



CITY OF INDEPENDENCE
COUNCIL MEETING AGENDA
August 7, 2023
Independence Municipal Center
Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL OF MEMBERS

APPROVAL OF COUNCIL MINUTES: Regular Meeting of June 5, 2023

SWEARING IN OF NEW OFFICERS

OLD BUSINESS

- **ORDINANCE NO. 2023-O-12** – Timber View Sidewalk Waiver – 2nd Reading

NEW BUSINESS

- **PROPOSED ORDINANCE** – Employee Pay Classification – 1st Reading
- **PROPOSED ORDINANCE** – Renewed Cable TV Franchise Agreement with Spectrum - 1st Reading
- **RESOLUTION NO. 2024-R-09** – Richardson Road Map Amendment
- **RESOLUTION NO. 2024-R-10** – Richardson Road Text Amendment
- **RESOLUTION NO. 2024-R-11** – Holly Hill Donation
- **MUNICIPAL ORDER NO. 2023-MO-04** – Kenton County Emergency Operations Plan
- **AWARD BID** – Maintenance Building
- **SURPLUS PROPERTY**

ATTORNEY'S REPORT – Jack Gatlin

CITY ADMINISTRATOR REPORT – Chris Moriconi

MAYOR'S REPORT – Christopher J. Reinersman

EXECUTIVE SESSION in accordance with K.R.S. 61.810(c)

ADJOURNMENT

ORDINANCE NO. 2023-O-12

AN ORDINANCE WAIVING THE SIDEWALK REQUIREMENTS REQUIRED BY THE INDEPENDENCE ZONING CODE FOR PHASE 40 OF TIMBER VIEW

WHEREAS, The City of Independence requires sidewalks in all developments; and

WHEREAS, there are situations where the sidewalk requirements are impractical, and Section 6.09(B) allows the legislative body to make major modifications to the Improvements for Development if any of the following are met:

1. That unusual topographical or exceptional physical conditions exist; or
2. That strict compliance with these regulations would create an extraordinary hardship in the face of exceptional conditions; or
3. That compliance with the regulations could cause an unsafe situation; or
4. That the proposed modification or adjustment would create a materially safer situation than complying with the regulations; or
5. That the proposed modification or adjustment is more compatible with the character of the surrounding neighborhood than complying with the regulation.

NOW, THEREFORE BE IT ORDAINED BY THE CITY OF INDEPENDENCE, COUNTY OF KENTON, COMMONWEALTH OF KENTUCKY:

SECTION I

That the attached Exhibit "A" which is the Storm Drainage Map for Phase 40 of Timber View, shows highlighted in yellow where sidewalks would normally be required and where the Independence City Council agrees to a waiver of the requirements for a sidewalk, pursuant to Section 6.09 of the Independence Zoning Ordinance on the basis:

That the proposed modification or adjustment is more compatible with the character of the surrounding neighborhood than complying with the regulation.

SECTION II

That any section, or part of any section, or any provision of this Ordinance which is declared invalid by a Court of appropriate jurisdiction, for any reason, such declaration shall not invalidate, or adversely affect, the remainder of this Ordinance.

SECTION III

This Ordinance shall take effect and be in full force when passed, published, and recorded according to law.

Christopher J. Reinersman, Mayor

ATTEST:

Gina Rawe, City Clerk

First Reading _____ June 5, 2023

Second Reading: _____ August 7, 2023

Ayes: _____

Nays: _____

PUBLICATION DATE: _____

ORDINANCE NO. 2023-O-

AN ORDINANCE OF THE CITY OF INDEPENDENCE IN KENTON COUNTY, KENTUCKY, AMENDING ORDINANCE NO. 2023-O-11 WHICH ENACTS A PERSONNEL AND PAY CLASSIFICATION PLAN PURSUANT TO KRS 83A.070(3).

