

**CITY OF LIBERTY LAKE
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. 24**

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE, WASHINGTON,
ESTABLISHING A FRANCHISE FEE ON CABLE TELEVISION SERVICES TO
PROVIDE REVENUE FOR GENERAL CITY SERVICES AND CAPITAL FACILITIES,
AND SETTING PENALTIES FOR NON-COMPLIANCE.**

WHEREAS, the voters of the City of Liberty Lake on November 6, 2000 approved the incorporation of the City of Liberty Lake; and

WHEREAS, 47 U.S.C. 542 provides that cities may impose fees upon persons who operate cable television businesses but requires that city fees on cable television businesses not be "unduly discriminatory against cable operators and subscribers"; and

WHEREAS, RCW 35A.47.040 allows the City to regulate the use of public right of way through the issuance of non-exclusive franchise agreements; and

WHEREAS, the City Council has determined that the public interest is best served by implementation of a 5% franchise fee on cable television services, to be effective September 1, 2001;

NOW, THEREFORE, the City Council of the City of Liberty Lake, Washington, do ordain as follows:

Section 1. Use and Accountability of Franchise Fee. All fees collected pursuant to this ordinance shall be deposited into the General Fund, and shall be used for the funding of general City services or capital facilities as the Council shall direct through its annual budget process.

Section 2. Cable T.V. Franchise Fee. The fee provided for in this ordinance shall be known as the "Franchise Fee", and is levied upon the privilege of conducting cable television business within the City of Liberty Lake.

Section 3. Definitions.

(A) "Cable television" in accordance with limits set forth by federal law, includes all persons engaged in or carrying on a business and employing or providing a community antenna system of coaxial cables or other electrical conductors and equipment used or to be used primarily to distribute and receive television broadcast signals or radio signals directly or indirectly off-the-air and transmit them to subscribers for a fee all as further defined under the Cable Communications Policy Act of 1984, as amended.

(B) "City Administrator" means the City Administrator of the City of Liberty Lake, Washington, or his or her designee.

(C) "Gross income" means the value proceeding or accruing from the performance of the particular business involved, excluding receipts or proceeds from the use or sale of tangible property and real property or any interest therein, proceeds from the sale of notes, bonds, mortgages or other evidence of indebtedness, or stock and the like, receipts from operations incidental to the performance of the particular business involved, and with a deduction on the amount of credit loss and uncollectibles actually sustained.

(D) "Person" means any person, firm, corporation, association, or entity of any type engaged in a business subject to payment of fees under this ordinance.

(E) "Taxpayer" means any person liable for the tax imposed under this Ordinance.

Section 4. **Franchise Fee - Amount.** There is levied upon, and shall be collected from a person engaged in or carrying on the business of selling or the furnishing of cable television services, a franchise fee equal to five percent (5%) of the gross income derived from such business in the City during the period for which the fee is due.

Section 5. **Accounting Year.** The 12-month period (or portion thereof) for purposes of this franchise fee shall commence September 1, 2001 and shall end December 31, 2001, and thereafter shall commence January 1st and shall end on December 31st with fees due during such periods or portions thereof.

Section 6. **Exceptions and Deductions.** There is excepted and deducted from the total gross income upon which the fee is computed, so much of the total gross income as is derived from business which the City is prohibited from collecting a fee under the constitution or laws of the United States and the constitution or laws of the State of Washington.

Section 7. **Monthly Installments.** The fee imposed by Section 4 herein shall be due and payable in monthly installments, and remittance therefor shall be made on or before the last day of the month following the end of the monthly period in which the fee is accrued. On or before said due date, the franchise holder shall file with the City Administrator a written return upon such form and setting forth such information as the City Administrator shall reasonably require relating to the accurate computation and collection of this fee, together with the payment of the amount.

Section 8. **Records.** Each person shall keep records reflecting the amount of the gross income on sales and services within the City, and such records shall be open at all reasonable times for the inspection of the City Administrator or his designee to verify information provided on any record, or to determine whether such return is required to be filed.

Section 9. **Failure to Make Returns or to Pay the Fee in Full.** If a person fails, neglects or refuses to make his return as and when required in this ordinance, the City Administrator is authorized to determine the amount of the fee payable under provisions of

Section 4 herein, and to notify such person of the amount so determined. The amount so fixed shall thereupon be the fee and be immediately due and payable, together with penalty and interest. Delinquent fees, including any penalties, are subject to an interest charge of 12 percent per year on the unpaid balance from the date any such fees become due as provided in Section 7 herein.

Section 10. Penalty for Delinquent Payment. If a person subject to this fee fails to pay any fee required by this ordinance within fifteen days after the due date thereof, there shall be added to such fee a penalty of ten percent of the amount of such fee, and any fee due under this ordinance that is unpaid and all penalties thereon shall constitute a debt to the City and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

Section 11. Overpayment of Fee. Money paid to the City through error, or otherwise not in payment of the fee imposed by this ordinance, or in excess of such fee, shall, upon discovery, be credited against any fee due or to become due from such person hereunder, provided however, that overpayments extending beyond one year prior to notification of the City shall not be refunded. If such person has ceased doing business in the City, any such overpayment shall be refunded to the person.

