Staff/Developer meeting with the applicant (related to the PCD rezoning request that will be going to the Planning Commission in April for a workshop discussion) was whether the height provisions in Ordinance 17-03 could be modified to provide for more flexibility in terms of the number of stories permitted in relation to setbacks from property lines. The discussion involved maintaining a height limitation but permitting an applicant to exceed a prescribed height where they could clearly demonstrate that the additional height would provide for a greater opportunity to satisfy the objectives of the PCD District. The staff will discuss this in more detail at the meeting as part of the discussion of Ordinance 17-03 on first reading.

PROPOSED MOTION: To approve Ordinance 17-03 on first reading.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>WILLIAMS</u>	<u>MARKLI</u>	<u>PINCHOK</u>	<u>POVLIN</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

ORDINANCE:	17-03
PREPARED BY:	Shipley
REQUESTED BY:	Kingston Pike Properties, LLC, Applicant
CERTIFIED BY FMPC:	
PUBLIC HEARING:	_____
PUBLISHED IN:	_____
DATE:	_____
1ST READING:	_____
2ND READING:	_____
PUBLISHED IN:	_____
DATE:	_____

AN ORDINANCE TO AMEND THE TEXT OF THE FARRAGUT ZONING ORDINANCE, ORDINANCE 86-16, AS AMENDED, PURSUANT TO AUTHORITY GRANTED BY SECTION 13-4-201, TENNESSEE CODE ANNOTATED, BY AMENDING CHAPTER 3., SPECIFIC DISTRICT REGULATIONS, SECTION XXVI., PLANNED COMMERCIAL DEVELOPMENT DISTRICT (PCD)., TO PROVIDE FOR NEW REQUIREMENTS

WHEREAS, the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, wishes to amend Chapter 3, Specific District Regulations, of the Farragut Zoning Ordinance, Ordinance 86-16,

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Zoning Ordinance is hereby amended as follows:

SECTION 1.

The Farragut Zoning Ordinance, Chapter 3, Specific District Regulations, Section XXVI. Planned Commercial Development District (PCD), is amended by deleting in its entirety and substituting in lieu thereof the following:

XXVI. - Planned commercial development district (PCD).

- A. General description. The planned commercial development district (PCD) is established to encourage creative and resourceful projects for interrelated commercial, office, and residential uses unified by a Development Plan. The PCD district is intended to provide for variety and flexibility in design necessary to implement integrated planned development projects. It is intended that the PCD district be established along streets having a designated classification of arterial on the Farragut Major Road Plan or a street which directly accesses a street having a designated classification of arterial on the Farragut Major Road Plan.
- B. Objectives. The Planned Commercial Development District (PCD) shall have the following characteristics:
 - 1. Open space. Encourage ingenuity, creativity, and resourcefulness in land planning techniques by developing functional common open spaces. Locate and orient outdoor open spaces (e.g. plazas, courtyards, patios, outdoor seating and benches, small park

spaces or landscaped features) to provide focal points to be actively used. Provide landscape enhancements (e.g. bioswales, rain gardens, planters, flower gardens) to add visual interest, screen parking areas, and complement outdoor open spaces.

2. Sense of place. Allow the design of commercial, office, and residential developments that are architecturally and environmentally innovative and that achieve more efficient use of land than is possible through the application of conventional zoning and subdivision standards.
3. Protection of natural resources. Ensure the conservation of the natural environment including trees, floodplains, sinkholes, wetlands, springs, streams, wet weather conveyances, endangered species habitat, steep slopes, rock formations, other unique topographic features, and historic features per federal, state, and the Town of Farragut's laws and/or ordinances. Protect geological resources such as groundwater, soils, and drainage areas.
4. Efficient and innovative land use practices. Encourage efficient and innovative use of land, street networks, utility locations, and parking. In terms of stormwater management for new developments, at least twenty-five (25) percent of the development's total area shall be designed so that its runoff will be accommodated through Low Impact Development (LID) measures which would rely on infiltration, evapotranspiration, or capture/reuse of stormwater runoff. Such measures may include, but are not limited to, permeable pavers, rain gardens, bioswales, vegetated roofs, rainwater capture systems and/or a combination thereof. The use of LID measures to meet this requirement shall be demonstrated on the drainage plan and in the drainage calculations for the development and the applicable LID measures specified as part of the site and landscape plan submittals.
5. Connectivity. Provide for context appropriate (i.e. appropriate in relation to the proposed development and its physical surroundings) pedestrian and vehicular connectivity. This shall include providing connections within the property and to abutting properties, pedestrian connections into the development from the public street(s), and the construction of pedestrian facilities along the public street(s) frontages.
6. Compatibility and consistency. Maintain compatibility with nearby development and consistency with the Farragut Comprehensive Land Use Plan Update, Pedestrian and Bicycle Plan, Architectural Design Standards, and all other adopted plans and ordinances of the Town of Farragut and any subsequent amendments.

C. Minimum standards.

1. Land uses.
 - a. Unless otherwise prohibited through the approved Development Plan, any use permitted within the general commercial and office districts shall be allowed within the PCD district. Residential and mixed use may also be permitted as part of the Development Plan. Where a property is zoned PCD and is shown to be within the area identified as Mixed Use Town Center (MUTC) on the Future Land Use Map the use shall be permitted and comply as established in Chapter 3, Section XII.F.;

- b. Uses within a PCD that are automobile oriented, such as fuel centers, drive-throughs, automobile services, retail rental and leasing of automobiles, etc., shall be arranged so that they are situated internal to the development;
 - c. The total land area of the PCD shall be designed as a planned development and, for the purposes of building and parking lot setbacks and landscaping requirements, shall be treated as a single parcel/lot;
 - d. The development shall be designed in a manner that ensures compatibility with adjacent land uses; and
 - e. Traffic circulation shall not route traffic through adjacent residential areas.
2. General conditions. By acceptance of approval of the PCD zoning, the applicant agrees to the conditions set forth in this section as part of such approval. As part of the approval of the PCD district, the town may require the following:
- a. Rearrangement of structures, open space, driveways, and parking areas;
 - b. Modification of density, setbacks, and buffering; and
 - c. Limitation of specific commercial uses.
3. Area regulations.
- a. Front yard.
 - 1) Unless provided for elsewhere in this ordinance or the Municipal Code, all structures shall be setback from the nearest point of any right-of-way a minimum of twenty (20) feet;
 - 2) If the street is classified as a local street on the Major Road Plan and is constructed as part of the approved Development Plan, all buildings shall be setback from the nearest point of any right-of-way a minimum of ten (10) feet.
 - 3) Driveway aisles, accessways, parking lots, and other vehicular ways shall be setback a minimum of twenty (20) feet from all public right-of-ways and a perimeter parkway shall be maintained.
 - 4) In order to minimize the visual impact of surface parking, where parking is situated between a building and a street or is parallel with a building along a street, a berm shall be constructed or landscaping shall be planted so as to limit the viewability of the parking lot from the street. A minimum of sixty (60) percent of the total parking lot length adjacent to the front property line shall be screened from view with a berm or landscaping.
 - b. Peripheral side and rear property lines. All buildings shall be set back a minimum of thirty-five (35) feet from all peripheral side and rear property lines, except as provided for elsewhere in this ordinance or the Municipal Code. Any required buffer strip shall be included in the required peripheral structure setback.
 - c. Transition areas.
 - 1) Unless specified otherwise in this ordinance, where an abutting property is zoned residential and/or agriculture, a transition area of at least fifty (50) feet in width shall be provided. The intent of a transition area is to provide for a visually

appealing interface to an abutting residential area that will serve to establish protection for but also context appropriate integration with the surrounding plan of development. Transition areas shall accommodate the connectivity requirements of this district. This will result in some modest breaks in the transition element. As provided for in this district, transition areas shall include, at a minimum, any one of the following or a combination thereof:

- a) An existing tree covered area that consumes largely the full depth of the transition area and where the existing tree count within such area clearly exceeds the plant unit count and minimum tree sizes for a thirty-five (35) foot buffer strip per 100 linear feet;
- b) A landscaped low impact development stormwater management area, such as a rain garden(s), bioswale(s), or naturalized areas with existing and/or new tree plantings that, in total, consume the full depth of the transition area. At a minimum, such an area shall include a plant unit count that equals the count required for a thirty-five (35) foot buffer strip, as provided for in Chapter 4 of this ordinance. Under this option, the arrangement of plant material may include more flexibility than an traditional buffer strip planting, provided this arrangement best promotes the intended stormwater function of the low impact development measure(s);
- c) A heavily landscaped pocket park area designed for passive use and that is approved as part of a site and landscape plan as an equivalent to other natural transition measures provided for in this subsection. Such area could serve as a shared amenity between a use in this district and an abutting residential neighborhood;
- d) A traditional planted buffer strip area that complies with the thirty-five (35) foot buffer strip plantings provided for in Chapter 4 of this ordinance;

Where a development combines different transition elements these shall be considered as part of the concept plan and then reflected on the site and landscape plans. Such an approach must clearly fulfill the intent of the transition area provision. Existing tree covered areas within transitions shall be protected. Exceptions would apply for the removal of invasive exotic plant material and context appropriate (i.e. appropriate in relation to the proposed development and its physical surroundings) pedestrian and/or vehicular connections and utilities adjacent to such improvements that bisect the transition area in a generally perpendicular manner.

Transition areas shall not be required for developments that abut properties that are not zoned residential and/or agriculture.

- d. Maximum lot coverage. Total lot coverage for the entire development—seventy (70) percent.
- e. Land area. Minimum development size of five (5) acres.

- f. Minimum common open space. A minimum of ten (10) percent of the gross land area of the development shall be reserved as common open space.
 - 4. Common open space ownership regulations. Provision for the permanent ownership, operation, and maintenance of the common open space shall be provided by covenant, deed restriction, and/or easement. Ownership shall be a property owners association, land trust, or other legal authority.
 - 5. Height regulations.
 - a. Whenever the adjacent property is zoned residential or agricultural, no buildings to be constructed within one hundred (100) feet of a periphery property line shall exceed the maximum height permitted for principal dwelling units in the adjacent zoning district(s).

When abutting all other zoning districts or where buildings are greater than one hundred (100) feet from a periphery property line such buildings shall not exceed three (3) stories, or forty-five (45) feet in height, except as provided for elsewhere in this ordinance of the Municipal Code; and
 - b. No accessory structure, other than a clubhouse or comparable amenities building, shall exceed fifteen (15) feet in height, except as provided for elsewhere in this ordinance or the Municipal Code. A clubhouse or comparable amenities building shall not exceed twenty-five (25) feet in height.
 - 6. Street frontage. All lots created as part of the development shall have a minimum of twenty-five (25) feet street frontage. Access to individual properties and establishments shall be restricted to shared access easements.
 - 7. Parking. Parking requirements as defined in Chapter 4 shall serve as a guide only. All parking areas shall be shared parking easements for the total PCD development.
 - 8. Landscaping. As regulated in Chapter 4. Requirements shall apply to the total PCD development.
 - 9. Outdoor site lighting. As regulated in Chapter 4.
 - 10. Signs. As regulated in the Farragut Municipal Code. Requirements shall apply to the total PCD development.
 - 11. Development controls. As regulated in this ordinance, the Farragut Municipal Code, and the Farragut Subdivision Regulations.
- D. Application for rezoning to Planned Commercial Development District (PCD). The application for rezoning to PCD shall include a Development Plan, which shall consist of three (3) primary components:
 - 1. A survey of the total land area for consideration of rezoning.
 - 2. A written narrative statement describing the planned development shall include the following information:
 - a. A general statement of objectives to be achieved by the Planned Commercial Development District. This statement shall indicate the responsible person/entity for the development, indicate a description of the character of the proposed development, the market for which the development is oriented, and how the PCD

district would be consistent with the Farragut Comprehensive Land Use Plan Update, Pedestrian and Bicycle Plan, and all other adopted plans and ordinances of the Town of Farragut and any subsequent amendments;

- b. A statement describing the project phasing, including:
 - 1) A development schedule indicating the phases in which the project will be built and the dates when construction of each phase can be expected to begin;
 - 2) A statement of the intended schedule for the selling or leasing of each phase of the project; and
 - 3) A description of how each phase shall be self-contained and self-sustaining with regard to access, traffic circulation, parking, utilities, common open spaces, and landscaping, as well as capable of substantial occupancy, operation, and maintenance upon completion of construction and development of each phase.
 - c. A schedule by which the developer will complete all open space and landscaping features;
 - d. Quantitative data for site development standards including, but not limited to density, setbacks, maximum heights, proposed lot coverage of buildings, parking lots and other structures, parcel sizes, gross densities per acre, and total amount of common open space;
 - e. An explanation and construction schedule for the utility and infrastructure requirements of the Planned Commercial Development, including all utilities serving the site, surface water runoff, and other pertinent information;
 - f. A statement pertaining to any architectural and community design guidelines to provide information on building designs, orientations, styles, lighting plans, landscape plans, signs, etc.; and
 - g. Specific provisions, including appropriate legal forms, to assure the permanent ownership, operation, and maintenance of common open space, parking lots, accessways, etc. This can be achieved through covenant, deed restriction, easement, or ownership by a property owners association, land trust, or other legal authority.
3. Concept master plan. The concept master plan shall be of sufficient clarity and scale to accurately identify the location, nature, and character of the proposed total development. At a minimum, the concept master plan shall include the following information:
- a. Site location map;
 - b. GIS topography of the site;
 - c. The approximate density, predominant species, general distribution of predominant species, and predominant level of maturity of trees within all tree covered area. Maturity levels shall be classified per the Tree Protection Ordinance;
 - d. All environmentally sensitive areas including but not limited to floodplains, sinkholes, wetlands, springs, streams, wet weather conveyances, endangered species habitat, steep slopes, rock formations, other unique topographic features, and historic features;

- e. Sufficient information on the existing development within one hundred fifty (150) feet from the boundaries of the subject property to indicate their relationships with the proposed development related to land uses, lot lines, open space corridors, vehicular and pedestrian circulation systems, environmentally sensitive areas, and other unique natural features of the landscape;
- f. General location of proposed buildings, including building uses;
- g. Boundaries of the total development, including all proposed interior property lines and boundaries for the proposed development phases;
- h. Location of existing and proposed public streets and access easements;
- i. Existing and proposed general vehicular circulation system including all points of access to the proposed development and existing driveways and intersections within the vicinity of the proposed points of access;
- j. Location of proposed off-street parking and loading facilities;
- k. Location of proposed internal and external alignments of existing and proposed sidewalks, bicycle and pedestrian facilities, and greenways/walking trails;
- l. Location of existing utilities;
- m. Proposed treatment of surface water runoff flow from and through the site;
- n. Specific locations and sizes of all areas to be reserved as common open space;
- o. Proposed landscaping plan;
- p. Proposed signage plan;
- q. Calculations of lot coverage for the total development; and
- r. Certification that all requirements of the Tree Protection, Sinkhole, Aquatic Buffer, and the Stormwater Ordinances can be met.