NOW, THEREFORE BE IT ORDAINED BY THE CITY OF INDEPENDENCE IN KENTON COUNTY, KENTUCKY AS FOLLOWS:

WHEREAS, the City of Independence maintains job descriptions and a pay scale for its employees in accordance with its annual budget, and

WHEREAS, KRS 83A.070 requires the legislative body of each city to adopt by ordinance personnel and pay classification plan, it is hereby ordained as follows:

SECTION I

That the amended Personnel and Pay Classification Plan attached hereto and marked as Exhibit "A", sets forth the job title and pay scale for each employment position of the City of Independence, which have been developed and authorized in accordance with the City's annual budget previously adopted by ordinance.

SECTION II

The provisions of this ordinance are severable; and the invalidity of any provision of this ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

SECTION III

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION IV

This ordinance shall be effective as soon as possible according to law.

SECTION V

This ordinance shall be published in summary pursuant to KRS 83A.060(9)

Christopher J. Reinersman, Mayor

ATTEST:

Gina Rawe, City Clerk

First Reading August 7, 2023

Second Reading: _____

Ayes: _____

Nays: _____

PUBLICATION DATE: _____

ORDINANCE NO. 2023-O-

AN ORDINANCE OF THE CITY OF INDEPENDENCE, IN KENTON COUNTY, KENTUCKY, GRANTING AND ISSUING A COMPETITIVE, NON-EXCLUSIVE FRANCHISE FOR A COMBINED TERM OF TEN (10) YEARS TO, AND AUTHORIZING THE EXECUTION OF A FRANCHISE AGREEMENT WITH, SPECTRUM MID-AMERICA, LLC, AN AFFILIATE OF CHARTER COMMUNICATIONS INC., AND ITS PERMITTED SUCCESSORS AND ASSIGNS, SAID FRANCHISE PROVIDING FOR: THE CONSTRUCTION, ERECTION, INSTALLATION, UPGRADE, REPAIR, MAINTENANCE, AND OPERATION OF A CABLE TELEVISION SYSTEM FOR THE PROVISION OF CABLE TELEVISION SERVICES WITHIN THE CONFINES OF THE CITY OF INDEPENDENCE; RETENTION OF POLICE POWERS AND SOVEREIGN IMMUNITY; A \$300,000 PERFORMANCE BOND TO ENSURE FRANCHISE COMPLIANCE; INDEMNIFICATION BY FRANCHISEE INCLUDING ADEQUATE INSURANCE COVERAGE; CONSTRUCTION AND TECHNICAL STANDARDS; COMPLIANCE WITH FCC TECHNICAL & CUSTOMER SERVICE STANDARDS; CONDITIONS OF STREET OCCUPANCY; PUBLIC, EDUCATIONAL & GOVERNMENT ACCESS CHANNELS; PAYMENT OF FRANCHISE FEES & OFFSET; COUNCIL APPROVAL REQUIRED FOR TRANSFER OF CONTROL OR ASSIGNMENT OF FRANCHISE; RIGHT TO AUDIT RECORDS; DEFAULT, REVOCATION & TERMINATION OF FRANCHISE PROCEDURES.

WHEREAS, the Telecommunications Board of Northern Kentucky (the “**Board**” or “**TBNK**”) is a public agency established by the Kenton County Kentucky Fiscal Court and the Cities of Bromley, Covington, Crestview Hills, Edgewood, Elsmere, Fort Mitchell, Fort Wright, Independence, Kenton Vale, Lakeside Park, Ludlow, Park Hills, Ryland Heights, Taylor Mill and Villa Hills (collectively, the “**TBNK Member Government(s)**”) in accordance with the provisions of the Interlocal Cooperation Act of Kentucky (codified at KRS 65.210 - 65.300), and is authorized to exercise jointly the powers of the respective TBNK Member Governments relating or pertaining to cable television matters, cable services and other telecommunication services, including the negotiation, administration and regulation of cable television franchises, as provided in the formative documents of TBNK (the “**Interlocal Agreement**”) being filed with the Kentucky Secretary of State on March 21, 1996 and being of record with the Kenton County Clerk’s Office in Miscellaneous Book 341, Page 315; and

