

**BILL NO. 2353**

**ORDINANCE NO. 2353**

**AN ORDINANCE TO AMEND CHAPTER 50, ARTICLE VI ON VIDEO SERVICES 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 City Council 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 found in the 2021 Legislation are enforceable and not further amended, superseded, or preempted and to further remove any inconsistencies with existing law; and

**WHEREAS**, the City Council also desires to provide for any additional authority necessary to effectuate this change in video service provider franchise fees, including any necessary transmissions to video services providers or the Missouri Public Service Commission (the "PSC"); and

**WHEREAS**, a copy of this bill has been made available for public inspection prior to its consideration by the Council and read by title two times in an open meeting prior to passage.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LADUE, ST. LOUIS COUNTY, MISSOURI AS FOLLOWS:**

Section 1. Section 50-152 of the Code of Ordinances, City of Ladue, St. Louis County, Missouri, entitled "Video Service Regulations", is hereby amended to add the underlined text and to repeal the ~~struck through~~ text, to read as follows:

Section 50-152. *Video Service Regulations.*

(a) *Definitions.* The following terms shall have the following meanings unless otherwise defined by context:

...

*Gross Revenues* means the total amounts billed to subscribers or received from advertisers for the provision of video services within the city, including:

(1) Recurring charges for video service;

(2) Event-based charges for video service, including, but not limited to, pay-per-view and

video-on-demand charges;

~~(3) Rental of set top boxes and other video service equipment;~~

~~(4) Service charges related to the provision of video service, including but not limited to activation, installation, repair and maintenance charges;~~

~~(5) Administrative charges related to the provision of video service, including but not limited to service order and service termination charges;~~

~~(6) 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; b But gross revenues do not include:~~

a. Discounts, refunds, and other price adjustments that reduce the amount of compensation received by a video service provider;

b. Uncollectibles;

c. Late payment fees;

d. 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;

e. Fees or other contributions for PEG or I-net support;

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

g. Rental of set top boxes, modems, or other equipment used to provide or facilitate the provision of video service;

h. Service charges related to the provision of video service including, but not limited to, activation, installation, repair, and maintenance charges;

i. Administrative charges related to the provision of video service including, but not limited to, service order and service termination charges; or

j. A pro rata portion of all revenue derived from advertising, less refunds, rebates, or discounts.

Except with respect to the exclusion of the video service provider fee, gross revenues shall be

computed in accordance with generally accepted accounting principles.

...

(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 (5) a percentage~~ of the provider's gross revenues on or before the last day of the month following the end of each calendar quarter as described herein. The percentage of the video service provider fee shall be 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 statute, the City will charge the maximum allowable franchise fee rate upon video service providers. The city may adjust the video service provider fee as permitted in RSMo. 67.2689.

Section 2. All other provisions of Section 50-152 not amended herein shall remain in full force and effect to the extent permitted by applicable law.

Section 3. The City Clerk, Finance Director, 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 City Council 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.

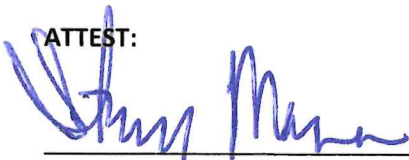
Section 5. This Ordinance shall take effect and be in force from and after its adoption and approved by the Mayor.

PASSED THIS 13<sup>th</sup> DAY OF NOVEMBER, 2023.

  
\_\_\_\_\_  
President, City Council

APPROVED AND ADOPTED THIS 13 DAY OF NOVEMBER, 2023.

  
\_\_\_\_\_  
Nancy Spewak, Mayor

ATTEST:  
  
\_\_\_\_\_  
Stacey Mann, City Clerk