E. Future modifications.

- 1. Revisions of plans after final approval.
 - a. If it becomes necessary for an approved concept plan or site plan to be changed, then the changes shall be defined as "minor" or "major" by the Town staff. If a proposed change, in the opinion of the Town staff will not substantially affect the terms of the original approval, then the change will be defined as "minor". Minor changes may be reviewed and approved by Town staff. If a proposed change, in the opinion of the Town staff, will substantially affect the terms of the original approval, then the change shall be defined as "major". Major changes require review and approval by the Planning Commission and the Board of Mayor and Aldermen. In both cases, full sets of revised site plans in accordance with the Town site plan submittal requirements along with a narrative describing the need for the changes shall be submitted.
 - 1) Minor Changes Defined. Minor modifications are changes that do not substantially affect the character or intensity of the development, vehicular or pedestrian circulation, drainage patterns, the demand for public services, or the vulnerability to hazards. Town staff shall report any request defined as minor to

the Planning Commission and Board of Mayor and Alderman. Examples of minor modifications include but are not limited to the following:

- a) Adding or deleting parking spaces.
- b) Constructing additional stories that do not substantially affect other ordinance requirements of the development.
- c) An increase or decrease in floor space by no more than twenty-five (25) percent in the overall development that does not dramatically affect the other ordinance requirements, intent, and nature of the overall development.
- d) Re-occupancy of a building by a similar use permitted by the ordinance.
- e) Changes to building height/facade that do not add an additional floor.
- f) Additions or alterations to the landscape plan or landscape materials.
- g) Relocation or resizing of utility supply lines or service connections.
- h) Relocation or screening of utilities, HVAC equipment, transformers, or trash receptacles.
- i) Alterations to the internal parking layout of an off-street lot in which the total available spaces is unchanged.

2) Major Modifications Defined. Major modifications are changes that substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public services, or the vulnerability to hazards or natural terrain features. Examples of major modifications include but are not limited to the following:

- a) Request for a variance.
- b) Construction of a new building or structure which will substantially affect the ordinance requirements of the development.
- c) Increase in the overall density of the development.
- d) Introduction or deletion of curb cuts into a public roadway.

2. Additional area may be added to an established Planned Commercial Development District if it adjoins and forms a logical addition to the approved development.

- a. The procedure for the addition of land to the PCD district shall be the same as if an original application was filed.
- b. All requirements of the PCD district shall apply except for minimum lot area requirement.

F. Annual review. To ensure continued progress toward completion, the approved Development Plan shall be submitted to the Planning Commission for annual review.

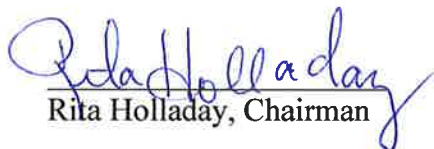
SECTION 2.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

Certified to the Farragut Board of Mayor and Aldermen this _____ day of _____, 2017,
with approval recommended.


Rita Holladay, Chairman


Edwin K. Whiting, Secretary

FARRAGUT MUNICIPAL PLANNING COMMISSION

RESOLUTION PC-17-03

FARRAGUT MUNICIPAL PLANNING COMMISSION

A RESOLUTION TO APPROVE AN AMENDMENT TO THE TEXT OF THE FARRAGUT ZONING ORDINANCE, ORDINANCE 86-16, AS AMENDED, PURSUANT TO AUTHORITY GRANTED BY SECTION 13-4-201, TENNESSEE CODE ANNOTATED, BY AMENDING CHAPTER 3., SPECIFIC DISTRICT REGULATIONS, SECTION XXVI., PLANNED COMMERCIAL DEVELOPMENT DISTRICT (PCD), TO PROVIDE FOR NEW REQUIREMENTS

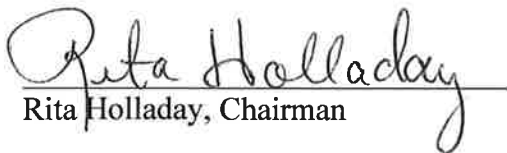
WHEREAS, the Tennessee Code Annotated, Section 13-4-201et seq, provides that the Municipal Planning Commission shall make and adopt a general plan for the physical development of the municipality; and

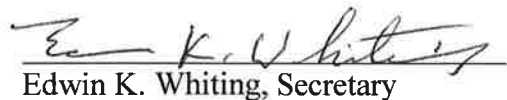
WHEREAS, the Farragut Municipal Planning Commission has adopted various elements of a zoning plan as an element of the general plan for physical development; and

WHEREAS, a public hearing was held on this request on March 16, 2017;

NOW, THEREFORE, BE IT RESOLVED that the Farragut Municipal Planning Commission hereby recommends approval to the Farragut Board of Mayor and Aldermen of an ordinance, amending Ordinance 86-16, of the Farragut Zoning Ordinance, by adding Ordinance 17-03.

ADOPTED this 16th day of March, 2017.


Rita Holladay, Chairman


Edwin K. Whiting, Secretary

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Mark Shipley, Community Development Director

SUBJECT: Ordinance 17-04, an ordinance to amend the Farragut Zoning Ordinance, Chapter 3., Section XI., Multi-family Residential District (R-6), Subsection G., Building Façade Requirements, to reference the adopted Farragut Architectural Design Standards

INTRODUCTION AND BACKGROUND: While reviewing the updates proposed for the PCD District, the staff noted that the Building Façade Requirements language associated with the Multi-family Residential District (R-6) and the Open Space Multi-family Residential Overlay District (OSMFR) needed to be updated as well. When these zoning districts were created in 2014, the Architectural Design Standards had not been adopted and were in the process of being formulated. In the interim, the staff asked our consultant at that time to provide us with some language that we could include for these districts as it would relate to building facades for multi-family buildings. Otherwise, we would have had no provisions in place to address this until the ADS was adopted.

This language was incorporated as separate sections in each district and was worded as follows:

- G. *Building Façade Requirements.* Building façades shall use high-quality, durable, materials that are architecturally compatible and include a significant masonry element. Building façades shall not use fabricated metal panels or vinyl siding and shall include only limited use of synthetic stucco (EIFS) or panelized brick (such materials may be appropriate as accents or on upper floor façades). The use of high-quality, durable, stone veneer may be acceptable when it is detailed to have the appearance of authentic stone. At a building corner, the veneer should wrap around the corner and should, at a minimum, extend to a depth of traditional stone. The objective is to assure that synthetic products convey an authenticity similar to genuine masonry.

Since the ADS was finalized and adopted in the spring of 2015, more objective standards are now in place. Ordinance 17-04 would simply replace the language that was provided prior to the adoption of the ADS with the following that references the adopted ADS:

- G. *Building Façade Requirements.* Building façade requirements shall be in accordance with the Farragut Architectural Design Standards, as amended.

In this manner, there is consistency in the application of building façade provisions and no confusion as to which language should be followed.

RECOMMENDATION: At their meeting on March 16, the Planning Commission unanimously recommended approval of Ordinance 17-04. The staff recommends approval of Ordinance 17-04 on first reading.

PROPOSED MOTION: To approve Ordinance 17-04 on first reading.

BOARD ACTION:

MOTION BY: _____ SECONDED BY: _____

<u>VOTE/TOTAL</u>	<u>WILLIAMS</u>	<u>MARKLI</u>	<u>PINCHOK</u>	<u>POVLIN</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

ORDINANCE:	17-04
PREPARED BY:	Shipley
REQUESTED BY:	Staff
CERTIFIED BY FMPC:	March 16, 2017
PUBLIC HEARING:	_____
PUBLISHED IN:	_____
DATE:	_____
1ST READING:	_____
2ND READING:	_____
PUBLISHED IN:	_____
DATE:	_____

AN ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE, ORDINANCE 86-16, AS AMENDED, BY AMENDING CHAPTER 3., SECTION XI., MULTI-FAMILY RESIDENTIAL DISTRICT (R-6), SUBSECTION G., BY PROVIDING FOR NEW REQUIREMENTS RELATED TO BUILDING FACADES, AS AUTHORIZED PURSUANT TO SECTION 13-4-201, TENNESSEE CODE ANNOTATED.

BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Zoning Ordinance, Ordinance 86-16, as amended, is hereby amended as follows:

SECTION 1.

Chapter 3, Section XI., Multi-Family Residential District (R-6), Subsection G., is amended by deleting it in its entirety and substituting in lieu thereof the following:

G. Building Façade Requirements. Building façade requirements shall be in accordance with the Farragut Architectural Design Standards, as amended.

SECTION 2.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

Certified to the Farragut Board of Mayor and Aldermen this _____ day of _____, 2017,
with approval recommended.



Rita Holladay, Chairman



Edwin K. Whiting, Secretary

FARRAGUT MUNICIPAL PLANNING COMMISSION

RESOLUTION PC-17-04

FARRAGUT MUNICIPAL PLANNING COMMISSION

A RESOLUTION TO APPROVE AN AMENDMENT TO THE TEXT OF THE FARRAGUT ZONING ORDINANCE, ORDINANCE 86-16, AS AMENDED, PURSUANT TO AUTHORITY GRANTED BY SECTION 13-4-201, TENNESSEE CODE ANNOTATED, BY AMENDING CHAPTER 3., SECTION XI., MULTI-FAMILY RESIDENTIAL DISTRICT (R-6), SUBSECTION G., BY PROVIDING FOR NEW REQUIREMENTS RELATED TO BUILDING FACADES

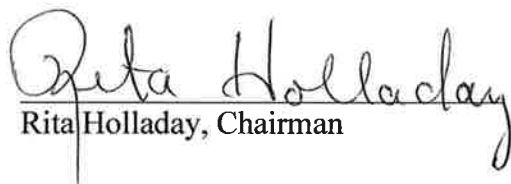
WHEREAS, the Tennessee Code Annotated, Section 13-4-201 et seq, provides that the Municipal Planning Commission shall make and adopt a general plan for the physical development of the municipality; and

WHEREAS, the Farragut Municipal Planning Commission has adopted various elements of a zoning plan as an element of the general plan for physical development; and

WHEREAS, a public hearing was held on this request on March 16, 2017;

NOW, THEREFORE, BE IT RESOLVED that the Farragut Municipal Planning Commission hereby recommends approval to the Farragut Board of Mayor and Aldermen of an ordinance, amending Ordinance 86-16, of the Farragut Zoning Ordinance, by adding Ordinance 17-04.

ADOPTED this 16th day of March, 2017.


Rita Holladay, Chairman


Edwin K. Whiting, Secretary

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Mark Shipley, Community Development Director

SUBJECT: Ordinance 17-05, an ordinance to amend the Farragut Zoning Ordinance, Chapter 3., Section XXVIII., Open Space Multi-family Residential Overlay District (OSMFR), Subsection H., Building Façade Requirements, to reference the adopted Farragut Architectural Design Standards

INTRODUCTION AND BACKGROUND: Please refer to the report for the previous item as it involves the same issue.

RECOMMENDATION: At their meeting on March 16, the Planning Commission unanimously recommended approval of Ordinance 17-05. The staff recommends approval of Ordinance 17-05 on first reading.

PROPOSED MOTION: To approve Ordinance 17-05 on first reading.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>WILLIAMS</u>	<u>MARKLI</u>	<u>PINCHOK</u>	<u>POVLIN</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

ORDINANCE:	17-05
PREPARED BY:	Shipley
REQUESTED BY:	Staff
CERTIFIED BY FMPC:	March 16, 2017
PUBLIC HEARING:	_____
PUBLISHED IN:	_____
DATE:	_____
1ST READING:	_____
2ND READING:	_____
PUBLISHED IN:	_____
DATE:	_____

AN ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE, ORDINANCE 86-16, AS AMENDED, BY AMENDING CHAPTER 3., SECTION XXVIII., OPEN SPACE MULTI-FAMILY RESIDENTIAL OVERLAY DISTRICT (OSMFR), SUBSECTION H., BY PROVIDING FOR NEW REQUIREMENTS RELATED TO BUILDING FACADES, AS AUTHORIZED PURSUANT TO SECTION 13-4-201, TENNESSEE CODE ANNOTATED.

BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Zoning Ordinance, Ordinance 86-16, as amended, is hereby amended as follows:

SECTION 1.

