

AN ORDINANCE AMENDING CHAPTER 28.1 OF THE GREENSBORO CODE OF ORDINANCES WITH RESPECT TO TELECOMMUNICATIONS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

**Section 1.** That Sec. 28.1-18 of the Greensboro Code of Ordinances is hereby amended to read as follows:

Sec. 28.1-18. - Franchise fees.

(a) *[Franchise fees in general.]* The city finds that:

- (1) The public rights-of-way to be used by the grantee in the operation of its system within the boundaries of the franchise area are valuable public properties acquired and maintained by the county, state, and city at great expense to its taxpayers, and
  - (2) The grant to the grantee to the said streets is a valuable property right without which the grantee would be required to invest substantial capital in right-of-way costs and acquisitions, and
  - (3) The administration of this chapter or the franchise imposes upon the city additional regulatory responsibility and expense, and
  - (4) The city reserves the right to charge an annual franchise fee for the use of the rights-of-way for a telecommunications system. For the grantee's use of and presence in the city's rights-of-way the grantee of any franchise hereunder shall pay to the city a franchise fee in the amount specified in the franchise. This annual franchise payment shall commence as of the effective date of the franchise and shall be in the amount of ~~thirty cents (\$0.30)~~ zero dollars and zero cents (\$0.00) per linear foot of the public right-of-way, whether aerial or underground, for the installed telecommunications system. In the event an ordinance amendment shall increase the fee from zero dollars and zero cents (\$0.00), the increased fee shall be calculated on an annual pro-rated basis and shall be paid to the City within thirty (30) days of the effective date of the ordinance. Sharing of the installed telecommunications systems by grantees is permissible provided that the grantee which owns the installed telecommunications system continues timely payment of the franchise fee. The franchise shall contain a current certified statement furnished by the grantee of the total linear footage of the public's right-of-way occupied by the grantee or grantee's facilities. Upon the city's request, the grantee shall provide an independent audited statement with supporting documentation of the grantee's total linear footage presence in the city's right-of-way. The annual franchise payment shall be in addition to any other applicable fee.
  - (5) Exemptions. Per G.S. § 160A-274, government or governmental entities owning telecommunications systems which provide governmental telecommunications services to governmental facilities shall be exempt from section 28.1-18, franchise fees.
- (b) *Franchise fee in addition to other tax or payments.* This payment shall be in addition to any other tax or payment owed to the governments or other taxing jurisdiction by the grantee, unless such tax or payment is deemed a franchise fee under applicable law.

- (c) *Acceptance by the city.* No acceptance of any payment by the city shall be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation of the grantee.
- (d) *Failure to make required payment.* In the event that any franchise payment or recomputed amount is not made on or before the dates specified herein, grantee shall pay as additional compensation an interest charge, computed from such due date, at the annual rate equal to the commercial prime interest rate of the city's primary depository bank during the period that such unpaid amount is owed.
- (e) *Payments to be made yearly.* The franchise fee and any other cost or damages assessed shall be payable yearly to the city and said payment shall be made to the city not later than thirty (30) days after the expiration of each calendar year.
- (f) *The city's right to inspection.* The city shall have the right to inspect the grantee's records pertaining to the presence and location of the grantee's facilities, system or equipment in the public's right-of-way. Access to the aforementioned records shall not be denied by the grantee on the basis that said records contain "proprietary" information, but the city shall treat all such proprietary information to which it is given access as confidential and not copy or disclose it. Notwithstanding the above, the grantor shall be governed by the requirement of G.S. Ch. 132 relating to public records.
- (g) *Advance payment.* The grantee may prepay the annual fee up to five (5) years in advance, provided that grantee at all times remains responsible for all changes in the number of linear feet of the right-of-way occupied by grantee.

(Ord. No. 95-60, 6-1-95; Ord. No. 99-70, §§ 2—5, 5-18-99; Ord. No. 07-106, § 1, 6-19-07; Ord. No. 10-139, § 1, 9-7-10)