

INTRODUCED BY ALDERMAN DODGE

BILL NO. 23-2516

ORDINANCE NO. 23-2400

AN ORDINANCE AMENDING SECTION 626.020 OF CHAPTER 626 ON VIDEO SERVICE PROVIDERS RELATING TO CHANGES IN STATE LAW ON VIDEO SERVICES REGULATION.

WHEREAS, the Missouri General Assembly passed SBs 153 & 97 in 2021 (the "2021 Legislation") which, among other state law changes, altered the obligations of video service providers in their use of the City's rights-of-way; and

WHEREAS, among those altered obligations of video service providers, the Missouri General Assembly provided for a gradual decrease on the maximum franchise fee chargeable from 5% to 2.5 found in Section 67.2689 RSMo; and

WHEREAS, the gradual decrease in video services franchise fees in Section 67.2689 RSMo. decreases the maximum allowable franchise fee for video services by 0.5% annually, to take place from August 28, 2023 to August 28, 2027; and

WHEREAS, the Board of Aldermen desires to codify this decrease in video service provider franchise fees to prevent any confusion, overpayment, or overcharge from video service providers or from customers of such providers, to the extent that the amendments to Section 67.2689 RSMo. found in the 2021 Legislation are enforceable and not further amended, superseded, or preempted; and

WHEREAS, the Board of Aldermen intends for this video service provider franchise fee decrease to occur annually at the beginning of the final quarter of the calendar year in accordance with Section 67.2689 RSMo.; and

WHEREAS, the Board of Aldermen also desires to provide for any additional authority necessary to effectuate this change in video service provider franchise fees, including any necessary transmissions to the Missouri Public Service Commission (the "PSC").

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE CITY OF MANCHESTER AS FOLLOWS:

Section 1. Section 626.020, entitled "Video Service Regulations", is hereby amended by adding the underlined text and repealing the ~~struck through~~ text to read as follows:

...
C. Video Service Provider Fee.

1. Each video service provider shall pay to the City a video service provider fee on a provider's gross revenues in the amount as follows:

Starting August 28, 2023, a franchise fee rate of 4.5%;

Starting August 28, 2024, a franchise fee rate of 4%;

Starting August 28, 2025, a franchise fee rate of 3.5%;

Starting August 28, 2026, a franchise fee rate of 3%; and

Starting August 28, 2027, a franchise fee rate of 2.5%

Provided, however, if Section 67.2689 RSMo. is further amended, superseded, or is preempted by federal regulation or federal statute, the City will charge the maximum allowable franchise fee rate upon video service providers. The franchise fee shall be paid five percent (5%) of on the provider's gross revenues on or before the last day of the month following the end of each calendar quarter. The City may further adjust the video service provider fee as permitted in Section 67.2689, RSMo., if necessary.

Section 2. All other text within Section 626.020 not amended herein shall remain in full force and effect to the extent permitted by applicable law.

Section 3. The City Administrator, City Clerk, and City Attorney are hereby authorized to take all other steps to effectuate the purpose of this ordinance, including sending notice to the Missouri PSC or video service providers as may be required by law, or otherwise determined to be prudent, for the correct and accurate collection of the video service provider franchise fees.

Section 4. The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds that the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the Board of Alderman would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 5. This Ordinance shall be governed by and construed in accordance with the applicable laws of the State of Missouri.

Section 6. This Ordinance, having been read in full or by title two times prior to passage, shall be in full force and effect from and after its passage and approval as provided by law.

PASSED AND APPROVED THIS 20TH DAY OF NOVEMBER, 2023.

CITY OF MANCHESTER, MISSOURI

BY: Mike Clement
Mayor

ATTEST:

Michelle M. G.
City Clerk