Chapter 3, Section XXVIII., Open Space Multi-Family Residential Overlay District (OSMFR), Subsection H., is amended by deleting it in its entirety and substituting in lieu thereof the following:

H. Building Façade Requirements. Building façade requirements shall be in accordance with the Farragut Architectural Design Standards, as amended.

SECTION 2.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

Certified to the Farragut Board of Mayor and Aldermen this ____ day of _____, 2017,
with approval recommended.


Rita Holladay, Chairman


Edwin K. Whiting, Secretary

FARRAGUT MUNICIPAL PLANNING COMMISSION

RESOLUTION PC-17-05

FARRAGUT MUNICIPAL PLANNING COMMISSION

A RESOLUTION TO APPROVE AN AMENDMENT TO THE TEXT OF THE FARRAGUT ZONING ORDINANCE, ORDINANCE 86-16, AS AMENDED, PURSUANT TO AUTHORITY GRANTED BY SECTION 13-4-201, TENNESSEE CODE ANNOTATED, BY AMENDING CHAPTER 3., SECTION XXVIII., OPEN SPACE MULTI-FAMILY RESIDENTIAL OVERLAY DISTRICT (OSMFR), SUBSECTION H., BY PROVIDING FOR NEW REQUIREMENTS RELATED TO BUILDING FACADES

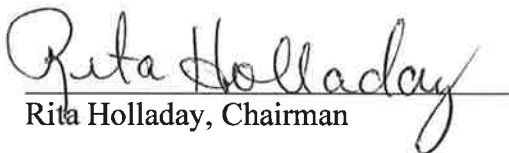
WHEREAS, the Tennessee Code Annotated, Section 13-4-201 et seq, provides that the Municipal Planning Commission shall make and adopt a general plan for the physical development of the municipality; and

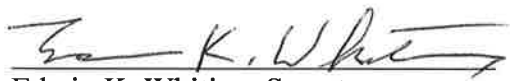
WHEREAS, the Farragut Municipal Planning Commission has adopted various elements of a zoning plan as an element of the general plan for physical development; and

WHEREAS, a public hearing was held on this request on March 16, 2017;

NOW, THEREFORE, BE IT RESOLVED that the Farragut Municipal Planning Commission hereby recommends approval to the Farragut Board of Mayor and Aldermen of an ordinance, amending Ordinance 86-16, of the Farragut Zoning Ordinance, by adding Ordinance 17-05.

ADOPTED this 16th day of March, 2017.


Rita Holladay, Chairman


Edwin K. Whiting, Secretary

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Mark Shipley, Community Development Director

SUBJECT: Ordinance 17-06, an ordinance to amend the Farragut Zoning Ordinance, Chapter 4., General Provisions and Exceptions, Section XXIV., Special Events Permit, (a)(1)(e)., Commercial, Office and Not-For-Profit/Non-Profit Entities to include sales from food trucks being permitted per special events application approval

INTRODUCTION AND BACKGROUND: This item involves a minor change to the Town's special events permit provisions as they relate to sales from trucks. Recently, in response to a request that was submitted to explore the possibility of providing for food trucks in the Town, a food truck committee was created with representatives from the Planning Commission, the Board of Mayor and Alderman, and the Economic Development Committee.

This committee met on two instances and recommended some modifications to the Town's special events permit language and application provisions. As currently proposed, the food truck committee was only interested in providing for food trucks if part of a larger approved special event. Currently, sales from trucks are prohibited as part of special events. The food truck committee recommended that this language be changed and re-worded as follows:

- e. Sales from food trucks are permitted if part of an approved special event

This is the language that was also unanimously recommended for approval by the Planning Commission during their consideration of Ordinance 17-06. As part of the Town's update to its adopted Fee Schedule for the next year a question was raised about how fees should be applied for food trucks that are part of special events. The food truck committee had recommended that food trucks that were not based in the Town of Farragut would pay a separate \$20 fee that would be collected as part of the special event. Some additional questions or clarifications for the Board to consider are:

- 1) Should a food truck vendor pay if part of a Town sponsored event or on Town property?
- 2) Related to this, should there be a food truck fee waiver for public vs. private events?
- 3) Should food truck vendors pay if they are not selling products as part of an event? This would apply to events, such a Remote Area Medical, where the event applicant pays a \$25 fee for the event itself and charges a fee for patrons to access the event. Once at the event patrons could go to any vendor without additional payment.

Though these questions relate to clarifications that may be needed in association with the Town's adopted fee schedule, the staff is also proposing to add the language below (in red) to the original language that was reflected in Ordinance 17-06. This will provide language that will cross reference the fee schedule so it is clear as to what is expected in terms of fees associated with food trucks.

- e. Sales from food trucks are permitted if part of an approved special event and shall be subject to a fee, as provided for in the adopted Town of Farragut Fee Schedule

RECOMMENDATION: The staff recommends approval of Ordinance 17-06 with the additional language that has been provided to cross reference the adopted fee schedule.

PROPOSED MOTION: To approve Ordinance 17-06 on first reading.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>WILLIAMS</u>	<u>MARKLI</u>	<u>PINCHOK</u>	<u>POVLIN</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

ORDINANCE:	17-06
PREPARED BY:	Shipley
REQUESTED BY:	Staff
CERTIFIED BY FMPC:	March 16, 2017
PUBLIC HEARING:	_____
PUBLISHED IN:	_____
DATE:	_____
1ST READING:	_____
2ND READING:	_____
PUBLISHED IN:	_____
DATE:	_____

AN ORDINANCE TO AMEND THE TEXT OF THE FARRAGUT ZONING ORDINANCE, ORDINANCE 86-16, AS AMENDED, PURSUANT TO AUTHORITY GRANTED BY SECTION 13-4-201, TENNESSEE CODE ANNOTATED, BY AMENDING CHAPTER 4., GENERAL PROVISIONS AND EXCEPTIONS, SECTION XXIV., SPECIAL EVENTS PERMIT, SUBSECTION A., 1., E., BY PROVIDING FOR NEW REQUIREMENTS RELATED TO SALES FROM TRUCKS, AS AUTHORIZED PURSUANT TO SECTION 13-4-201, TENNESSEE CODE ANNOTATED.

BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Zoning Ordinance, Ordinance 86-16, as amended, is hereby amended as follows:

SECTION 1.

Chapter 4, Section XXIV., Special Events Permit, Subsection A., 1., e., is amended by deleting it in its entirety and substituting in lieu thereof the following:

- e. Sales from food trucks are permitted if part of an approved special event.

SECTION 2.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

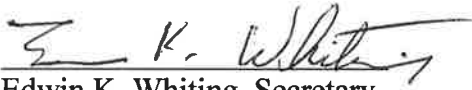
Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

Certified to the Farragut Board of Mayor and Aldermen this _____ day of _____, 2017,
with approval recommended.



Rita Holladay, Chairman



Edwin K. Whiting, Secretary

FARRAGUT MUNICIPAL PLANNING COMMISSION

RESOLUTION PC-17-06

FARRAGUT MUNICIPAL PLANNING COMMISSION

A RESOLUTION TO APPROVE AN AMENDMENT TO THE TEXT OF THE FARRAGUT ZONING ORDINANCE, ORDINANCE 86-16, AS AMENDED, PURSUANT TO AUTHORITY GRANTED BY SECTION 13-4-201, TENNESSEE CODE ANNOTATED, BY AMENDING CHAPTER 4., GENERAL PROVISIONS AND EXCEPTIONS, SECTION XXIV., SPECIAL EVENTS PERMIT, SUBSECTION A., 1., E., BY PROVIDING FOR NEW REQUIREMENTS RELATED TO SALES FROM TRUCKS

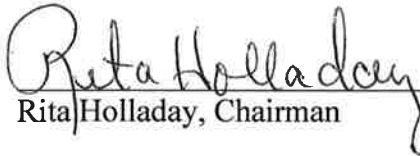
WHEREAS, the Tennessee Code Annotated, Section 13-4-201 et seq, provides that the Municipal Planning Commission shall make and adopt a general plan for the physical development of the municipality; and

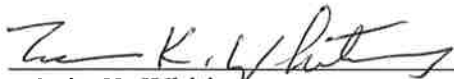
WHEREAS, the Farragut Municipal Planning Commission has adopted various elements of a zoning plan as an element of the general plan for physical development; and

WHEREAS, a public hearing was held on this request on March 16, 2017;

NOW, THEREFORE, BE IT RESOLVED that the Farragut Municipal Planning Commission hereby recommends approval to the Farragut Board of Mayor and Aldermen of an ordinance, amending Ordinance 86-16, of the Farragut Zoning Ordinance, by adding Ordinance 17-06.

ADOPTED this 16th day of March, 2017.


Rita Holladay, Chairman


Edwin K. Whiting, Secretary

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Mark Shipley, Community Development Director

SUBJECT: Ordinance 17-08, an ordinance to amend the Farragut Zoning Ordinance, Chapter 4., Section III., Antennas and Towers, to provide for new telecommunications provisions

INTRODUCTION AND BACKGROUND: This item dates back to October when the Town's telecommunications consultant, Larry Perry, conducted a workshop on telecommunications and reviewed some of the legal and technical considerations that should be addressed as part of the telecommunication provisions update that is on the Community Development work program for this fiscal year. Mr. Perry reviewed the Town's existing provisions and provided the staff with a draft of proposed changes. The staff has subsequently reviewed with Mr. Perry some additional drafts and is proposing as Ordinance 17-08 to replace Chapter 4, Section III., of the Farragut Zoning Ordinance with new provisions. The Town's Tower Overlay District in Chapter 3 of the Zoning Ordinance will need to be removed from the Ordinance if the Board approves Ordinance 17-08 on first reading. The staff did not wish to remove the current provisions in Chapter 3 until it was apparent that the new provisions governing Towers would be approved.

DISCUSSION: After the Planning Commission's workshop discussion of the telecommunications draft ordinance at their meeting in February, the staff took the input provided by Commissioners and met with Larry Perry and another telecommunications expert to go through the draft ordinance and address certain remaining questions and comments. The staff has also received feedback from a number of telecommunications providers.

The staff considered this information and developed, in Ordinance 17-08, new parameters for the taller traditional cell towers (now referred to as "Towers") and the newer technologies that include shorter telecommunications structures in the form of small cells and DAS facilities. The staff has also addressed in the ordinance what is referred to as Non-Tower Wireless Communication Facilities. These are basically telecommunications structures proposed on existing structures that were not originally designed for telecommunications applications. This would include buildings, water tanks, billboards, utility poles, steeples, etc.

The staff has approached this from the perspective of what we are trying to regulate (e.g. tall vs. short poles or devices mounted on existing structures, their location, height, and general appearance) and has, to the greatest extent possible, avoided technical jargon that is unnecessary for purposes of what we are trying to accomplish. As proposed, Ordinance 17-08 would retain, as recommended by our consultant, the current provisions for dish antennas and amateur radio towers that are separate from commercial cellular towers. Some key provisions in Ordinance 17-08 include the following:

- 1) Adding new terms that address towers and small cell support structures;
- 2) Adding application review processes that are consistent with recent court decisions in terms of when an application must be acted on;
- 3) Specific provisions for towers that include differences in setbacks and heights for residential vs. non-residential zoned property;

- 4) Specific provisions for small cell support structures and DAS that address their location, height, and general appearance and differentiation between areas with overhead vs. underground utilities and structures proposed on land zoned residential;
- 5) Specific provisions for non-tower wireless communication facilities where telecommunication structures are mounted to existing structures;
- 6) Prioritization for the land uses where telecommunication facilities may be installed; and
- 7) Evaluation criteria for application reviews.

RECOMMENDATION: Prior to the Planning Commission's consideration of Ordinance 17-06, the staff circulated the ordinance to our consultant and the Town Attorney. Their comments have been incorporated in final version of Ordinance 17-06 and the ordinance is compliant with laws that govern the regulation of telecommunications. Though telecommunications are constantly evolving, the provisions in Ordinance 17-08 address the basic type of structures that we will likely see in the near future and how to lessen their visual impact to the community while still providing for the technology. There is a substantial emphasis on using stealth technology (such as the mono-pine tree on Concord Road) and lessening, to the greatest extent possible, impacts to residents and residential areas. At their meeting on March 16, 2017, the Planning Commission unanimously recommended approval of Ordinance 17-08. The staff recommends approval of Ordinance 17-08 on first reading.

PROPOSED MOTION: To approve Ordinance 17-08 on first reading.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>WILLIAMS</u>	<u>MARKLI</u>	<u>PINCHOK</u>	<u>POVLIN</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

MARKED VERSION OF ORDINANCE 17-08

NOTE: Text highlighted in **RED** are critical components of Ordinance 17-08
Text highlighted in **YELLOW** reflect language recommended by the
Town Attorney

ORDINANCE: 17-08
PREPARED BY: Shipley
REQUESTED BY: Town Staff
CERTIFIED BY FMPC: March 16, 2017
PUBLIC HEARING: _____
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1ST READING: _____
2ND READING: _____
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DATE: _____

AN ORDINANCE TO AMEND THE TEXT OF THE FARRAGUT ZONING ORDINANCE, ORDINANCE 86-16, AS AMENDED, PURSUANT TO AUTHORITY GRANTED BY SECTION 13-4-201, TENNESSEE CODE ANNOTATED, BY AMENDING CHAPTER 4., GENERAL PROVISIONS AND EXCEPTIONS, SECTION III., ANTENNAS AND TOWERS, TO PROVIDE FOR NEW REQUIREMENTS

WHEREAS, the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, wishes to amend Chapter 4, General Provisions and Exceptions, of the Farragut Zoning Ordinance, Ordinance 86-16,

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Zoning Ordinance is hereby amended as follows:

SECTION 1.

