

ORDINANCE NO. 881

AN ORDINANCE AMENDING CHAPTER 112 OF THE ELDORA MUNICIPAL CODE

BE IT ENACTED by the City Council of the City of Eldora, Iowa:

Section 1. **Purpose.** The purpose of this ordinance is to amend portions of Chapter 112 Cable Television Regulations of the Eldora Municipal Code.

Section 2. The following Sub-Section of the Eldora Municipal Code is hereby amended by deleting the present Sub-Section and inserting in lieu thereof the following:

112.04 REGULATION BY FRANCHISING AUTHORITY.

1. Franchise Fee:

A. Sums Due City. During the term of a franchise, a grantee shall pay to the City a sum of money equal to five percent (5%) of the gross revenues accruing from services rendered within the City. Sales tax or other taxes levied directly on a per subscriber basis and collected by a grantee shall not be included in computation of sums due the City. Said fees shall be paid quarterly not later than August 15, November 15, February 15 and May 15 for the preceding three (3) month period ending, respectively, June 30, September 30, December 31 and March 31. Not later than the date of each payment, grantee shall file with the City Council, a written statement signed under penalty or perjury by an authorized representative of the grantee, which identifies in detail the sources and amounts of gross revenues received by a grantee during the quarter for which payment is made. Grantee shall increase the franchise fee payment to City using the following schedule upon receiving written notice from City no less than 45 days prior to the corresponding dates in the schedule. Nothing in this agreement shall prohibit the City from electing not to take the scheduled increase in franchise fee payments. Franchise fee shall increase to 3.5% for year two of the term of the franchise and shall increase to 5% for year three through the end of the term of the franchise.

(1) No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount.

(2) No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the City may have for further or additional sums payable under the provisions of this section.

(3) Any franchise fees which remain unpaid after the dates specified above shall be delinquent and shall thereafter accrue interest at the maximum legal rate until paid.

(4) The City shall have the right to inspect at all times during business hours a grantee's record of or pertaining to the local gross

revenue from which its franchise payments are computed and the right of audit and recomputation of any and all amounts paid under a franchise. No acceptance of any payment 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 under a franchise or for the performance of any other obligation thereunder.

Section 3. **Effect.** All other Sections of said Chapters shall remain unchanged and in full force and effect.

Section 4. **Severability.** If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of the Code is, for any reason, held to be invalid or enforceable as to any person or circumstances, the application of such section, subsection, paragraph, subparagraph, sentence, clause or phrase to persons or circumstances other than those as to which it shall be held invalid or unenforceable, shall not be affected thereby, and all other provisions of the Code, in all other respects, shall be and remain valid and enforceable.

Section 5. **Effective Date.** This ordinance and the Eldora City Code shall be in full force and shall take effect, from and after the adoption and publication of this ordinance.

Passed and approved by the City Council of the City of Eldora, Iowa this 8th day of March, 2022.

David W. Dunn, Mayor

ATTEST:

Chandra Kyte, City Clerk

Introduced:	03-08-2022
Passed 1 st Consideration:	03-08-2022
Passed 2 nd Consideration:	03-08-2022
Passed 3 rd Consideration:	03-08-2022
Passed & Adopted:	03-08-2022