WHEREAS, Spectrum Mid-America, LLC (“**SMA**”), a wholly-owned subsidiary of Charter Communications Inc. (“**Charter**”) and the present holder of several nonexclusive, competitive Franchise Agreements, each dated as of August 5, 1977 (the “**Prior Franchise(s)**”), providing for Cable Services throughout the geographical confines of each of the TBNK Member Governments (collectively, the “**Franchise Area(s)**”), asked each TBNK Member Government, including the City, through the auspices of TBNK, to renew or otherwise replace the Prior Franchises with another franchise providing for the continued ownership, construction, erection, installation, upgrade, maintenance, repair, use and operation of a Cable System and related facilities along, under, over, above, through or across the Streets and rights-of-way within the Franchise Areas of each of the TBNK Member Governments; and

WHEREAS, in connection with the powers and administrative responsibilities set forth in the Interlocal Agreement, the Board has reviewed for and on behalf of the TBNK Member Governments, including the City, SMA’s performance under the Prior Franchises and has further: (1) identified the present and future cable-related community needs and interests of the TBNK Member Governments and their respective citizens; (2) determined that the foregoing meet the requirements of Section 626 of the Cable Act (47 U.S.C. § 546); (3) resolved that SMA and its

predecessors in interest, including Insight Kentucky Partners II L.P., Charter and Time Warner Cable Inc., substantially complied with the material terms and conditions of the Prior Franchises under Applicable Law; (4) considered and determined that SMA has the financial, technical and legal qualifications to own and operate its Cable System and to provide Cable Service over the Cable System; and (5) determined that SMA's plans for owning, constructing, operating and maintaining its Cable System are adequate; and

WHEREAS, the Board, acting for and on behalf of the TBNK Member Governments, has further determined that the several cable television franchise proposals offered by SMA, including its predecessors in interest, over the course of the franchise cable renewal process, as modified, changed and/or refashioned by: (1) extensive negotiations conducted by the "**Franchise Negotiations Committee**," a committee comprised of three (3) Board members, the Executive Director of TBNK, and the law firm of Frost Brown Todd LLP; (2) certain directions and instructions received from the "Mission Group" or "Ad Hoc Committee" that is/was comprised of several government officials of certain TBNK Member Governments; and (3) the terms and conditions contained in a competitive franchise agreement, dated July 1, 2021 and negotiated by the Franchise Negotiation Committee with Cincinnati Bell Extended Territories LLC, meets the future cable-related community needs and interests of the TBNK Member Governments and their respective citizens, and materially conforms to the aforesaid directions and instructions (a) received from the Mission Group/Ad Hoc Committee and (b) established by the Franchise Negotiation Committee (the "**Proposed Franchise Agreement**"); and

WHEREAS, acting in accordance with Sections 163 and 164 of the Kentucky Constitution for and on behalf of each TBNK Member Government, the Board placed in the local newspaper an advertisement seeking bid proposals and the submission of an application from the public at large for the (1) construction, maintenance, repair and operation of a Cable System in, on, over and through the Streets and rights-of-way of each of the TBNK Member Governments and (2) provision of Cable Services; and

WHEREAS, in response to such advertisement, the Board received prior to 2:00 PM on May 5, 2023 (the time and date by which all bid proposals and applications were to be received), a single bid proposal and application from SMA (the "**SMA Bid Proposal**") and no other person or entity, together with a form of a franchise agreement dated as of May 1, 2023, which franchise agreement and SMA Bid Proposal had been submitted to the Franchise Negotiations Committee and the members of the Board for consideration (the "**SMA Franchise Agreement**"); and

WHEREAS, after (1) having considered the SMA Bid Proposal, including the accompanying SMA Franchise Agreement, and (2) having made a comparison and evaluation of the aforesaid documents vis-à-vis the Proposed Franchise Agreement, the Board (a) determined that the SMA Bid Proposal and the terms, conditions and covenants of the SMA Franchise Agreement submitted by SMA are identical to the terms, conditions and covenants contained in the negotiated Proposed Franchise Agreement in all material respects, and (b) is recommending that the Proposed Franchise Agreement, a copy of which is attached hereto as **Attachment A** and made a part of this Ordinance, be adopted by ordinance and be granted and issued to SMA by each of the TBNK Member Governments, including the City; and