The Farragut Zoning Ordinance, Chapter 4, General Provisions and Exceptions, Section III., Antennas and Towers, is amended by deleting it in its entirety and substituting in lieu thereof the following:

III. – Telecommunications.

The following requirements shall apply to dish antennas, amateur radio towers (excluding Towers, as defined in this Ordinance), Towers, Non-Tower Wireless Communication Facilities, and Small Cell Support Structures.

A. The following conditions shall apply to dish antenna placements in all zones:

1. No text, pictures, logos, or advertising shall be displayed on any surface of the dish antenna.
 2. Installation of the required screening shall be done concurrently with the construction of the base mount for any dish antenna.
 3. Where screening is required, the dish antenna shall be screened from view from public rights-of-way and from adjacent property by any combination or single treatment of vegetative or structural barriers. The screening shall provide eighty (80) percent opacity at a height of seven (7) feet within two (2) years of its installation. Defective or dead screening shall be replaced to maintain the screening of the dish antenna while the dish antenna remains in its permitted location.
 4. The dish antenna or any required screening shall not penetrate any recorded easement.
- B. The following conditions shall apply to dish antenna placements in residential and agricultural zoning districts:
1. Only one (1) dish antenna shall be permitted per lot, parcel, or tract.
 2. No freestanding dish antenna shall exceed eleven (11) feet in height, as measured at its highest point above the surrounding grade.
 3. No dish antenna with a dish size greater than twenty-four (24) inches shall be placed on any roof or attached to any principal or accessory structure. Dish antennas with a dish size of twenty-four (24) inches or less may be placed on a roof or wall of a principal or accessory structure provided it does not project above the roof line, it is not visible from any public rights-of-way, and it does not violate any required setback.
 4. Freestanding dish antennas shall be set back from the side and/or rear property lines a minimum distance equal to at least two (2) times the height of the mounted dish antenna or the minimum distance for accessory structures whichever is greater.
 5. Screening shall be required for all dish antenna with a dish size greater than twenty-four (24) inches.
- C. The following conditions shall apply to dish antenna placements in Community Service, Commercial, and Office Zoning Districts:
1. Only one (1) dish antenna shall be permitted per business.
 2. A ground-mounted dish antenna shall not exceed eleven (11) feet in height, as measured at its highest point above the surrounding grade. A roof-mounted dish antenna shall not exceed eleven (11) feet above the attachment of the base mount to the roof.
 3. The maximum building height shall apply, relative to the particular zoning district in which the dish antenna is to be located.
 4. Dish antennas may be permitted to be located in the rear yard or on the roof. A dish antenna with a dish size of twenty-four (24) inches or less may be permitted to be attached to a wall provided it does not project above the roof line, it is not visible from any public rights-of-way, and it does not violate any required setback.

5. Rear yard placements of the dish antennas may not be located in any other required buffer zone or screening required for other purposes.
 6. Screening shall be required for all rear yard placements of dish antennas.
 7. Roof-mounted dish antennas shall be screened on three (3) sides. The open side shall correspond with the directional requirements of the dish antenna.
- D. The following conditions shall apply to amateur radio towers and other antenna placements, excluding Towers, as defined in this Ordinance:
1. All amateur radio towers and antennas shall be setback a minimum of ten (10) feet from all rear and side property lines, plus an additional one-third (1/3) of a foot for each one (1) foot of tower/antenna height over thirty-five (35) feet tall. Setbacks shall be measured from the farthest most protrusion of the amateur radio tower and its appurtenances.
 2. All guy wires shall be set back from the side and/or rear property lines a minimum of ten (10) feet.
 3. No amateur radio tower shall exceed seventy (70) feet in height and the combined total height of an amateur radio tower and its antenna shall not exceed one hundred (100) feet in height.
 4. A certified survey shall be submitted at the discretion of the building official which shall verify amateur radio tower and antenna heights, and setbacks for the tower, its appurtenances, and the guy wires.
 5. No amateur radio tower, antenna, or guy wires shall be located within a front yard or on any recorded easement.
 6. No amateur radio tower shall be placed on a roof.
 7. A maximum of one (1) amateur radio tower greater than thirty-five (35) feet in height shall be permitted per lot, parcel, or tract that is less than five (5) acres. If a lot, parcel, or tract is greater than five (5) acres, a maximum of one (1) amateur radio tower per five (5) acres shall be permitted.
 8. An amateur radio tower shall be fenced, walled, or protected in some manner so as to prevent uncontrolled access by children from the street or from adjacent properties. Said wall, fence, or protection shall be maintained in good condition.
 9. All amateur radio towers shall be removed when no longer in service.
- E. The following terms shall apply to commercial cellular Towers and Small Cell Support Structures, as provided for in the remainder of this Ordinance. For terms not defined herein, the Federal Communications Commission ("FCC") definition shall apply.

Antennas or Related Equipment: Any transmitting, receiving or other equipment used in conjunction with a Wireless Communications Facility. The term includes Utility or Transmission Equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar equipment. This definition does not include Towers.

Applicant: An Applicant is a person or entity who is authorized by the provisions of this Ordinance to file for approval under these regulations.

Application: An Application is the completed site plan application form and all accompanying documents, exhibits, and fees required of an Applicant by the Town of Farragut as part of a submission for review.

Base Station: Equipment at a fixed location that enables Federal Communications Commission ("FCC") licensed or authorized wireless communication between user equipment and a communication network.

Cellular Telecommunications Services: A retail telecommunications service that uses radio signals transmitted through cell sites and switching stations.

Co-Location: Locating more than one (1) transmission Antenna or Related Equipment on the same Small Cell Support Structure or Tower.

Monopole: A structure that consists of a single vertical pole without guy wires, designed and erected on the ground to support communications antennas and connected appurtenances. A monopole could be either a Tower or a Small Cell Support Structure but would not include Non-Tower Wireless Communications Facilities since those are not originally designed to support communications antennas and connected appurtenances.

Non-Tower Wireless Communications Facilities: Wireless communications facilities other than Tower-based wireless communications. This would include facilities mounted to existing structures that were not originally intended to accommodate wireless communications facilities, such as buildings, Utility Poles, water towers, steeples, billboards, flags, etc.

Ordinance: Shall refer to this and any other applicable sections of the Farragut Municipal Code, as amended.

Personal Communication Services: ~~Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in 47 U.S.C. sec. 332(e).~~

Planning Commission: The term "Planning Commission" shall mean the Farragut Municipal Planning Commission in Farragut, Tennessee.

Planning Jurisdiction: The Planning Jurisdiction includes those areas of Knox County, Tennessee, which fall under the jurisdictional authority of the Planning Commission.

Right-of-Way: The surface of and space above and below any real property in the municipality in which the federal government, state government, municipality, or municipal authority has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, bridges, or any other public place, area, or property under the control of the

federal government, state, municipality, or municipal authority. Private Rights-of-Way and other government-owned lands not listed above shall not be considered a Right-of-Way. The phrase "in the Right(s)-of-Way" means, in, on, over, along, above and/or under the Right(s)-of-Way.

Small Cell System/Distributed Antenna System ("DAS"): A network of remote antenna nodes that distribute radio frequency signals from a central hub through a high capacity signal transport medium to a specific area.

Small Cell Support Structure: For purposes of this Ordinance, a Small Cell Support Structure could include a Monopole or a Non-Tower Wireless Communications Facility that is erected within the public Right of Way or on private property and that does not exceed the lesser of either the maximum building height permitted in the associated zoning district or no more than three (3) feet above the predominant height of the shortest existing Utility Poles in the immediate area. Any other Monopole shall be considered a Tower, as defined herein, and subject to the regulations that would apply to Towers.

Small Cell Support Structures are constructed for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

Staff: Those employees of the Town of Farragut assigned to support and/or administer the powers and duties prescribed to the Farragut Municipal Planning Commission.

Stealth Technology: Design techniques applied to telecommunication structures that will help conceal them or make them less visible to the casual observer. Such techniques may include, but are not limited to, facilities constructed to resemble light poles, trees, flag poles, steeples, or other streetscape elements. Stealth Technology may also include concealment wrap and similar technologies and placing applicable structures underground.

Tower: A support structure and all appurtenances constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of any telecommunications services or Personal Communication Services. This would include traditional Monopole commercial cell towers and Transport Poles. For purposes of this Ordinance, a Tower is differentiated from a Small Cell Support Structure in that a Tower is a Monopole that may exceed the permitted building height of the associated zoning district and is not permitted within the public right-of-way.

Transport Poles: A type of Tower that includes microwave backhaul. Transport poles are subject to all requirements associated with a Tower.

Transmission Equipment: Equipment that facilitates transmission for any Federal Communications Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and

regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Utility: Has the meaning as defined in *Tennessee Code Annotated*.

Utility, Overhead: Utility infrastructure that is located primarily above ground as determined by Staff. For purposes of this Ordinance, Overhead Utilities include but are not limited to power lines and communications lines.

Utility Pole: A structure used for the support of electrical, telephone, cable television or other video services, street lighting, or other similar cables and located within the public Right of Way or Utility easements. A Small Cell Support Structure may be incorporated onto a Utility Pole provided such pole does not extend, with the application of Small Cell Support Structures, to a height greater than three (3) feet above the predominant height of the shortest Utility Poles within five-hundred (500) feet.

Utility, Underground: Utility infrastructure that is located primarily underground as determined by Staff. For purposes of this Ordinance, underground utilities include but are not limited to water lines, sanitary sewer lines, storm sewer lines, culverts, natural gas lines, power lines, certain Small Cell Support System/DAS structures, and communications lines.

Wireless Communications Facility: The set of equipment and network components including antennas, transmitters, receivers, Base Stations, cabling, and Antenna or Related Equipment, used to provide wireless data and telecommunication services.

F. Towers. The following provisions shall apply to Towers, as defined herein.

1. Application Requirements

Pre-Application Filing Meeting. Prior to filing an application for a Tower a pre-application meeting with the Staff is required. At this meeting the applicable provisions associated with the requested Tower can be reviewed and discussed. An application will not be accepted if the required pre-application meeting has not been completed.

An Application for a new Tower shall include the following as applicable to the request:

- a) A completed site plan application and filing fee;
- b) A development site plan, per the requirements of this Ordinance, showing but not limited to the following: the location of the structure, identification of structure type, location of any proposed equipment cabinets or buildings, identification of adjacent land owners;
- c) A map and plan for how fiber optics are being extended to the property and the proposed Tower and, where applicable, the Non-Tower Wireless Communications Facility. Fiber optics shall be placed underground in areas with primarily underground utilities and an additional Right of Way Permit from the Town shall be obtained for

any work conducted within the Right of Way. Any fiber optics proposed outside the Right of Way or not within existing platted utility easements shall require an easement to be platted and presented to the Staff and the Planning Commission for approval.

- d) A landscape plan, per the requirements of this Ordinance;
- e) A map showing other Towers within a one (1) mile radius of the proposed site showing their height and ground elevations at the base;
- f) A map and other documentation which demonstrates the coverage need for the proposed Tower;
- g) A certified survey showing a circular setback for the Tower, access road and road elevations to the site, adjacent property lines, existing landscaping features, identification of all nonresidential buildings and structures, property owners, existing topography and approximate delineation of any topographical changes shown by contour with intervals not to exceed ten (10) feet, and all utility lines and easements;
- h) A list of other possible alternative sites within a one (1) mile radius that were considered for possible use by Applicant for the structure and the reason they were unsuccessful in each instance;
- i) The name(s) and address of the initially proposed FCC licensed entity to use the structure;
- j) Documentation from the Federal Aviation Administration (FAA) indicating whether lighting will be required for the Tower and whether it is a Hazard to air navigation;
- k) A recorded covenant or deed that runs with the land (or alternate assurance approved by the Town Attorney) that provides for the owner of the Tower to remove such structure(s) at his/her expense if the structure has not been used for a period of six (6) months or more;
- ~~l) A recorded covenant or deed that runs with the land (or alternate assurance approved by the Town Attorney) that provides for the owner of the Tower to construct such structure(s) within one (1) year from the date of approval by the Town;~~ An affirmation by the applicant not only that the Tower is currently needed to provide adequate coverage, but committing that if the site plan is approved, the Tower and related equipment will be constructed and in use within twelve (12) months of the approval. The affirmation will also acknowledge that as time passes, municipal planning circumstances will change, and agreeing to reapply for site plan approval if the Tower approved by the original site plan is not timely constructed within the twelve (12) month period if the Tower is still desired.
- m) A letter from an appropriate officer of the Applicant company stating that charges made to any user of the structure will be consistent with the charges made by other Tower owners in the area;
- n) A copy of the lease agreement or letter from the property owner giving permission for the Application request;
- o) Where applicable, a plat reflecting all newly established easements associated with a Tower, in addition to all recorded covenants or deeds;
- p) Pre-addressed and unsealed postage stamped envelopes to be used by the Staff to notify property owners that are within a 1,000 foot radius of the Tower as measured from the base of the Tower; and
- q) Any other document that the Staff, Planning Commission, or their consultant may request.

