

## UTILITY REGULATION

### **Sec. 26.1-1. Authorization of Governing Body (Mayor and Council)**

The City has been vested by Section 21-17-5, Mississippi Code of 1972, with the care, management, and control of the municipal affairs and its property and finances, and empowered to adopt any orders, resolutions or ordinances with respect thereto not inconsistent with any other laws of the State of Mississippi.

The City has franchised Pine Belt Cable to provide cable TV service within its franchise area, subject to the terms and conditions of that certain Franchise Agreement dated March 22, 1983, and recorded in Minute Book No. 1983-1/Pages 428-439.

The City is authorized by the laws of the State of Mississippi to regulate cable TV services by orders, regulations or ordinances not inconsistent with any other laws of the State of Mississippi.

The City has been further authorized by the Cable Act and Cable Regulations among other things to:

A. seek certification by the FCC to regulate rates charged within the City's franchise for "basic service tier" programming, equipment and services;

B. file and serve complaints with the FCC about rates now, and from time to time hereafter, charged for "cable programming services" and equipment within the City's franchise;

C. upon certification by the FCC, to review and decide whether rates now, and from time to time hereafter, charged to the City's franchise for "basic service tier" programming, equipment and services comply with the Cable Act and Cable Regulations and, in the event those rates do not comply, by order to remedy any such non-compliance, to the extent permitted by the Cable Act and Cable Regulations;

D. to regulate and enforce cable TV service standards now and hereafter in effect within the City's franchise area, to the extent permitted by the Cable Act and Regulations;

It is now necessary and in the public interest for the City to regulate cable TV rates, equipment, service and federal service standards as permitted by the Cable Act, Cable Regulations and the laws of the State of Mississippi.

### **Sec. 26.1-2. Intent of Regulation.**

The Governing Body of the City does hereby declare its intention to regulate cable TV rates, equipment, service and federal service standards as permitted by the Cable Act, Cable Regulations and the laws of the State of Mississippi, including without limitation its intention to:

A. seek certification by the FCC to regulate rates charged within the City's franchise for "basic service tier" programming, equipment and services, and said certification was approved

by the FCC on October 16, 1993;

B. if necessary and appropriate, to file and serve complaints with the FCC about rates now, and from time to time hereafter, charged for "cable programming services" and equipment within the City's franchise;

C. upon certification by the FCC, to review and declare whether rates now, and from time to time hereafter, charged within the City's franchise for "basic service tier" programming, equipment and services comply with the Cable Act and Cable Regulations and, in the event those rates do not comply, by order to remedy any such non-compliance, to the extent permitted by the Cable Act and Cable Regulations;

D. to regulate and enforce federal cable TV service standards now and hereafter in effect within the City's franchise area, to the extent permitted by the Cable Act and Regulations;

E. to the extent required by the Cable Act and Cable Regulations, to provide notice to the Cable Operator and any other interested persons, concerning this and any further decision by the Governing Body to exercise its authority under the Cable Act and Cable Regulations to regulate rates for "basic service tier" programming, equipment and services; to file and serve complaints about "cable programming services;" or to regulate and enforce federal cable TV service standards;

F. to the extent required by the Cable Act and Cable Regulations, to provide an opportunity for interested persons to be heard, before any decision by the Governing Body to exercise its authority under the Cable Act and Cable Regulations to approve, disapprove, or remedy any rates charged for "basic service tier" programming, equipment and services; or to regulate and enforce federal cable TV service standards. (Ord. 2474.. sec 1. 1-4-94)

### **Sec. 26.1-3. Rates**

A. The Governing Body will regulate cable television rates pursuant to the Cable Act of 1992.

B. All charges to subscribers and users shall be consistent throughout the franchise area with a written schedule of fees for all services offered available upon request. The Cable Operator shall be required to apprise in writing each new subscriber of all applicable fees and charges for providing cable television services.

C. The Cable Operator shall not, with regard to fees, discriminate or grant any preference or advantage to any person; provided, however, that the Cable Operator may establish different rates for different classes of subscribers or users based upon cost of service differentials; provided that the franchisee not discriminate between any subscribers or users of the same class.

D. Customer-requested disconnection shall be made as soon as practicable and in no case shall billing continue longer than ten (10) days following notice to the Cable Operator of same by subscriber. The Cable Operator shall not enter into any agreement with a subscriber which imposes any charge other than past due balances and unreturned equipment charges following disconnection of service, except for re-connection and subsequent monthly or periodic charges, and those charges shall be no greater than charges for new customers. This section shall not prevent the Cable Operator from refusing service to any person because the Cable Operator's prior accounts with that person remain due and owing;

E. Except as may otherwise be provided in this ordinance, the Cable Operator may offer service which requires advance payment of periodic service charges for no more than one year in advance subject to the conditions contained in this subsection.