WHEREAS, having afforded the public adequate notice and an opportunity for comment pursuant to 47 USC § 546(h), and based upon the foregoing recitals and the City's acceptance of such recitals, the City desires to: (1) accept the SMA Bid Proposal, including the SMA Franchise Agreement, the terms and conditions of which are identical to those contained in the Proposed Franchise

Agreement; and (2) grant and issue a nonexclusive, competitive franchise to SMA, for a combined Term of ten (10) years, providing for the continued ownership, construction, installation, upgrade, maintenance and operation of its Cable System throughout the respective Franchise Area of the City, pursuant to and upon the terms, conditions and covenants set forth in the Proposed Franchise Agreement, a copy of which is attached hereto as **Attachment A** and made a part of this Ordinance, as such agreement may be further modified or changed as described below in Section V of this Ordinance. ***Except as otherwise defined in this Ordinance, the terms defined in the Proposed Franchise Agreement are used in this Ordinance as defined in the Proposed Franchise Agreement.***

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, KENTUCKY, AS FOLLOWS:

SECTION I

Based upon the foregoing recitals and acting in accordance with the Cable Act and Applicable Law, and subject to the terms, conditions and covenants set forth in the Proposed Franchise Agreement, SMA is hereby granted for itself and its permitted successors and assigns, a franchise, in complete form and substance of the Proposed Franchise Agreement, which is attached hereto as **Attachment A**, and with the following rights and privileges set forth herein and in the Proposed Franchise Agreement:

(1) to own, construct, erect, install, upgrade, maintain, repair, replace, and operate a Cable System and to provide Cable Services within the geographical limits or Franchise Area of the City;

(2) to locate the Cable System in, upon, along, across, over and under the Streets of the City, as provided in the Proposed Franchise Agreement;

(3) to locate the Cable System on city-owned poles, but subject to (a) the terms and conditions set forth in Article II (Cable System Extension, Operation, Standards and Procedures) of the Proposed Franchise Agreement and such other provisions contained therein and (b) any presently existing or future ordinance or regulation of the City; and

(4) as specifically provided in Article II, Section 5.E (Erection, Removal, and Common Use of Poles) of the Proposed Franchise Agreement, SMA, through a separate pole attachment agreement or utility easement agreement with an affected utility, may locate the Cable System on or within the facilities or property of such utility company.

The franchise and privileges granted in this Ordinance and the Proposed Franchise Agreement authorize SMA, among other things, to provide Cable Service over its Cable System.

SECTION II

The franchise granted in and by this Ordinance is not exclusive and it replaces, supersedes, and supplants the Prior Franchise. The City expressly reserves the right to grant to other Persons such rights, privileges, or authorizations that are similar to the rights and privileges set forth herein and in the Proposed Franchise Agreement, in the same or other Streets of the City. The City

specifically reserves the right to grant, at any time during the Term of the Proposed Franchise Agreement, such additional franchises or licenses for a cable television system or broadband network as it deems appropriate.

SECTION III

The Term of the franchise granted in this Ordinance shall be for an initial period of five (5) years, with an automatic renewal period of an additional five (5) year period, but subject to and conditioned upon the terms, requirements and/or qualifications contained in Article I, Section 6 (Duration and Acceptance of Franchise) of the Proposed Franchise Agreement. Subject to Section V of this Ordinance, the Term shall commence: (1) upon the date the last TBNK Member Government adopts an ordinance granting a franchise to SMA upon substantially the same terms, conditions and covenants as are contained in the Proposed Franchise Agreement, and (2) when such franchise agreements are fully executed by the parties thereto. The Effective Date of the Proposed Franchise Agreement shall be evidenced by the Commencement Agreement called for in Article I, Section 6 (Duration and Acceptance of Franchise) of the Proposed Franchise Agreement.