2. Processing of Applications

- a) Staff shall review all Applications for new Towers within 30 days of Application filing to determine if an Application is complete. During this time frame, the Staff may request a third party consultant review to verify certain applicable information.
- b) Staff shall issue initial comments to the Applicant within this 30 day time frame so that the Applicant can address any identified deficiencies. Once Staff comments have been addressed the Staff shall notify the Applicant in writing that the Application is complete. As applicable, the Staff or the Planning Commission shall then either approve, approve with conditions, or deny the Application within sixty (60) days of the date the Application is determined to be complete. If the Town does not make a final decision within the required sixty (60) days, the Application shall be deemed to be approved as submitted.
- c) Requests for co-locations on existing Towers shall be subject to obtaining a building permit. A site plan review will not be required for a co-location, provided the co-location is determined by Staff to comply with all applicable provisions of this Ordinance.
- d) An applicant claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Staff or Planning Commission in the administration of this Ordinance may appeal the action to the Board of Zoning Appeals. Such appeal must be taken within thirty (30) consecutive calendar days of the final action by the Staff or Planning Commission. The appeal shall be filed with the Staff along with an appeal fee of one hundred dollars (\$100). The Staff will fix a reasonable time for hearing the appeal and give public notice, as well as written notice to the appellant and the owner of right-of-way or property (if different from the jurisdiction) at least ten (10) days prior to the hearing.
- e) An applicant claiming to be injured or aggrieved by any final action of the Town rendered by the Board of Zoning Appeals may appeal from the final action to the Circuit Court of Knox County Tennessee. Such appeal shall be taken within thirty (30) days after such action.

3. Design Standards for Towers

- a) At the time of Application submittal, the Applicant shall provide information demonstrating compliance with the applicable provisions of this Ordinance. Where the Planning Commission finds that circumstances or conditions relating to the particular Application are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such conditions or circumstances make one or more requirements unreasonable, the Planning Commission may modify or waive such requirement, either permanently or on a temporary basis. Any modification or waiver, along with justification for each, shall be requested in writing by the Applicant.
- b) All Towers, as well as Non-Tower Wireless Communications Facilities mounted on top of existing buildings or other structures, shall be constructed with Stealth Technology that has been approved by the Planning Commission. All cables and wires shall be installed inside the stealth Monopole structure. Stealth Technology shall not apply to existing Towers, unless such Towers are replaced or an existing lease is re-

negotiated to provide for Stealth Technology. Replacement Towers shall be constructed with Stealth Technology.

- c) All Towers that are proposed on property that is not zoned residential and does not abut property that is zoned residential shall be set back a minimum of one-half ($\frac{1}{2}$) of a foot for each one (1) foot of Tower and Antenna height or fifty (50) feet, whichever is greater. Setbacks shall be measured from the farthest most protrusion of the Tower and Antenna to the nearest point of any property line.
- d) All Towers that are proposed on property that is zoned residential or Towers that are proposed on property that is not zoned residential but abuts property that is zoned residential shall be set back a minimum of one (1) foot for each one (1) foot of Tower and Antenna height. Setbacks shall be measured from the farthest most protrusion of the Tower and Antenna to the nearest point of any property line.
- e) All equipment shelters, cabinets, fencing, and all other structures accessory to a Tower shall be set back a minimum of fifty (50) feet on property that is not zoned residential and that does not abut property that is zoned residential. All equipment shelters, cabinets, fencing, and all other structures accessory to a Tower shall be set back a minimum of sixty (60) feet on property that is zoned residential or property that is not zoned residential but abuts property that is zoned residential. Setbacks shall be measured from the farthest most protrusion of the structure(s) to the nearest point of any property line.
- f) All access ways leading to a Tower and/or its accessory structures shall be set back a minimum of ten (10) feet from all side and rear property lines.
- g) Towers and attached antennae, including a lightning rod, that are proposed on property that is not zoned residential shall not exceed a height of one-hundred sixty five (165) feet. This also applies to a Non-Tower Wireless Communication Facility that is constructed on top of another building or structure with the height being the overall height of the building/structure and Tower together, measured from the average grade at the building or structure plane to the highest point. The setback requirements in this Ordinance shall apply regardless of whether the Tower is a Monopole or a Non-Tower Wireless Communication Facility constructed on top of another building or structure.
- h) Towers and attached antennae, including a lightning rod, that are proposed on property that is zoned residential shall not exceed a height of seventy-five (75) feet. This also applies to a Tower that is constructed on top of another building or structure with the height being the overall height of the building/structure and Tower together, measured from the grade to the highest point. The setback requirements in this Ordinance shall apply regardless of whether the Tower is a Monopole or a Non-Tower Wireless Communication Facility constructed on top of another building or structure.
- i) No accessory building or structure for a Tower shall exceed fifteen (15) feet in height.
- j) Towers shall not be permitted within the area adopted as the Mixed Use Town Center, as shown in the Comprehensive Land Use Plan Update, as amended.
- k) Towers shall not be illuminated, except in accordance with state or federal regulations.
- l) The site shall be unstaffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, ingress/egress shall only be from approved access points.
- m) Fencing used to enclose Towers and their accessory structures shall be properly maintained and in compliance with state or federal regulations.

- n) The fenced area that encloses the Tower and its accessory structures shall be landscaped with non-exotic, **non-invasive** invasive plant material that is reviewed and approved as part of a landscape plan that shall accompany the Application. This material shall meet the minimum sizes provided for in the Town's landscaping requirements and shall include species and a spacing arrangement that will screen the fenced area from view. A landscape maintenance letter of credit shall be provided to cover the maintenance of the approved plant material for a minimum of 2 years. If an existing structure is being used for Stealth purposes as part of a Non-Tower Wireless Communication Facility, the plant material requirements may be waived by the Planning Commission.
- o) Existing trees around a Tower site shall be preserved and may count toward fulfilling a portion or all of the landscaping requirements stipulated in this Ordinance.
- p) All driveways and off-street parking areas shall be constructed with a non-erodible improved surface, such as asphalt, concrete, permeable pavers, that is properly drained and maintained. The driveway shall be a minimum width of twelve (12) feet and a maximum width of twenty-four (24) feet. The composition of the driveway and off-street parking areas shall be designed by the Applicant's engineer and shall be based on the heaviest vehicles that are likely to use such facilities. A turn around area is also required for emergency responders and shall be a component of the approved design.
- q) There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs which are required by a federal, state, or local agency. Such signs shall not exceed five (5) total square feet in area.
- r) **All new Towers shall be designed and constructed to provide for Co-Location unless an Applicant can clearly demonstrate that Co-Location is not feasible given a proposed Tower's height. A Tower design, including Stealth Technology, and placement shall provide for any anticipated height extension that may occur in the future. Additional height shall require additional Co-Location. Options for Co-Location shall be reviewed with the Staff and Planning Commission based on the height and placement of the proposed Tower.**
- s) All option and site lease agreements shall permit the possibility of Co-Location.
- t) To ensure the structural integrity of a Tower, the owner of such Tower shall ensure that the Tower is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for structures that are published by the Electronic Industries Association, as amended from time to time. If upon inspection, the Town of Farragut concludes that a Tower fails to comply with applicable codes and standards and constitutes a danger to person or property, then upon notice being provided to the owner of the Tower, the owner shall have thirty (30) days to bring such Tower into compliance with such standards. Failure to bring such Tower into compliance within said thirty (30) days shall constitute grounds for the removal of the Tower at the owner's expense.

G. Small Cell Support Structures and Distributed Antenna Systems (DAS). The following provisions shall apply to Small Cell Support Structures and DAS, as defined in this Ordinance.

1. Application Requirements

Pre-Application Filing Meeting. Prior to filing an application for a Small Cell Support Structure or DAS, a pre-application meeting with the Staff is required. At this meeting the applicable provisions associated with the request can be reviewed and discussed. An Application will not be accepted if the required pre-application meeting has not been completed.

This meeting will allow for early coordination by identifying existing structures that might be suitable for co-location or that might qualify as Non-Tower Wireless Communication Facilities. This will also help identify any other issues ~~items~~ which may relate to (i) the use of Right of Way or Utility Poles and/or (ii) the application to the proposed request of any other local zoning, subdivision regulations, or other rules, regulations or adopted plans, including, but not limited to the ~~of the Town's Comprehensive Land Use Plan and Architectural Design Standards. , local zoning and subdivision regulations, and/or the provisions of this Ordinance.~~ The meeting will provide an opportunity for an initial discussion regarding proposed structure locations, design, and the Application submittal and approval process. Coordination with utilities for possible use of pre-existing structures will be required. Applicants shall supply the provider's preferred locations, structure design, style, and structure height at least one week prior to the pre-application meeting or upon request for such meeting.

Unless provided for otherwise, all proposed Small Cell Support Structures/DAS shall be subject to Staff review and approval by the Planning Commission. Certain Non-Tower Wireless Communication Facilities Applications, including co-locations, may be reviewed and approved by the Staff provided the Staff determines that a more formal review with the Planning Commission is not necessary based on the location and/or physical characteristics of the proposed facilities.

Applications for Small Cell Support Structures or DAS shall include the following information as applicable to the request:

- a) A completed site plan application and filing fee. Applications are limited to three (3) Structures per Application. ~~Multiple Structures may only be included on a single Application if they are located within the Town.~~
- b) A development site plan, signed and sealed by a professional engineer registered in Tennessee, showing the proposed location of each Small Cell Support Structure and any existing Small Cell Support Structures within five hundred (500) feet of each proposed location. This plan shall specifically identify, for each location, existing Utility Poles within five-hundred (500) feet and their predominant physical characteristics (type, material, height, color, etc.). The plan shall address whether an existing Utility Pole is proposed to be used to accommodate a Small Cell Support Structure or whether a new Monopole is being requested. The plan shall also address if an existing Utility Pole is being replaced in order to accommodate a Small Cell Support Structure.
- c) A map and plan for how fiber optics are being extended to the Small Cell Support Structure/DAS and, where applicable, the Non-Tower Wireless Communications Facility. Fiber optics shall be placed underground in areas with primarily underground utilities and an additional Right of Way Permit from the Town shall be obtained for

any work conducted within the Right of Way. Any fiber optics proposed outside the Right of Way or not within existing platted utility easements shall require an easement to be platted and presented to the Staff and the Planning Commission for approval.

- d) For Non-Tower Wireless Communications Facilities proposed on buildings or other structures that are not within the Right of Way, the development site plan shall include the proposed Small Cell Support Structures, their physical characteristics, and Stealth Technology applications that would be proposed based on the proposed location and context.
- e) An indication of existing improvements, such as pedestrian facilities, accesses, landscaping, and Underground Utilities, that are within twenty-five (25) feet of the proposed Small Cell Support Structure(s) and any other information that may be pertinent to or impact the decision on where to place the structure and its related equipment. ~~related aspects of the Application review.~~
- f) A map and other documentation which demonstrates the coverage need for each proposed Small Cell Support Structure. This shall include a statement of the telecommunications objective(s) for each proposed Small Cell Support Structure location, whether the proposed facility is necessary to prevent or fill a gap or capacity shortfall in the Applicant or provider's service area, whether it is the least obtrusive means of doing so, and whether there are any alternative sites or other applications that would have fewer aesthetic impacts while providing comparable service.
- g) A statement by an authorized representative that the Applicant or provider holds all applicable licenses or other approvals required by the FCC, and any other agency of state or federal government with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.
- h) A statement by an authorized representative that the Applicant or provider is in compliance with all conditions required for such license and approvals.
- i) A full description of the number and dimensions of all Small Cell Support Structures to be installed including, but not limited to, all underground structures, antennae, the height of above ground structures and any equipment cabinets or buildings associated with the installation.
- j) Where structures are permitted above ground, a vertical profile sketch or drawing of the structures, signed and sealed by a professional engineer registered in Tennessee, indicating the height of the structure and the placement and physical dimensions of all antennas and equipment enclosures.
- k) For Non-Tower Wireless Communications Facilities to be mounted on existing Utility Poles or replacement Utility Poles, the profile sketch shall verify compliance with the height parameters provided for in this Ordinance.
- l) Written approval from the property owner(s) stating that the Applicant or provider has permission to apply to construct a facility on their property (e.g. on an existing building with a Non-Tower Wireless Communication Facility in the form of a Small Cell Support Structure). In the case of non-Town owned Utility Poles, the utility provider shall acknowledge permission for the Applicant to apply to use their Pole(s) for Small Cell Support Structures. Monopoles within the Right-of-Way or proposed on Town-owned Utility Poles shall be considered by the Staff and Planning Commission, as representatives of the Town, as part of the Application review. Final approval to use Town-owned property for Small Cell Support Structures shall be acknowledged in writing by the duly-authorized representative of the Town. A lease agreement or a

franchise agreement with the Town will typically be required as a condition of Staff or Planning Commission approval.

- m) Photographs of view shed from each proposed Small Cell Support Structure location taken in at least four directions.

2. Processing of Applications

- a) Staff shall review all Applications for new Small Cell Support Structures within 30 days of Application filing to determine if an Application is complete. During this time frame, the Staff may request a third party consultant review to verify certain applicable information.
- b) Staff shall issue comments to the Applicant within this 30 day time frame so that the Applicant can address any identified deficiencies. Once Staff comments have been addressed the Staff shall notify the Applicant in writing that the Application is complete. As applicable, the Staff or the Planning Commission shall then either approve, approve with conditions, or deny the Application within sixty (60) days of the date the Application is determined to be complete. If the Town does not make a final decision within the required sixty (60) days, the Application shall be deemed to be approved as submitted.
- c) An applicant claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Staff or Planning Commission in the administration of this Ordinance may appeal the action to the Board of Zoning Appeals. Such appeal must be taken within thirty (30) consecutive calendar days of the final action by the Staff or Planning Commission. The appeal shall be filed with the Staff along with an appeal fee of one hundred dollars (\$100). The Staff will fix a reasonable time for hearing the appeal and give public notice, as well as written notice to the appellant and the owner of right-of-way or property (if different from the jurisdiction) at least ten (10) days prior to the hearing.
- d) An applicant claiming to be injured or aggrieved by any final action of the Town rendered by the Board of Zoning Appeals may appeal from the final action to the Circuit Court of Knox County Tennessee. Such appeal shall be taken within thirty (30) days after such action.

