

AN ORDINANCE AMENDING CHAPTER 630, VIDEO SERVICE PROVIDERS, OF THE MUNICIPAL CODE OF THE CITY OF RICHMOND HEIGHTS.

WHEREAS, the Missouri Legislature has revised certain statutes regarding telecommunications and video service fees (2021 SB 153 and HB 271), necessitating conforming amendments to the Code, and other related provisions should be repealed as no longer necessary;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHMOND HEIGHTS AS FOLLOWS:

SECTION 1. The definition of Gross Revenues in Section 630.020.A of the Municipal Code is hereby amended to read as follows:

Section 630.020 Video Service Regulations.

A. Definitions. The following terms shall have the following meanings unless otherwise defined by context:

FRANCHISE AREA

The total geographic area of the City authorized to be served by an incumbent cable television operator or incumbent local exchange carrier, or affiliate thereof.

GROSS REVENUES

1. The total amounts billed to subscribers or received from advertisers for the provision of video services within the City, including:

- (a) Recurring charges for video service;
- (b) Event-based charges for video service, including but not limited to pay-per-view and video-on-demand charges;
- (c) Rental of set-top boxes and other video service equipment;
- (d) Service charges related to the provision of video service, including but not limited to activation, installation, repair, and maintenance charges;
- (e) Administrative charges related to the provision of video service, including but not limited to service order and service termination charges; and

(f) A pro rata portion of all revenue derived, less refunds, rebates, or discounts, by a video service provider for advertising over the video service network to subscribers, where the numerator is the number of subscribers within the City and the denominator is the total number of subscribers reached by such advertising; but gross revenues do not include:

(1) Discounts, refunds, and other price adjustments that reduce the amount of compensation received by **an entity holding a video service authorization**;

(2) Uncollectibles;

(3) Late payment fees;

(4) Amounts billed to subscribers to recover taxes, fees, or surcharges imposed on subscribers or video service providers in connection with the provision of video services, including the video service provider fee authorized herein;

(5) Fees or other contributions for PEG or I-Net support; or

(6) Charges for services other than video service that are aggregated or bundled with amounts billed to subscribers, provided the video service provider can reasonably identify such charges on books and records kept in the regular course of business or by other reasonable means.

(7) **Except with respect to the exclusion of the video service provider fee, gross revenues shall be computed in accordance with generally accepted accounting principles.**

(8) **“Gross Revenues” shall be limited to the total amounts billed to the video service subscribers for recurring charges for video service and event-based charges for video service, including, but not limited to, pay-per-view and video-on-demand charges, for all such revenues after August 23, 2023**

SECTION 2. A new subsection 4 is hereby added to Section 630.020.C of the Municipal Code, to read as follows:

C. Video Service Provider Fee.

1. Each video service provider shall pay to the City a video service provider fee in the amount of five percent (5%) of the provider's gross revenues on or before the last day of the month following the end of each calendar quarter. The City may adjust the video service provider fee as permitted in Section 67.2689, RSMo.

2. A video service provider may identify and pass through on a proportionate basis the video service provider fee as a separate line item on subscribers' bills.

3. The City, not more than once per calendar year and at its own cost, may audit the gross revenues of any video service provider as provided in Section 67.2691, RSMo. A video service provider shall make available for inspection all records pertaining to gross revenues at the location where such records are kept in the normal course of business.

4. Beginning August 28, 2023, the video service provider fee shall be 4.5% of gross revenues. Beginning August 28, 2024, the video service provider fee shall be 4% of gross revenues. Beginning August 28, 2025, the video service provider fee shall be 3.5% of gross revenues. Beginning August 28, 2026, the video service provider fee shall be 3% of gross revenues. Beginning August 28, 2027, the video service provider fee shall be 2.5% of gross revenues. Any fees incurred by the provider prior to August 23, 2023 shall be paid at the rate of 5% of Gross Revenues.

SECTION 3. Subsection B.4 (FCC Emergency Message Requirements), Subsection D (Customer Service Regulations), and Subsection E (Public, Educational and Government Access Programming) of Section 630.020 of the Municipal Code are hereby repealed.

B. General Regulations.

~~4. A video service provider shall comply with all Federal Communications Commission requirements involving the distribution and notification of emergency messages over the emergency alert system applicable to cable operators. Any video service provider other than an incumbent cable operator serving a majority of the residents within a political subdivision shall comply with this Section by December 31, 2007.~~

~~D. Customer Service Regulations.~~

~~1. Definitions. For purposes of this Section, the following terms shall mean:~~

~~**NORMAL BUSINESS HOURS**~~

~~Those hours during which most similar businesses in the community are open to serve customers. In all cases the term "normal business hours" must include some evening hours at least one (1) night per week or some weekend hours.~~

~~**NORMAL OPERATING CONDITIONS**~~

~~Those service conditions which are within the control of the video service provider. Those conditions which are not within the control of the video service provider include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the video service provider include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the video system.~~

~~**SERVICE INTERRUPTION**~~

~~The loss of picture or sound on one (1) or more video channels.~~

~~2. All video service providers shall adopt and abide by the following minimum customer service requirements:~~

~~(a) Video service providers shall maintain a local, toll-free or collect call telephone access line which may be available to subscribers twenty-four (24) hours a day, seven (7) days a week.~~

~~(b) Video service providers shall have trained company representatives available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours shall be responded to by a trained company representative on the next business day.~~

~~(c) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.~~

~~(d) Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.~~

~~(e) Customer service centers and bill payment locations shall be open at least during normal business hours and shall be conveniently located.~~

~~(f) Under normal operating conditions, each of the following standards shall be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:~~

~~(1) Standard installations shall be performed within seven (7) business days after an order has been placed. Standard installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system.~~

