

ORDINANCE

ORDINANCE NO.: _____

AN ORDINANCE BY THE CITY OF WINTERVILLE TO AMEND THE CODE OF ORDINANCES OF WINTERVILLE, GEORGIA, TO ESTABLISH A FRANCHISE FEE APPLICABLE TO HOLDERS OF CABLE OR VIDEO FRANCHISIES ISSUED BY THE STATE OF GEORGIA BY ADOPTING A NEW SECTION 37; TO DESIGNATE AN AGENT; TO PROVIDE FOR CODIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTING DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Winterville shall be notified by the Secretary of State's Office and a cable or video provider of an application for a state issued franchise in the city;

WHEREAS, the City of Winterville currently collects a franchise fee from any current cable or video providers;

WHEREAS, the City of Winterville considers collecting a franchise fee from a cable or video provider utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City of Winterville and to protect public works infrastructure;

WHEREAS, the City of Winterville is authorized pursuant to O.C.G.A. section 36-76-1 *et seq.* known as the "Consumer choice for Television Act" of 2007 to collect a franchise fee of up to 5%, the maximum amount established by federal and state law, of each cable or video provider's gross revenue generated within the city; and

THE MAYOR AND COUNCIL OF THE CITY OF WINTERVILLE HEREBY ORDAINS:

The code of the City of Winterville is hereby amended by adding a Section to be numbered 37.101, which said section reads as follows:

"Section 37.101. Franchise fee to state issued cable or video franchise.

The city hereby requires a franchise fee of 5% of gross revenues generated within the city for any cable or video state franchise issued in its corporate boundaries by the State of Georgia."

Section 2.

The Code of the City of Winterville is further amended by adding a Section to be numbered 37.102, which said section reads as follows:

"Section 37.102, Authorized designee.

The city hereby authorized "Mayor, Manager, Clerk or other position), upon receipt of notice to the city of its right to designate a franchise fee for an applicant for or holder of an existing state franchise, to provide written notice to the Secretary of State and each applicant for or holder of a state franchise within a service area that is wholly or partially located within the city limits of the 5% franchise fee rate applicable of such applicant or holder of a state franchise."

Section 3.

The preamble to this ordinance is hereby incorporated into this ordinance as set out fully herein.

Section 4.

The sections, paragraphs, sentences, clauses or phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

Section 5.

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 6.

The adoption date of this ordinance is February 12, 2008.

Section 7.

The effective date of this ordinance is February 12, 2008.

ORDAINED by the Mayor and Council of the City of Winterville this 12th day of February, 2008.

ATTEST:

By: Wendy L. Martin
Wendy L. Martin
City Clerk of Winterville
(SEAL)

Mayor: James C. Mercer, Jr.
James C. Mercer, Jr.
City of Winterville

Approved as to Form, City Attorney

Albert L. Stone, Jr.
Albert L. Stone, Jr.