SECTION IV

To the extent that there is any resolution or ordinance respecting Cable Systems which, in part or in whole, is directly inconsistent with this Ordinance and which is otherwise applicable to SMA, such part or such whole of the prior resolution or ordinance shall be repealed to the extent of the inconsistency; subject, however, to police and legislative powers reserved by the City below.

All rights and privileges granted in this Ordinance and the Proposed Franchise Agreement are and shall be, at all times during the aforesaid Term, subject to all lawful exercise of the police and legislative powers of the City. SMA shall comply with all Applicable Law and such other ordinances and regulations which the City has adopted or shall adopt, applying to the public generally and to other licensees, grantees, or franchisees.

SECTION V

That the Mayor is hereby authorized to execute the Proposed Franchise Agreement for and on behalf of the City, and to comply with all of the provisions thereof; provided, however, that prior to the execution of the Proposed Franchise Agreement, the Board, acting through its negotiation team and legal counsel, is hereby authorized to negotiate with SMA and to make such changes to the Proposed Franchise Agreement as the Board may deem necessary or appropriate, so long as such changes do not affect the overall substance of this Ordinance and the Proposed Franchise Agreement.

SECTION VI

The provisions of this Ordinance are severable; and the invalidity of any provision of this Ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect, so long as they remain valid in the absence of those provisions determined to be invalid.

SECTION VII

Subject to Section III and V of this Ordinance, this Ordinance shall take effect and be in full force when passed, published, and recorded according to law. This Ordinance may be published in abbreviated form.

ADOPTED THIS _____ DAY OF _____, 2023.

CITY OF INDEPENDENCE, KENTUCKY

Christopher J. Reinersman, Mayor

ATTEST:

Gina Rawe, City Clerk

First Reading _____ August 7, 2023 _____

Second Reading: _____

Ayes: _____

Nays: _____

PUBLICATION DATE: _____

RESOLUTION NO. 2023-R-09

A RESOLUTION OF THE CITY OF INDEPENDENCE, KENTUCKY SPONSORING A PROPOSED MAP AMENDMENT OF APPROXIMATELY 9.37 ACRES AT 4290 RICHARDSON RD, FROM GENERAL INDUSTRIAL (GI) TO SUBURBAN INDUSTRIAL (SI)

WHEREAS KRS 100.211(2) provides that a proposal for a map amendment may originate with the legislative body; and

WHEREAS the City of Independence desires to have planning staff consider creating a Suburban Industrial Zone and said application is simultaneous with this proposed map amendment, and;

WHEREAS, the owner of the property Surf & Turf, LLC acquiesces to these proposed map and text amendments, and;

WHEREAS it is the intent of the legislative body to sponsor and direct PDS to study the proposed map amendment for KCPC to conduct a public hearing on a proposed map amendment and make a recommendation concerning the application.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF INDEPENDENCE, COUNTY OF KENTON, COMMONWEALTH OF KENTUCKY, THAT:

The City Administrator, as an agent of the City’s legislative body, may apply and propose the following to be studied and set for public hearing pursuant to KRS 200.211:

Map Amendment to 4290 Richardson Rd, more clearly defined as PIDN: 006-00-00-005.00 and approximately 9.37 acres from the General Industrial (GI) Zone to the newly created Suburban Industrial (SI) Zone.

Done this 7th day of August 2023 on a Motion made by Council Member _____ and seconded by Council Member _____.

Members present voting in favor: _____

Members present voting against: _____

BY: _____
Christopher J. Reinersman, Mayor

ATTEST:

Gina Rawe, City Clerk

City of Independence, Ky.
RESOLUTION NO. 2023-R-10

A RESOLUTION OF THE CITY OF INDEPENDENCE, KENTUCKY SPONSORING A PROPOSED TEXT AMENDMENT TO ARTICLE 3.04 CREATING A SUBURBAN INDUSTRIAL ZONE

WHEREAS, KRS 100.211(3) provides that a proposal for a text amendment may originate with the legislative body; and

WHEREAS, the City of Independence desired to have planning staff consider creating a Suburban Industrial Zone, and;