3. Design Standards for Small Cell Support Structures/DAS

The regulations in this subsection shall apply to Small Cell Support Structures and DAS. Temporary, mobile or wheeled cellular antenna structures shall not be permitted without prior approval from the Staff or, where applicable, the Planning Commission.

- a) Monopole Small Cell Support Structures shall include Stealth Technology and shall not exceed the lesser of either the maximum building height for the zoning district within which they are located or three (3) feet above the predominant height of the shortest Utility Poles within five-hundred (500) feet of the proposed Monopole. Small Cell Support Structures that involve replacing existing Utility Poles shall be subject to adhering to the height of the Utility Pole that is being replaced plus an additional three (3) feet. Replacement Utility Poles that will more effectively accommodate a Stealth Technology shall be prioritized as part of the Application review process.

- b) Non-Tower Wireless Communication Facilities that incorporate Small Cell Support Structures shall include Stealth Technology appropriate for the proposed location and context. With the exception of Utility Poles, Non-Tower Wireless Communications Facilities shall not exceed the lesser of either the maximum building height permitted in the associated zoning district or ten (10) feet above the height of the existing structure on which the Small Cell Support Structures are proposed. In relation to Utility Poles, Non-Tower Wireless Communications Facilities shall not extend more than three (3) feet above the predominant height of the shortest Utility Poles within five-hundred (500) feet.
- c) Small Cell Support Structures shall be designed and constructed to accommodate a minimum of two (2) service providers. Based on the proposed location and context, this may be exempted for Non-Tower Wireless Communications Facilities.
- d) Small Cell Support Structures shall not interfere with other utilities, encroach onto or over sidewalks and other pedestrian or bicycle facilities, interfere with landscaping, visibility, or other matters of public safety.
- e) Small Cell Support Structures proposed in an area with primarily underground utilities shall be placed underground with the exception of an antenna. All wiring shall be concealed within the pole and antenna and the antenna shall include Stealth Technology appropriate for the location and context.
- f) Small Cell Support Structures proposed in an area with primarily overhead utilities shall apply Stealth Technology that is appropriate for the location and context.
- g) Where wiring to an antenna cannot be concealed within a Utility Pole (e.g. wooden poles), all wiring to the antenna shall be concealed within the most Stealth conduit possible that matches the color of the Utility Pole.
- h) Small Cell Support Structures proposed on property zoned residential shall be encouraged to be Non-Tower Wireless Communication Facilities (such as those contained behind building parapets or concealed within other existing structures) that include Stealth Technology appropriate for the location and context.
- i) Where an Applicant can clearly demonstrate that employment of a Non-Tower Wireless Communication Facility application is not possible on a property zoned residential, all Small Cell Support Structures shall be placed underground. In all cases, antennas proposed on property zoned residential shall be concealed with concealment wrap or a similar application.
- j) Small Cell Support Structures shall not be illuminated, except to fulfill certain state or federal regulations, or where illumination is integral to the Stealth Technology, such as a design intended to look like a street light pole.
- k) Small Cell Support Structures shall not include advertisements and may only display information required by a federal, state, or local agency. Such display shall not exceed one (1) square foot in area, unless required by state or federal regulations, or unless a larger display is integral to the Stealth Technology. Such display shall not exceed the width of the pole, unless a wider sign is integral to the Stealth Technology such as a design which integrates a decorative banner.
- l) The use of cooling fans is discouraged. When needed, fans with lower noise profiles must be used.
- m) Small Cell Support Structures shall not be located within five hundred (500) feet of an existing Small Cell Support Structure unless an Applicant can clearly demonstrate

- that such distance prohibits the carrier's ability to provide service. Multiple carriers are permitted and encouraged to locate on one Small Cell Support Structure, where possible.
- n) Reasonable efforts shall be made by the Applicant and assessed as part of the Application review process to locate new Small Cell Support Structures in the order of hierarchy below, based on the following functional roadway classification from the most to least preferred:

Interstate
Arterial
Collector
Local

- o) Reasonable efforts shall be made by the Applicant and assessed as part of the Application review process to locate new Small Cell Support Structures based on the following hierarchy of zones and land uses from the most to least preferred:

Commercial
Institutional
Public parks
Agricultural
Residential

H. ~~Application Evaluation~~ Factors to Consider in Evaluation of Applications

As part of Staff and Planning Commission review of Applications filed for telecommunications facilities, the following parameters shall apply conformity of the Application with the foregoing requirements, including but not limited to the following, shall apply:

1. The Application is consistent with the objectives of this Ordinance.
2. The adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.) that provide for the ability to comply with the provisions of this Ordinance.
3. The extent to which the proposal responds to the impact of the proposed development on adjacent land uses, especially in terms of visual impact.
4. The extent to which the proposed telecommunications facility is camouflaged (i.e., use of Stealth Technology).
5. The extent to which the proposed facility is integrated with existing structures (i.e., buildings, signs, Utility Poles, etc.).
6. An Applicant's compliance with all Town requirements with respect to previous Applications.

I. Amendments to Approved Plans

Amendments to approved plans shall be reviewed by the Staff once the Application for the associated amendment is deemed complete and, where applicable, forwarded to the Planning Commission for consideration and approval. Evaluation of the amendment shall be based on the applicable criteria of this Ordinance.

SECTION 2.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

Certified to the Farragut Board of Mayor and Aldermen this ____ day of _____, 2017,
with approval recommended.

Rita Holladay, Chairman

Edwin K. Whiting, Secretary

FARRAGUT MUNICIPAL PLANNING COMMISSION

ORDINANCE:	17-08
PREPARED BY:	Shipley
REQUESTED BY:	Town Staff
CERTIFIED BY FMPC:	March 16, 2017
PUBLIC HEARING:	_____
PUBLISHED IN:	_____
DATE:	_____
1ST READING:	_____
2ND READING:	_____
PUBLISHED IN:	_____
DATE:	_____

AN ORDINANCE TO AMEND THE TEXT OF THE FARRAGUT ZONING ORDINANCE, ORDINANCE 86-16, AS AMENDED, PURSUANT TO AUTHORITY GRANTED BY SECTION 13-4-201, TENNESSEE CODE ANNOTATED, BY AMENDING CHAPTER 4., GENERAL PROVISIONS AND EXCEPTIONS, SECTION III., ANTENNAS AND TOWERS, TO PROVIDE FOR NEW REQUIREMENTS

WHEREAS, the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, wishes to amend Chapter 4, General Provisions and Exceptions, of the Farragut Zoning Ordinance, Ordinance 86-16,

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Zoning Ordinance is hereby amended as follows:

SECTION 1.

The Farragut Zoning Ordinance, Chapter 4, General Provisions and Exceptions, Section III., Antennas and Towers, is amended by deleting it in its entirety and substituting in lieu thereof the following:

III. – Telecommunications.

The following requirements shall apply to dish antennas, amateur radio towers (excluding Towers, as defined in this Ordinance), Towers, Non-Tower Wireless Communication Facilities, and Small Cell Support Structures.

- A. The following conditions shall apply to dish antenna placements in all zones:
 - 1. No text, pictures, logos, or advertising shall be displayed on any surface of the dish antenna.
 - 2. Installation of the required screening shall be done concurrently with the construction of the base mount for any dish antenna.
 - 3. Where screening is required, the dish antenna shall be screened from view from public rights-of-way and from adjacent property by any combination or single treatment of vegetative or structural barriers. The screening shall provide eighty (80)

percent opacity at a height of seven (7) feet within two (2) years of its installation. Defective or dead screening shall be replaced to maintain the screening of the dish antenna while the dish antenna remains in its permitted location.

4. The dish antenna or any required screening shall not penetrate any recorded easement.
- B. The following conditions shall apply to dish antenna placements in residential and agricultural zoning districts:
1. Only one (1) dish antenna shall be permitted per lot, parcel, or tract.
 2. No freestanding dish antenna shall exceed eleven (11) feet in height, as measured at its highest point above the surrounding grade.
 3. No dish antenna with a dish size greater than twenty-four (24) inches shall be placed on any roof or attached to any principal or accessory structure. Dish antennas with a dish size of twenty-four (24) inches or less may be placed on a roof or wall of a principal or accessory structure provided it does not project above the roof line, it is not visible from any public rights-of-way, and it does not violate any required setback.
 4. Freestanding dish antennas shall be set back from the side and/or rear property lines a minimum distance equal to at least two (2) times the height of the mounted dish antenna or the minimum distance for accessory structures whichever is greater.
 5. Screening shall be required for all dish antenna with a dish size greater than twenty-four (24) inches.
- C. The following conditions shall apply to dish antenna placements in Community Service, Commercial, and Office Zoning Districts:
1. Only one (1) dish antenna shall be permitted per business.
 2. A ground-mounted dish antenna shall not exceed eleven (11) feet in height, as measured at its highest point above the surrounding grade. A roof-mounted dish antenna shall not exceed eleven (11) feet above the attachment of the base mount to the roof.
 3. The maximum building height shall apply, relative to the particular zoning district in which the dish antenna is to be located.
 4. Dish antennas may be permitted to be located in the rear yard or on the roof. A dish antenna with a dish size of twenty-four (24) inches or less may be permitted to be attached to a wall provided it does not project above the roof line, it is not visible from any public rights-of-way, and it does not violate any required setback.
 5. Rear yard placements of the dish antennas may not be located in any other required buffer zone or screening required for other purposes.
 6. Screening shall be required for all rear yard placements of dish antennas.
 7. Roof-mounted dish antennas shall be screened on three (3) sides. The open side shall correspond with the directional requirements of the dish antenna.

D. The following conditions shall apply to amateur radio towers and other antenna placements, excluding Towers, as defined in this Ordinance:

1. All amateur radio towers and antennas shall be setback a minimum of ten (10) feet from all rear and side property lines, plus an additional one-third ($\frac{1}{3}$) of a foot for each one (1) foot of tower/antenna height over thirty-five (35) feet tall. Setbacks shall be measured from the farthest most protrusion of the amateur radio tower and its appurtenances.
2. All guy wires shall be set back from the side and/or rear property lines a minimum of ten (10) feet.
3. No amateur radio tower shall exceed seventy (70) feet in height and the combined total height of an amateur radio tower and its antenna shall not exceed one hundred (100) feet in height.
4. A certified survey shall be submitted at the discretion of the building official which shall verify amateur radio tower and antenna heights, and setbacks for the tower, its appurtenances, and the guy wires.
5. No amateur radio tower, antenna, or guy wires shall be located within a front yard or on any recorded easement.
6. No amateur radio tower shall be placed on a roof.
7. A maximum of one (1) amateur radio tower greater than thirty-five (35) feet in height shall be permitted per lot, parcel, or tract that is less than five (5) acres. If a lot, parcel, or tract is greater than five (5) acres, a maximum of one (1) amateur radio tower per five (5) acres shall be permitted.
8. An amateur radio tower shall be fenced, walled, or protected in some manner so as to prevent uncontrolled access by children from the street or from adjacent properties. Said wall, fence, or protection shall be maintained in good condition.
9. All amateur radio towers shall be removed when no longer in service.

E. The following terms shall apply to commercial cellular Towers and Small Cell Support Structures, as provided for in the remainder of this Ordinance. For terms not defined herein, the Federal Communications Commission ("FCC") definition shall apply.

Antennas or Related Equipment: Any transmitting, receiving or other equipment used in conjunction with a Wireless Communications Facility. The term includes Utility or Transmission Equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar equipment. This definition does not include Towers.

Applicant: An Applicant is a person or entity who is authorized by the provisions of this Ordinance to file for approval under these regulations.

Application: An Application is the completed site plan application form and all accompanying documents, exhibits, and fees required of an Applicant by the Town of Farragut as part of a submission for review.

Base Station: Equipment at a fixed location that enables Federal Communications Commission ("FCC") licensed or authorized wireless communication between user equipment and a communication network.

Cellular Telecommunications Services: A retail telecommunications service that uses radio signals transmitted through cell sites and switching stations.

Co-Location: Locating more than one (1) transmission Antenna or Related Equipment on the same Small Cell Support Structure or Tower.

Monopole: A structure that consists of a single vertical pole without guy wires, designed and erected on the ground to support communications antennas and connected appurtenances. A monopole could be either a Tower or a Small Cell Support Structure but would not include Non-Tower Wireless Communications Facilities since those are not originally designed to support communications antennas and connected appurtenances.

Non-Tower Wireless Communications Facilities: Wireless communications facilities other than Tower-based wireless communications. This would include facilities mounted to existing structures that were not originally intended to accommodate wireless communications facilities, such as buildings, Utility Poles, water towers, steeples, billboards, flags, etc.

Ordinance: Shall refer to this and any other applicable sections of the Farragut Municipal Code, as amended.

Planning Commission: The term "Planning Commission" shall mean the Farragut Municipal Planning Commission in Farragut, Tennessee.

Planning Jurisdiction: The Planning Jurisdiction includes those areas of Knox County, Tennessee, which fall under the jurisdictional authority of the Planning Commission.

Right-of-Way: The surface of and space above and below any real property in the municipality in which the federal government, state government, municipality, or municipal authority has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, bridges, or any other public place, area, or property under the control of the federal government, state, municipality, or municipal authority. Private Rights-of-Way and other government-owned lands not listed above shall not be considered a Right-of-Way. The phrase "in the Right(s)-of-Way" means, in, on, over, along, above and/or under the Right(s)-of-Way.

