

ORDINANCE NO. 1010 (2019/2020)

AN ORDINANCE AMENDING THE CITY CODE OF NEVADA, IOWA, BY ADDING CHAPTER 114 (CABLE FRANCHISE FEES)

WHEREAS, the City of Nevada (the "City") had previously entered into a franchise agreement with Mediacom to operate a cable system and offer cable service in the City; and

WHEREAS, subsequent to the franchise authorized with Mediacom, State Code 477A was implemented to allow the Iowa Utilities Board ("IUB") to authorize state-wide franchise authority to cable and video service providers; and

WHEREAS, pursuant to Iowa Code Chapter 477A, if a cable or video provider has a IUB Certificate of Franchise Authority, the provider no longer needs to obtain municipal franchise authority; and

WHEREAS, Iowa Code 477A allows for municipalities to make a written request to any cable or video service provider to calculate and pay a franchise fee in an amount up to five percent (5%), which is due and payable to the municipality on a quarterly basis; and

WHEREAS, the City deems it to be in the best interest of the City, in order to offset the cost of regulating the utility and to non-discriminately charge the same franchise fee to all cable and video service providers, to adopt new municipal code chapter 114.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of Nevada, Iowa as follows:

SECTION 1. ADD NEW CHAPTER 114 (CABLE FRANCHISE FEES). The Code of Ordinances of the City of Nevada, Iowa, is amended by adding new Chapter 114 Cable Franchise Fees, as follows:

CHAPTER 114: CABLE FRANCHISE FEES

114.01 Certificate of Franchise Authority

Any entity or person providing cable service or video service in the City, as those terms are defined in Iowa Code Chapter 477A, must have a Certificate of Franchise Authority issued pursuant to Iowa Code Chapter 477A or a franchise fee agreement negotiated with the City.

114.02 Franchise Fee

All cable and video service providers shall pay to the City a franchise fee equal to five percent (5%) of basic revenues, as defined and calculated in Iowa Code Chapter 477A. The franchise fee shall be due and paid to the City on a quarterly basis, not later than forty-five days after the close of the quarter.

114.03 Audit

At the request of the City, and not more than once per year, an independent auditor may perform reasonable audits of the cable or video service provider's calculation of the franchise fee.

SECTION 2. REPEALER. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be effect from and after its final passage, approval and publication as provided by law.

Passed First Reading by the City Council of Nevada, Iowa, 27th day of April, 2020.

Passed Second Reading by the City Council of Nevada, Iowa, the 11th day of May, 2020.

PASSED AND ENACTED by the City Council of Nevada, Iowa, the 26th day of May, 2020.



Brett Barker, Mayor

ATTEST:



Kerin Wright, City Clerk

1st Reading – April 27, 2020

Motion by Council Member Luke Spence, seconded by Council Member Sandy Ehrig, first reading of Ordinance No. 1010 (2019/2020).

AYES: Spence, Ehrig, Hanson, Mittman, Neelson, Sampson

NAYS: None

ABSENT: None

2nd Reading – May 11, 2020

Motion by Council Member Jason Sampson, seconded Council Member Brian Hanson, to approve the second reading of Ordinance No. 1010 (2019/2020).

AYES: Sampson, Hanson, Neelson, Sampson, Spence, Ehrig

NAYS: None

ABSENT: Mittman

3rd Reading – May 26, 2020

Motion by Council Member Dane Neelson, seconded by Council Member Brian Hanson, to approve the third reading of Ordinance No. 1010 (2019/2020)

AYES: Neelson, Hanson, Mittman, Sampson, Spence, Ehrig

NAYS: None

ABSENT: None

The Mayor declared Ordinance No. 1010 (2019/2020) was passed on May 26, 2020.

I certify that the foregoing was published as Ordinance No. 1010 (2019/2020) on the 26th day of May 2020.



Kerin Wright, City Clerk