~~(2) Excluding conditions beyond the control of the operator, the video service provider shall begin working on service interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The video service provider must begin actions to correct other service problems the next business day after notification of the service problem.~~

~~(3) The appointment window alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.~~

~~(4) A video service provider shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.~~

~~(5) If a video service provider's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer must be contacted. The appointment shall be rescheduled, as necessary, at a time convenient for the customer.~~

~~(g) Refund checks shall be issued promptly, but no later than either:~~

~~(1) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier; or~~

~~(2) The return of the equipment supplied by the video service provider if the service is terminated.~~

~~(h) Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.~~

~~(i) Video service providers shall not disclose the name or address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video service provider or its affiliates, as required under 47 U.S.C. § 551, including all notice requirements. Video service providers shall provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name or address.~~

~~3. As required by Section 67.2692, RSMo., this Section ~~630.020(D)~~ shall be enforced only as follows:~~

~~(a) Each video service provider shall implement an informal process for handling inquiries from the City and customers concerning billing issues, service issues, and other complaints. If an issue is not resolved through this informal process, the City may request a confidential non-binding mediation with the video service provider, with the costs of such mediation to be shared equally between the City and the video service provider.~~

~~(b) In the case of repeated, willful, and material violations of the provisions of this Section by a video service provider, the City may file a complaint on behalf of a resident harmed by such violations with Missouri's Administrative Hearing Commission seeking an order revoking the video service provider's Public Service Commission authorization. The City or a video service provider may appeal any determination made by the Administrative Hearing Commission under this Section to a court of competent jurisdiction, which shall have the power to review the decision de novo. The City shall not file a complaint seeking revocation unless the video service provider has been given sixty (60) days' notice to cure alleged breaches but has failed to do so.~~

~~*E. Public, Educational, And Government Access Programming.*~~

~~1. Each video service provider shall designate the same number of channels for non-commercial public, educational, or governmental ("PEG") use as required of the incumbent cable television franchisee as of August 28, 2007.~~

~~2. Any PEG channel that is not substantially utilized by the City may be reclaimed and programmed by the video service provider at the provider's discretion. If the City finds and certifies that a channel that has been reclaimed by a video service provider will be substantially utilized, the video service provider shall restore the reclaimed channel within one hundred twenty (120) days. A PEG channel shall be considered substantially utilized when forty (40) hours per week are locally programmed on that channel for at least three (3) consecutive months. In determining whether a PEG channel is substantially utilized, a program may be counted not more than four (4) times during a calendar week.~~

~~3. The operation of any PEG access channel and the production of any programming that appears on each such channel shall be the sole responsibility of the City or its duly appointed agent receiving the benefit of such channel, and the video service provider shall bear only the responsibility for the transmission of the programming on each such channel to subscribers. The City must deliver and submit to the video service provider all transmissions of PEG content and programming in a manner or form that is capable of being accepted and transmitted by such video service provider holder over its network without further alteration or change in the content or transmission signal. Such content and programming must be compatible with the technology or protocol utilized by the video service provider to deliver its video services. The video service provider shall cooperate with the City to allow the City to achieve such compatibility.~~

~~4. The City shall make the programming of any PEG access channel available to all video service providers in a non-discriminatory manner. Each video service provider shall be responsible for providing the connectivity to the City's or its duly appointed agent's PEG access channel distribution points existing as of August 27, 2007. Where technically necessary and feasible, video service providers shall use reasonable efforts and shall negotiate in good faith to interconnect their video service networks on mutually acceptable rates, terms, and conditions for the purpose of transmitting PEG programming. A video service provider shall have no obligation to provide such interconnection to a new video service provider at more than one (1) point per headend, regardless of the number of political subdivisions served by such headend. The video service provider requesting interconnection shall be responsible for any costs associated with such interconnection, including signal transmission from the origination point to the point of interconnection. Interconnection may be accomplished by direct cable microwave link, satellite, or other reasonable method of connection acceptable to the person providing the interconnect.~~

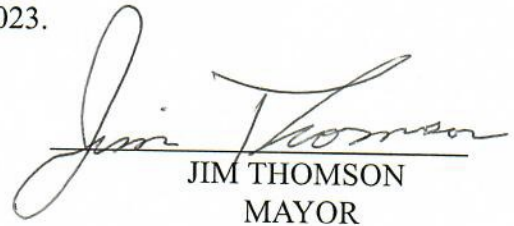
~~5. The franchise obligation of an incumbent cable operator to provide monetary and other support for PEG access facilities existing on August 27, 2007, shall continue until the date of franchise expiration (ignoring any termination by notice of issuance of a video service authorization) or January 1, 2012, whichever is earlier. Any other video service provider shall have the same obligation to support PEG access facilities as the incumbent cable operator, but if there is more than one (1) incumbent, then the incumbent with the most subscribers as of August 27, 2007. Such obligation shall be prorated, depending on the nature of the obligation, as provided in Section 67.2703.8, RSMo. The City shall notify each video service provider of the amount of such fee on an annual basis, beginning one (1) year after issuance of the video service authorization.~~

~~6. A video service provider may identify and pass through as a separate line item on subscribers' bills the value of monetary and other PEG access support on a proportionate basis.~~

F. *Compliance With Other Regulations.* All video service providers shall comply with the right-of-way use and zoning regulations established in Sections **630.030** and **630.040** of this Chapter and with all other applicable laws and regulations.

SECTION 4. This Ordinance shall take effect and be in full force immediately following its passage and being signed as provided by law

PASSED and SIGNED this 20th day of November, 2023.


JIM THOMSON
MAYOR

ATTEST:


AMY HAMILTON
CITY CLERK

APPROVED AS TO FORM:


KENNETH J. HEINZ
CITY ATTORNEY

First reading: November 6, 2023
Second reading: November 20, 2023