WHEREAS, it is the intent of the legislative body to sponsor and direct PDS to study the proposed text for KCPC to conduct a public hearing on a proposed text amendment and make a recommendation concerning the application.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF INDEPENDENCE, COUNTY OF KENTON, COMMONWEALTH OF KENTUCKY, THAT:

The City Administrator, as an agent of the City’s legislative body, may apply and propose the following to be studied and set for public hearing pursuant to KRS 200.211:

Proposed Text Amendments to Independence Zoning Ordinance
Words to be **deleted** are [lined through] – Words to be **added** are underlined

SEE ATTACHED EXHIBIT “A” WHICH IS INCORPORATED FULLY HEREIN

Done this 7th day of August 2023 on a Motion made by Council Member _____ and seconded by Council Member _____.

Members present voting in favor: _____

Members present voting against: _____

BY: _____
Christopher J. Reinersman, Mayor

ATTEST:

Gina Rawe, City Clerk

City of Independence, Ky.

RESOLUTION NO. 2023-R-11

A RESOLUTION OF THE CITY OF INDEPENDENCE, KENTUCKY, AUTHORIZING AND APPROVING THE CITY TO SPEND \$100,000.00 AS A DONATION TO HOLLY HILL CHILD AND FAMILY SOLUTIONS FOR THE PURPOSE OF SUPPORTING MENTAL HEALTH INITIATIVES

WHEREAS Holly Hill is a licensed residential treatment facility which deals with children who suffer from severe emotional and behavioral problems. Most of the children served have been physically or sexually abused; and

WHEREAS Holly Hill's remains the oldest and only agency in Northern Kentucky that specializes in the treatment of adolescent girls in a residential setting; and

WHEREAS Holly Hill provides services to the youth of the entire regions and is a benefit to the citizens of Independence; and

NOW THEREFORE,

The City of Independence is committing \$100,000 to Holly Hill Child and Family Solutions and the Mayor is authorized to sign any required paperwork to effectuate the payment of \$100,000 to Holly Hill Child and Family Solutions. Funds shall disperse from the 2023/2024 General Operating funds of the City and shall disburse after July 1, 2023.

Members present voting in favor: _____

Members present voting against: _____

BY: _____
Christopher J. Reinersman, Mayor

ATTEST:

Gina Rawe, City Clerk

City of Independence, Ky.
MUNICIPAL ORDER NO. 2023-MO-04

**A MUNICIPAL ORDER OF THE CITY OF INDEPENDENCE IN KENTON COUNTY
KENTUCKY ALLOWING MAYOR CHRISTOPHER J. REINERSMAN TO EXECUTE THE KENTON
COUNTY EMERGENCY OPERATIONS PLAN**

WHEREAS, the City of Independence wishes to execute the 2023-2028 Kenton County Homeland Security Emergency Management Plan.

**NOW THEREFORE, BE IT ORDERED BY ORDAINED BY THE INDEPENDENCE CITY COUNCIL,
KENTON COUNTY, KENTUCKY:**

SECTION I

The City of Independence, Kentucky authorizes Mayor Christopher J. Reinersman to execute the 2023-2028 Kenton County Homeland Security Emergency Management Plan which is attached to this Municipal Order and incorporated herein.

SECTION II - Severability

The provisions of this Municipal Order are severable, and the invalidity of any provision of this Municipal Order shall not affect the validity of any other provision thereof, and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

SECTION III – Repeal of Conflicting Provisions

All Municipal Orders in conflict with the provisions of this Municipal Order are hereby repealed to the extent of such conflict.

SECTION IV – Effective Date

This Municipal Order shall take effect and be in full force when passed and recorded according to law.

INTRODUCED, PUBLICLY READ, AND FINALLY APPROVED ONE READING, this 7th day of August 2023.

Christopher J. Reinersman, Mayor

Approved and ratified by Council on August 7, 2023 by roll call vote:

AYES _____
NAYES _____

ATTEST:

Gina Rawe, City Clerk