

ORDINANCE NO. 08-04

AN ORDINANCE BY THE CITY OF SKY VALLEY TO AMEND THE CODE OF ORDINANCES OF THE CITY OF SKY VALLEY, GEORGIA TO ESTABLISH A FRANCHISE FEE APPLICABLE TO HOLDERS OF CABLE OR VIDEO FRANCHISES ISSUED BY THE STATE OF GEORGIA BY ADOPTING A NEW SECTION TO ORDINANCE 81-___; TO DESIGNATE AN AGENT; TO PROVIDE FOR CODIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the City of Sky Valley shall be notified by the Secretary of State's Office and a cable or video provider of an application for a state issued franchise in the city; and,

WHEREAS, the City of Sky Valley currently collects a franchise fee from any current cable or video providers; and,

WHEREAS, the City of Sky Valley considers collecting a franchise fee from a cable or video provider utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City of Sky Valley and to protect public works infrastructures; and,

WHEREAS, the City of Sky Valley is authorized pursuant to O.C.G.A. § 36-76-1 et. seq. known as the "Consumer Choice for Television Act" of 2007 to collect a franchise fee of up to 5%, the maximum amount established by federal and state law, of each cable or video provider's gross revenues generated within the city; and,

WHEREAS, the City of Sky Valley is authorized to designate an agent to provide notice of the city's franchise fee rate.

THEREFORE, be it hereby enacted by the City of Sky Valley as follows:

- I. The Code of the City of Sky Valley is hereby amended by adding a section to be numbered 17, which said section reads as follows:

"Section 17. Franchise fee for state issued cable or video franchise.

The City hereby requires a franchise fee of 5% of gross revenues generated within the City for any cable or video state franchise issued in its corporate boundaries by the State of Georgia."

- II. The Code of the City of Sky Valley is further amended by adding a section to be numbered 18, which said section reads as follows:

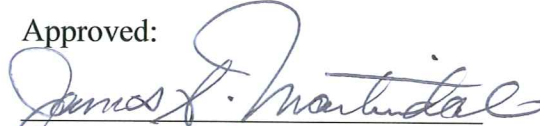
"Section 18. Authorized designee.


The City hereby authorizes (Mayor, Manager, Clerk or other position), upon receipt of notice to the City of its right to designate a franchise fee for an applicant for or holder of an existing state franchise, to provide written notice to the Secretary of State and each applicant for or holder of a state franchise within a service area that is wholly or partially located within the city limits of the 5% franchise fee rate applicable to such applicant or holder of a state franchise.”

- III. The preamble to this ordinance is hereby incorporated into this ordinance as if set out fully herein.
- IV. The sections, paragraphs, sentences, clauses or phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.
- V. SHOULD ANY SECTION OR PROVISION OF THIS ORDINANCE BE DECLARED BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL OR INVALID SUCH DECLARATION SHALL NOT AFFECT THE VALIDITY OF THE ORDINANCE AS A WHOLE OR ANY PART THEREOF OTHER THAN THE PART SO DECLARED TO BE UNCONSTITUTIONAL OR INVALID. ALL RESOLUTIONS AND ORDINANCES AND PARTS OF RESOLUTIONS AND ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE ARE HEREBY REPEALED.
- VI. THIS ORDINANCE AMENDMENT IS TO BE BECOME EFFECTIVE MARCH 11, 2008.

It is so ordained and approved by vote of the City Council of the City of Sky Valley this 11th day of March, 2008.

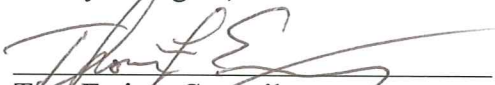
Approved:


Jim Martindale, Mayor


Helen Kleiber, Councilor

Ken Kaplan, Councilor

Carolyn Burgess, Councilor



Tom Ewing, Councilor



Ray Becker, Councilor

Attest:



Mandi Cantrell, City Clerk

Read and adopted on the 8th day of March, 2008.