Small Cell System/Distributed Antenna System ("DAS"): A network of remote antenna nodes that distribute radio frequency signals from a central hub through a high capacity signal transport medium to a specific area.

Small Cell Support Structure: For purposes of this Ordinance, a Small Cell Support Structure could include a Monopole or a Non-Tower Wireless Communications Facility

that is erected within the public Right of Way or on private property and that does not exceed the lesser of either the maximum building height permitted in the associated zoning district or no more than three (3) feet above the predominant height of the shortest existing Utility Poles in the immediate area. Any other Monopole shall be considered a Tower, as defined herein, and subject to the regulations that would apply to Towers.

Small Cell Support Structures are constructed for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

Staff: Those employees of the Town of Farragut assigned to support and/or administer the powers and duties prescribed to the Farragut Municipal Planning Commission.

Stealth Technology: Design techniques applied to telecommunication structures that will help conceal them or make them less visible to the casual observer. Such techniques may include, but are not limited to, facilities constructed to resemble light poles, trees, flag poles, steeples, or other streetscape elements. Stealth Technology may also include concealment wrap and similar technologies and placing applicable structures underground.

Tower: A support structure and all appurtenances constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of any telecommunications services or Personal Communication Services. This would include traditional Monopole commercial cell towers and Transport Poles. For purposes of this Ordinance, a Tower is differentiated from a Small Cell Support Structure in that a Tower is a Monopole that may exceed the permitted building height of the associated zoning district and is not permitted within the public right-of-way.

Transport Poles: A type of Tower that includes microwave backhaul. Transport poles are subject to all requirements associated with a Tower.

Transmission Equipment: Equipment that facilitates transmission for any Federal Communications Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Utility: Has the meaning as defined in *Tennessee Code Annotated*.

Utility, Overhead: Utility infrastructure that is located primarily above ground as determined by Staff. For purposes of this Ordinance, Overhead Utilities include but are not limited to power lines and communications lines.

Utility Pole: A structure used for the support of electrical, telephone, cable television or other video services, street lighting, or other similar cables and located within the public Right of Way or Utility easements. A Small Cell Support Structure may be incorporated onto a Utility Pole provided such pole does not extend, with the application of Small Cell Support Structures, to a height greater than three (3) feet above the predominant height of the shortest Utility Poles within five-hundred (500) feet.

Utility, Underground: Utility infrastructure that is located primarily underground as determined by Staff. For purposes of this Ordinance, underground utilities include but are not limited to water lines, sanitary sewer lines, storm sewer lines, culverts, natural gas lines, power lines, certain Small Cell Support System/DAS structures, and communications lines.

Wireless Communications Facility: The set of equipment and network components including antennas, transmitters, receivers, Base Stations, cabling, and Antenna or Related Equipment, used to provide wireless data and telecommunication services.

F. Towers. The following provisions shall apply to Towers, as defined herein.

1. Application Requirements

Pre-Application Filing Meeting. Prior to filing an application for a Tower a pre-application meeting with the Staff is required. At this meeting the applicable provisions associated with the requested Tower can be reviewed and discussed. An application will not be accepted if the required pre-application meeting has not been completed.

An Application for a new Tower shall include the following as applicable to the request:

- a) A completed site plan application and filing fee;
- b) A development site plan, per the requirements of this Ordinance, showing but not limited to the following: the location of the structure, identification of structure type, location of any proposed equipment cabinets or buildings, identification of adjacent land owners;
- c) A map and plan for how fiber optics are being extended to the property and to the proposed Tower and, where applicable, the Non-Tower Wireless Communications Facility. Fiber optics shall be placed underground in areas with primarily underground utilities and an additional Right of Way Permit from the Town shall be obtained for any work conducted within the Right of Way. Any fiber optics proposed outside the Right of Way or not within existing platted utility easements shall require an easement to be platted and presented to the Staff and the Planning Commission for approval;
- d) A landscape plan, per the requirements of this Ordinance;
- e) A map showing other Towers within a one (1) mile radius of the proposed site showing their height and ground elevations at the base;
- f) A map and other documentation which demonstrates the coverage need for the proposed Tower;
- g) A certified survey showing a circular setback for the Tower, access road and road elevations to the site, adjacent property lines, existing landscaping features, identification of all nonresidential buildings and structures, property owners, existing

- topography and approximate delineation of any topographical changes shown by contour with intervals not to exceed ten (10) feet, and all utility lines and easements;
- h) A list of other possible alternative sites within a one (1) mile radius that were considered for possible use by Applicant for the structure and the reason they were unsuccessful in each instance;
 - i) The name(s) and address of the initially proposed FCC licensed entity to use the structure;
 - j) Documentation from the Federal Aviation Administration (FAA) indicating whether lighting will be required for the Tower and whether it is a Hazard to air navigation;
 - k) A recorded covenant or deed that runs with the land (or alternate assurance approved by the Town Attorney) that provides for the owner of the Tower to remove such structure(s) at his/her expense if the structure has not been used for a period of six (6) months or more;
 - l) An affirmation by the applicant not only that the Tower is currently needed to provide adequate coverage, but committing that if the site plan is approved, the Tower and related equipment will be constructed and in use within twelve (12) months of the approval. The affirmation will also acknowledge that as time passes, municipal planning circumstances will change, and agreeing to reapply for site plan approval if the Tower approved by the original site plan is not timely constructed within the twelve (12) month period if the Tower is still desired.
 - m) A letter from an appropriate officer of the Applicant company stating that charges made to any user of the structure will be consistent with the charges made by other Tower owners in the area;
 - n) A copy of the lease agreement or letter from the property owner giving permission for the Application request;
 - o) Where applicable, a plat reflecting all newly established easements associated with a Tower, in addition to all recorded covenants or deeds;
 - p) Pre-addressed and unsealed postage stamped envelopes to be used by the Staff to notify property owners that are within a 1,000 foot radius of the Tower as measured from the base of the Tower; and
 - q) Any other document that the Staff, Planning Commission, or their consultant may request.

2. Processing of Applications

- a) Staff shall review all Applications for new Towers within 30 days of Application filing to determine if an Application is complete. During this time frame, the Staff may request a third party consultant review to verify certain applicable information.
- b) Staff shall issue initial comments to the Applicant within this 30 day time frame so that the Applicant can address any identified deficiencies. Once Staff comments have been addressed the Staff shall notify the Applicant in writing that the Application is complete. As applicable, the Staff or the Planning Commission shall then either approve, approve with conditions, or deny the Application within sixty (60) days of the date the Application is determined to be complete. If the Town does not make a final decision within the required sixty (60) days, the Application shall be deemed to be approved as submitted.

- c) Requests for co-locations on existing Towers shall be subject to obtaining a building permit. A site plan review will not be required for a co-location, provided the co-location is determined by Staff to comply with all applicable provisions of this Ordinance.
- d) An applicant claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Staff or Planning Commission in the administration of this Ordinance may appeal the action to the Board of Zoning Appeals. Such appeal must be taken within thirty (30) consecutive calendar days of the final action by the Staff or Planning Commission. The appeal shall be filed with the Staff along with an appeal fee of one hundred dollars (\$100). The Staff will fix a reasonable time for hearing the appeal and give public notice, as well as written notice to the appellant and the owner of right-of-way or property (if different from the jurisdiction) at least ten (10) days prior to the hearing.
- e) An applicant claiming to be injured or aggrieved by any final action of the Town rendered by the Board of Zoning Appeals may appeal from the final action to the Circuit Court of Knox County Tennessee. Such appeal shall be taken within thirty (30) days after such action.

3. Design Standards for Towers

- a) At the time of Application submittal, the Applicant shall provide information demonstrating compliance with the applicable provisions of this Ordinance. Where the Planning Commission finds that circumstances or conditions relating to the particular Application are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such conditions or circumstances make one or more requirements unreasonable, the Planning Commission may modify or waive such requirement, either permanently or on a temporary basis. Any modification or waiver, along with justification for each, shall be requested in writing by the Applicant.
- b) All Towers, as well as Non-Tower Wireless Communications Facilities mounted on top of existing buildings or other structures, shall be constructed with Stealth Technology that has been approved by the Planning Commission. All cables and wires shall be installed inside the stealth Monopole structure. Stealth Technology shall not apply to existing Towers, unless such Towers are replaced or an existing lease is renegotiated to provide for Stealth Technology. Replacement Towers shall be constructed with Stealth Technology.
- c) All Towers that are proposed on property that is not zoned residential and does not abut property that is zoned residential shall be set back a minimum of one-half ($\frac{1}{2}$) of a foot for each one (1) foot of Tower and Antenna height or fifty (50) feet, whichever is greater. Setbacks shall be measured from the farthest most protrusion of the Tower and Antenna to the nearest point of any property line.
- d) All Towers that are proposed on property that is zoned residential or Towers that are proposed on property that is not zoned residential but abuts property that is zoned residential shall be set back a minimum of one (1) foot for each one (1) foot of Tower and Antenna height. Setbacks shall be measured from the farthest most protrusion of the Tower and Antenna to the nearest point of any property line.

- e) All equipment shelters, cabinets, fencing, and all other structures accessory to a Tower shall be set back a minimum of fifty (50) feet on property that is not zoned residential and that does not abut property that is zoned residential. All equipment shelters, cabinets, fencing, and all other structures accessory to a Tower shall be set back a minimum of sixty (60) feet on property that is zoned residential or property that is not zoned residential but abuts property that is zoned residential. Setbacks shall be measured from the farthest most protrusion of the structure(s) to the nearest point of any property line.
- f) All access ways leading to a Tower and/or its accessory structures shall be set back a minimum of ten (10) feet from all side and rear property lines.
- g) Towers and attached antennae, including a lightning rod, that are proposed on property that is not zoned residential shall not exceed a height of one-hundred sixty five (165) feet. This also applies to a Non-Tower Wireless Communication Facility that is constructed on top of another building or structure with the height being the overall height of the building/structure and Tower together, measured from the average grade at the building or structure plane to the highest point. The setback requirements in this Ordinance shall apply regardless of whether the Tower is a Monopole or a Non-Tower Wireless Communication Facility constructed on top of another building or structure.
- h) Towers and attached antennae, including a lightning rod, that are proposed on property that is zoned residential shall not exceed a height of seventy-five (75) feet. This also applies to a Tower that is constructed on top of another building or structure with the height being the overall height of the building/structure and Tower together, measured from the grade to the highest point. The setback requirements in this Ordinance shall apply regardless of whether the Tower is a Monopole or a Non-Tower Wireless Communication Facility constructed on top of another building or structure.
- i) No accessory building or structure for a Tower shall exceed fifteen (15) feet in height.
- j) Towers shall not be permitted within the area adopted as the Mixed Use Town Center, as shown in the Comprehensive Land Use Plan Update, as amended.
- k) Towers shall not be illuminated, except in accordance with state or federal regulations.
- l) The site shall be unstaffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, ingress/egress shall only be from approved access points.
- m) Fencing used to enclose Towers and their accessory structures shall be properly maintained and in compliance with state or federal regulations.
- n) The fenced area that encloses the Tower and its accessory structures shall be landscaped with non-exotic, non-invasive plant material that is reviewed and approved as part of a landscape plan that shall accompany the Application. This material shall meet the minimum sizes provided for in the Town's landscaping requirements and shall include species and a spacing arrangement that will screen the fenced area from view. A landscape maintenance letter of credit shall be provided to cover the maintenance of the approved plant material for a minimum of 2 years. If an existing structure is being used for Stealth purposes as part of a Non-Tower Wireless Communication Facility, the plant material requirements may be waived by the Planning Commission.
- o) Existing trees around a Tower site shall be preserved and may count toward fulfilling a portion or all of the landscaping requirements stipulated in this Ordinance.
- p) All driveways and off-street parking areas shall be constructed with a non-erodible improved surface, such as asphalt, concrete, permeable pavers, that is properly drained and maintained.

The driveway shall be a minimum width of twelve (12) feet and a maximum width of twenty-four (24) feet. The composition of the driveway and off-street parking areas shall be designed by the Applicant's engineer and shall be based on the heaviest vehicles that are likely to use such facilities. A turn around area is also required for emergency responders and shall be a component of the approved design.

- q) There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs which are required by a federal, state, or local agency. Such signs shall not exceed five (5) total square feet in area.
- r) All new Towers shall be designed and constructed to provide for Co-Location unless an Applicant can clearly demonstrate that Co-Location is not feasible given a proposed Tower's height. A Tower design, including Stealth Technology, and placement shall provide for any anticipated height extension that may occur in the future. Additional height shall require additional Co-Location. Options for Co-Location shall be reviewed with the Staff and Planning Commission based on the height and placement of the proposed Tower.
- s) All option and site lease agreements shall permit the possibility of Co-Location.
- t) To ensure the structural integrity of a Tower, the owner of such Tower shall ensure that the Tower is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for structures that are published by the Electronic Industries Association, as amended from time to time. If upon inspection, the Town of Farragut concludes that a Tower fails to comply with applicable codes and standards and constitutes a danger to person or property, then upon notice being provided to the owner of the Tower, the owner shall have thirty (30) days to bring such Tower into compliance with such standards. Failure to bring such Tower into compliance within said thirty (30) days shall constitute grounds for the removal of the Tower at the owner's expense.

- G. Small Cell Support Structures and Distributed Antenna Systems (DAS). The following provisions shall apply to Small Cell Support Structures and DAS, as defined in this Ordinance.

1. Application Requirements

Pre-Application Filing Meeting. Prior to filing an application for a Small Cell Support Structure or DAS, a pre-application meeting with the Staff is required. At this meeting the applicable provisions associated with the request can be reviewed and discussed. An Application will not be accepted if the required pre-application meeting has not been completed.