1. A subscriber shall have the right, at anytime, to have his or her service, or a portion thereof, disconnected with a refund for unused service charges paid to the customer.

2. Refund checks will be issued promptly, but no later than either:

a. the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier; or

b. the return of the equipment supplied by the franchisee if service is terminated.

(Ord. 2474, sec. 2, 1-4-94)

#### **Sec. 26.1-4. Rate Regulation**

A. The Governing Body has certification to regulate cable television rates for basic service.

B. All materials pertaining to the review of initial rates or any proposed rate increase will be reviewed by the Governing Body. Final determinations will be made by the Governing Body based on the report from the Governing Authority and public comment as required by the Cable Act of 1992.

C. All notices and supporting materials will be provided to the Governing Body one week before the regularly scheduled Governing Body meeting that is at least thirty (30) days before any proposed increase is effective for placement on the agenda.

D. The next business day after the meeting, the Governing Body will issue a press release with information pertaining to the pending rate action and instructions for public participation.

E. The Cable Operator will notify subscribers of any proposed increase at the billing cycle that is at least thirty (30) days before said increase is to become effective. Notice will list the FCC community identifier for the cable system and the name, address and phone number of the Governing Body so that information regarding procedures for public participation is readily available to the subscriber.

F. Public comment will be taken by phone or in writing by the Governing Body. Any comments will be filed with the Governing Body up until the day of the meeting at which the basic rate action is scheduled. The Governing Body has the option to accept oral comment at the aforementioned meeting.

G. The Governing Body will request further information if needed within one week and will issue preliminary determination of the reasonableness of the rate request to the Governing Body within ten (10) business days after the meeting.

H. Failure to provide any reasonably requested material will automatically invoke the extended time periods for review under the Cable Act of 1992.

I. Determination of the reasonableness of initial rates or any proposed rate increase will be made pursuant to the Cable Act of 1992.

J. The Governing Body reserves the right to prescribe a reasonable rate for the basic

service tier or associated equipment if it is determined that a proposed rate is unreasonable.

K. The Governing Body will order refunds to subscribers, including interest computed at applicable rates published by the Internal Revenue Service for its tax refunds and additional tax payments. Notice and opportunity to comment will be provided pursuant to (applicable section) of the franchise agreement.

L. The Governing Body will assist residents with filing complaints regarding cable programming service rates with the FCC.  
(Ord. 2474, sec. 3, 1-4-94)

**Sec. 26.1-5. Public Disclosure of Information.**

A. All complaints or filings in a rate proceeding will be open to public inspection unless the complainant or filer requests anonymity.

B. All documents and communications filed by the Cable Operator during a rate proceeding will be open to the public unless a request has been made by the Cable Operator that proprietary information not be routinely available for public inspection pursuant to the Cable Act of 1992 and consistent with the provisions of the Freedom on Information Act.  
(Ord. 2474, sec. 4, 1-4-94)

**Sec. 26.1-6. Personnel Necessary for Regulation.**

The Governing Body hereby declares that the personnel necessary to regulate rates for "basic service tier" programming, equipment, service and to regulate and enforce federal service standards, to the extent herein declared, are employed or will be retained by the City, and the Mayor is hereby authorized to take the steps deemed necessary and prudent, and to employ counsel, accountants and any other advisers deemed necessary and prudent to:

a. seek certification by the FCC for the City to regulate rates charged within the City's franchise for "basic service tier" programming, equipment and services;

b. decide whether rates now, and from time to time hereafter, charged for "cable programming services" and equipment within the City's franchise comply with the Cable Regulations and in due course to report to the Governing Body the conclusions and recommendations hereby reached;

c. upon certification by the FCC, to review and decide whether rates now, and from time to time hereafter, charged within the City's franchise for "basic service tier" programming and equipment comply with the Cable Act and Cable Regulations and in due course to report to the Governing Body the conclusions and recommendations thereby reached; and

d. to determine any violations of federal cable TV service standards now and hereafter applicable within the City's franchise area and in due course to report to the Governing Body the conclusions and recommendations thereby reached.

(Ord. 2474, sec. 5, 1-4-94)

**Sec. 26.1-7. Further Action Needed.**

Upon receipt of the Mayor's reports, conclusions and recommendations, the Governing Body, at its regular or any necessary special meetings, shall determine the further orders, resolutions and ordinances, if any, necessary and proper to regulate cable TV services consistent with

the Cable Act and Cable Regulations, and to the extent required by the Cable Act and Cable Regulations, to provide notice and an opportunity for interested persons to be heard before enactment of any such further order, resolution or ordinance. (Ord. 2474, sec. 6, 1-4-94)

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