Section 12. Noncompliance - Penalty.

(A) No person subject to this ordinance shall fail or refuse to file returns or to pay the fee when due, nor shall any person make a false statement or representation in, or in connection with, any such return, or otherwise violate or refuse to comply with this ordinance or with any rule promulgated pursuant to Section 13 herein.

(B) In addition to the interest and delinquent filing penalties set forth above, a willful violation of or failure to comply with this ordinance is a civil infraction, subject to a fine of up to \$250 for each day that a violation continues.

Section 13. City Administrator to Make Rules. The City Administrator shall have the power to adopt and enforce rules and regulations not inconsistent with this ordinance or with the law for the purposes of carrying out the provisions thereof.

Section 14. Appeal to City Council. A person aggrieved by the amount of the fee, penalties, interest or civil infraction fine determined by the City Administrator or his or her designee, under the provisions of this ordinance, may appeal such determination to the City Council, or to the Hearing Examiner if the City Council so establishes.

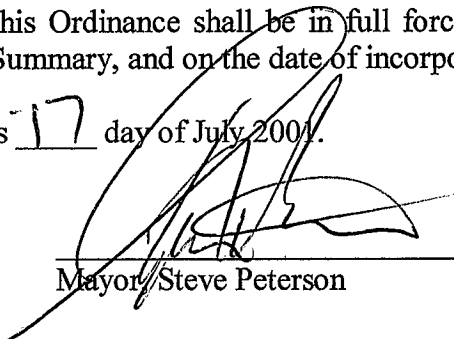
Section 15. Franchise Agreement. All persons subject to this ordinance shall execute a Franchise Agreement with the City upon a form approved by the City Council. No cable television service shall be furnished until such agreement has been executed by the person providing service and approval by the City Council.

Section 16. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such

invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 17. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary, and on the date of incorporation.

PASSED by the City Council this 17 day of July 2001.



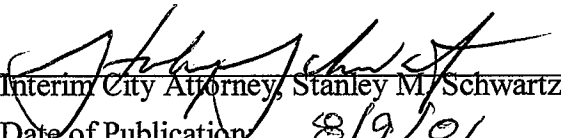
Mayor Steve Peterson

ATTEST:



Interim City Clerk, Arlene Fisher

APPROVED AS TO FORM:



Interim City Attorney, Stanley M. Schwartz

Date of Publication: 8/9/01
Effective Date: Date of Incorporation

City of Liberty Lake
P.O. Box 370
Liberty Lake, WA 99019
(509) 755-6702

**NOTICE OF ORDINANCE PASSED
BY LIBERTY LAKE CITY COUNCIL**

The following is the title and summary of Ordinance No. 24 passed by the City of Liberty Lake City Council on the 17th day of July 2001.

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE,
WASHINGTON, ESTABLISHING A FRANCHISE FEE ON
CABLE TELEVISION SERVICES TO PROVIDE REVENUE
FOR GENERAL CITY SERVICES AND CAPITAL
FACILITIES, AND SETTING PENALTIES FOR NON-
COMPLIANCE.**

The introductory paragraphs state the City's authority to tax cable television businesses and that it is in the best interest of the City to impose such fee.

Section 1 of the Ordinance establishes the use and accountability of fee proceeds.

Section 2 provides that the Ordinance shall be known as the "Franchise Fee."

Section 3 establishes definitions.

Section 4 provides that a 5% fee on gross income will be imposed upon persons engaged in the carrying on the business of selling or furnishing cable television services.

Section 5 establishes the year for purposes of the fee.

Section 6 establishes exceptions and deductions from total gross income upon which fee is computed.

Section 7 provides for payment of fee in monthly installments.

Section 8 states that persons are required to keep records to verify information provided on the utility tax return.

Section 9 provides for interest and penalties for failing to file tax return or for the non-payment of fee.

Section 10 provides for the imposition of penalties for late payment of fee.

Section 11 provides for credits for prior overpayment of fee.

Section 12 establishes penalties for non-compliance.

Section 13 provides that the City Administrator shall make rules for purposes of carrying out this Ordinance.

Section 14 establishes procedures for appealing the fee, interest, fines or penalties imposed by this Ordinance.

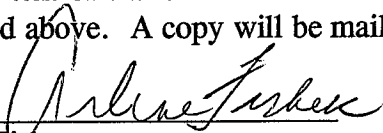
Section 15 requires a franchise agreement.

Section 16 provides that Section 15 is the exclusive referendum procedures.

Section 17 establishes a severability clause in the event some portion of the Ordinance is held invalid.

Section 18 states this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary, and on the date of incorporation.

The full text of the Ordinance is available at the Interim City of Liberty Lake City offices as identified above. A copy will be mailed out upon request.


Arlene Fisher
Interim City Clerk

Published: 8/19/01