This meeting will allow for early coordination by identifying existing structures that might be suitable for co-location or that might qualify as Non-Tower Wireless Communication Facilities. This will also help identify any other issues which may relate to (i) the use of Right of Way or Utility Poles and/or (ii) the application to the proposed request of any other local zoning, subdivision regulations, or other rules, regulations or adopted plans, including, but not limited to the Comprehensive Land Use Plan and Architectural Design Standards. The meeting will provide an opportunity for an initial discussion regarding

proposed structure locations, design, and the Application submittal and approval process. Coordination with utilities for possible use of pre-existing structures will be required. Applicants shall supply the provider's preferred locations, structure design, style, and structure height at least one week prior to the pre-application meeting or upon request for such meeting.

Unless provided for otherwise, all proposed Small Cell Support Structures/DAS shall be subject to Staff review and approval by the Planning Commission. Certain Non-Tower Wireless Communication Facilities Applications, including co-locations, may be reviewed and approved by the Staff provided the Staff determines that a more formal review with the Planning Commission is not necessary based on the location and/or physical characteristics of the proposed facilities.

Applications for Small Cell Support Structures or DAS shall include the following information as applicable to the request:

- a) A completed site plan application and filing fee. Applications are limited to three (3) Structures per Application.
- b) A development site plan, signed and sealed by a professional engineer registered in Tennessee, showing the proposed location of each Small Cell Support Structure and any existing Small Cell Support Structures within five hundred (500) feet of each proposed location. This plan shall specifically identify, for each location, existing Utility Poles within five-hundred (500) feet and their predominant physical characteristics (type, material, height, color, etc.). The plan shall address whether an existing Utility Pole is proposed to be used to accommodate a Small Cell Support Structure or whether a new Monopole is being requested. The plan shall also address if an existing Utility Pole is being replaced in order to accommodate a Small Cell Support Structure.
- c) A map and plan for how fiber optics are being extended to the Small Cell Support Structure/DAS and, where applicable, the Non-Tower Wireless Communications Facility. Fiber optics shall be placed underground in areas with primarily underground utilities and an additional Right of Way Permit from the Town shall be obtained for any work conducted within the Right of Way. Any fiber optics proposed outside the Right of Way or not within existing platted utility easements shall require an easement to be platted and presented to the Staff and the Planning Commission for approval.
- d) For Non-Tower Wireless Communications Facilities proposed on buildings or other structures that are not within the Right of Way, the development site plan shall include the proposed Small Cell Support Structures, their physical characteristics, and Stealth Technology applications that would be proposed based on the proposed location and context.
- e) An indication of existing improvements, such as pedestrian facilities, accesses, landscaping, and Underground Utilities, that are within twenty-five (25) feet of the proposed Small Cell Support Structure(s) and any other information that may be pertinent to or impact the decision on where to place the structure and its related equipment.
- f) A map and other documentation which demonstrates the coverage need for each proposed Small Cell Support Structure. This shall include a statement of the

- telecommunications objective(s) for each proposed Small Cell Support Structure location, whether the proposed facility is necessary to prevent or fill a gap or capacity shortfall in the Applicant or provider's service area, whether it is the least obtrusive means of doing so, and whether there are any alternative sites or other applications that would have fewer aesthetic impacts while providing comparable service.
- g) A statement by an authorized representative that the Applicant or provider holds all applicable licenses or other approvals required by the FCC, and any other agency of state or federal government with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.
 - h) A statement by an authorized representative that the Applicant or provider is in compliance with all conditions required for such license and approvals.
 - i) A full description of the number and dimensions of all Small Cell Support Structures to be installed including, but not limited to, all underground structures, antennae, the height of above ground structures and any equipment cabinets or buildings associated with the installation.
 - j) Where structures are permitted above ground, a vertical profile sketch or drawing of the structures, signed and sealed by a professional engineer registered in Tennessee, indicating the height of the structure and the placement and physical dimensions of all antennas and equipment enclosures.
 - k) For Non-Tower Wireless Communications Facilities to be mounted on existing Utility Poles or replacement Utility Poles, the profile sketch shall verify compliance with the height parameters provided for in this Ordinance.
 - l) Written approval from the property owner(s) stating that the Applicant or provider has permission to apply to construct a facility on their property (e.g. on an existing building with a Non-Tower Wireless Communication Facility in the form of a Small Cell Support Structure). In the case of non-Town owned Utility Poles, the utility provider shall acknowledge permission for the Applicant to apply to use their Pole(s) for Small Cell Support Structures. Monopoles within the Right-of-Way or proposed on Town-owned Utility Poles shall be considered by the Staff and Planning Commission, as representatives of the Town, as part of the Application review. Final approval to use Town-owned property for Small Cell Support Structures shall be acknowledged in writing by the duly-authorized representative of the Town. A lease agreement or a franchise agreement with the Town will typically be required as a condition of Staff or Planning Commission approval.
 - m) Photographs of view shed from each proposed Small Cell Support Structure location taken in at least four directions.

2. Processing of Applications

- a) Staff shall review all Applications for new Small Cell Support Structures within 30 days of Application filing to determine if an Application is complete. During this time frame, the Staff may request a third party consultant review to verify certain applicable information.
- b) Staff shall issue comments to the Applicant within this 30 day time frame so that the Applicant can address any identified deficiencies. Once Staff comments have been addressed the Staff shall notify the Applicant in writing that the Application is complete. As applicable, the Staff or the Planning Commission shall then either

approve, approve with conditions, or deny the Application within sixty (60) days of the date the Application is determined to be complete. If the Town does not make a final decision within the required sixty (60) days, the Application shall be deemed to be approved as submitted.

- c) An applicant claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Staff or Planning Commission in the administration of this Ordinance may appeal the action to the Board of Zoning Appeals. Such appeal must be taken within thirty (30) consecutive calendar days of the final action by the Staff or Planning Commission. The appeal shall be filed with the Staff along with an appeal fee of one hundred dollars (\$100). The Staff will fix a reasonable time for hearing the appeal and give public notice, as well as written notice to the appellant and the owner of right-of-way or property (if different from the jurisdiction) at least ten (10) days prior to the hearing.
- d) An applicant claiming to be injured or aggrieved by any final action of the Town rendered by the Board of Zoning Appeals may appeal from the final action to the Circuit Court of Knox County Tennessee. Such appeal shall be taken within thirty (30) days after such action.

3. Design Standards for Small Cell Support Structures/DAS

The regulations in this subsection shall apply to Small Cell Support Structures and DAS. Temporary, mobile or wheeled cellular antenna structures shall not be permitted without prior approval from the Staff or, where applicable, the Planning Commission.

- a) Monopole Small Cell Support Structures shall include Stealth Technology and shall not exceed the lesser of either the maximum building height for the zoning district within which they are located or three (3) feet above the predominant height of the shortest Utility Poles within five-hundred (500) feet of the proposed Monopole. Small Cell Support Structures that involve replacing existing Utility Poles shall be subject to adhering to the height of the Utility Pole that is being replaced plus an additional three (3) feet. Replacement Utility Poles that will more effectively accommodate a Stealth Technology shall be prioritized as part of the Application review process.
- b) Non-Tower Wireless Communication Facilities that incorporate Small Cell Support Structures shall include Stealth Technology appropriate for the proposed location and context. With the exception of Utility Poles, Non-Tower Wireless Communications Facilities shall not exceed the lesser of either the maximum building height permitted in the associated zoning district or ten (10) feet above the height of the existing structure on which the Small Cell Support Structures are proposed. In relation to Utility Poles, Non-Tower Wireless Communications Facilities shall not extend more than three (3) feet above the predominant height of the shortest Utility Poles within five-hundred (500) feet.
- c) Small Cell Support Structures shall be designed and constructed to accommodate a minimum of two (2) service providers. Based on the proposed location and context, this may be exempted for Non-Tower Wireless Communications Facilities.
- d) Small Cell Support Structures shall not interfere with other utilities, encroach onto or over sidewalks and other pedestrian or bicycle facilities, interfere with landscaping, visibility, or other matters of public safety.

- e) Small Cell Support Structures proposed in an area with primarily underground utilities shall be placed underground with the exception of an antenna. All wiring shall be concealed within the pole and antenna and the antenna shall include Stealth Technology appropriate for the location and context.
- f) Small Cell Support Structures proposed in an area with primarily overhead utilities shall apply Stealth Technology that is appropriate for the location and context.
- g) Where wiring to an antenna cannot be concealed within a Utility Pole (e.g. wooden poles), all wiring to the antenna shall be concealed within the most Stealth conduit possible that matches the color of the Utility Pole.
- h) Small Cell Support Structures proposed on property zoned residential shall be encouraged to be Non-Tower Wireless Communication Facilities (such as those contained behind building parapets or concealed within other existing structures) that include Stealth Technology appropriate for the location and context.
- i) Where an Applicant can clearly demonstrate that employment of a Non-Tower Wireless Communication Facility is not possible on a property zoned residential, all Small Cell Support Structures shall be placed underground. In all cases, antennas proposed on property zoned residential shall be concealed with concealment wrap or a similar application.
- j) Small Cell Support Structures shall not be illuminated, except to fulfill certain state or federal regulations, or where illumination is integral to the Stealth Technology, such as a design intended to look like a street light pole.
- k) Small Cell Support Structures shall not include advertisements and may only display information required by a federal, state, or local agency. Such display shall not exceed one (1) square foot in area, unless required by state or federal regulations, or unless a larger display is integral to the Stealth Technology. Such display shall not exceed the width of the pole, unless a wider sign is integral to the Stealth Technology such as a design which integrates a decorative banner.
- l) The use of cooling fans is discouraged. When needed, fans with lower noise profiles must be used.
- m) Small Cell Support Structures shall not be located within five hundred (500) feet of an existing Small Cell Support Structure unless an Applicant can clearly demonstrate that such distance prohibits the carrier's ability to provide service. Multiple carriers are permitted and encouraged to locate on one Small Cell Support Structure, where possible.
- n) Reasonable efforts shall be made by the Applicant and assessed as part of the Application review process to locate new Small Cell Support Structures in the order of hierarchy below, based on the following functional roadway classification from the most to least preferred:

Interstate
Arterial
Collector
Local

- o) Reasonable efforts shall be made by the Applicant and assessed as part of the Application review process to locate new Small Cell Support Structures based on the following hierarchy of zones and land uses from the most to least preferred:

Commercial
Institutional
Public parks

Agricultural
Residential

H. Factors to Consider in Evaluation of Applications

As part of Staff and Planning Commission review of Applications filed for telecommunications facilities, the conformity of the Application with the foregoing requirements, including but not limited to the following, shall apply:

1. The Application is consistent with the objectives of this Ordinance.
2. The adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.) that provide for the ability to comply with the provisions of this Ordinance.
3. The extent to which the proposal responds to the impact of the proposed development on adjacent land uses, especially in terms of visual impact.
4. The extent to which the proposed telecommunications facility is camouflaged (i.e., use of Stealth Technology).
5. The extent to which the proposed facility is integrated with existing structures (i.e., buildings, signs, Utility Poles, etc.).
6. An Applicant's compliance with all Town requirements with respect to previous Applications.

I. Amendments to Approved Plans

Amendments to approved plans shall be reviewed by the Staff once the Application for the associated amendment is deemed complete and, where applicable, forwarded to the Planning Commission for consideration and approval. Evaluation of the amendment shall be based on the applicable criteria of this Ordinance.

SECTION 2.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

Certified to the Farragut Board of Mayor and Aldermen this ____ day of _____, 2017,
with approval recommended.


Rita Holladay, Chairman


Edwin K. Whiting, Secretary

FARRAGUT MUNICIPAL PLANNING COMMISSION

RESOLUTION PC-17-08

FARRAGUT MUNICIPAL PLANNING COMMISSION

A RESOLUTION TO APPROVE AN AMENDMENT TO THE TEXT OF THE FARRAGUT ZONING ORDINANCE, ORDINANCE 86-16, AS AMENDED, PURSUANT TO AUTHORITY GRANTED BY SECTION 13-4-201, TENNESSEE CODE ANNOTATED, BY AMENDING CHAPTER 4., GENERAL PROVISIONS AND EXCEPTIONS, SECTION III., ANTENNAS AND TOWERS., TO PROVIDE FOR NEW REQUIREMENTS

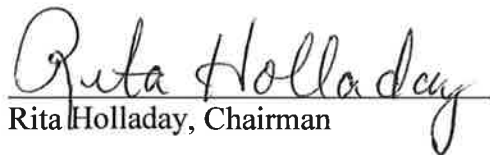
WHEREAS, the Tennessee Code Annotated, Section 13-4-201 et seq, provides that the Municipal Planning Commission shall make and adopt a general plan for the physical development of the municipality; and

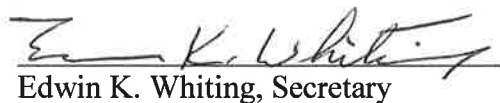
WHEREAS, the Farragut Municipal Planning Commission has adopted various elements of a zoning plan as an element of the general plan for physical development; and

WHEREAS, a public hearing was held on this request on March 16, 2017;

NOW, THEREFORE, BE IT RESOLVED that the Farragut Municipal Planning Commission hereby recommends approval to the Farragut Board of Mayor and Aldermen of an ordinance, amending Ordinance 86-16, of the Farragut Zoning Ordinance, by adding Ordinance 17-08.

ADOPTED this 16th day of March, 2017.


Rita Holladay, Chairman


Edwin K. Whiting, Secretary