

COUNTY ORDINANCE NO. 16-26

A BILL ENTITLED

AN ACT CONCERNING Revisions to the Queen Anne's County Cable Television Act, Chapter 29 of the Code of Public Local Laws of Queen Anne's County;

FOR THE PURPOSE of revising the regulations, terms and conditions under which cable television operations may use and occupy the rights-of-way of Queen Anne's County, Maryland and the framework under which cable television systems shall be constructed, operated, maintained and regulated when using the public rights-of-way; bringing the provisions of the Queen Anne's County Cable Television Act into consistency with current practices; and generally revising and updating Chapter 29 of the Code of Public Local Laws of Queen Anne's County, Maryland.

BY AMENDING Sections 29-2, 29-13 and 29-42 of Chapter 29 of the Code of Public Local Laws;

SECTION I

BE IT ENACTED BY THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY, MARYLAND that Sections 29-2, 29-13 and 29-42 of Chapter 29 of the Code of Public Local Laws be and are hereby AMENDED to read as follows:

CHAPTER 29. CABLE TELEVISION

ARTICLE II. DEFINITIONS

§29-2. Word usage; terms defined.

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CHANNEL OR CABLE CHANNEL

~~A portion of the electromagnetic frequency spectrum that is used in a Cable System and which is capable of delivering a television Channel (as defined by the FCC).~~

Means a time or frequency slot or technical equivalent on the Cable System, discretely identified and capable of carrying full motion color video and audio, and may include other non-video subcarriers and digital information.

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GROSS REVENUE

~~(1) Any and all revenues or consideration of any kind or nature that constitutes revenue within generally accepted accounting principles (including without limitation, cash, and credits), actually received by a Grantee or by any other operator that is an operator of a Cable System, from the provision of Cable Service over the Cable System within the Franchise Area. "Gross Revenues" include, by way of illustration and not limitation, monthly fees charges to Subscribers for any basic, optional, premium, per Channel, per Program service, or other Cable Service; Installation, disconnection, reconnection and change in service fees; leased access Channel fees; late fees; revenues from rentals or sales of Converters or other equipment; advertising revenues; and revenues from home shopping. "Gross Revenues" shall include revenues received by an entity other than a Grantee that operates the Cable System where necessary to prevent evasion or avoidance of the obligation under this chapter or a Franchise to pay the Franchise Fee. "Gross Revenues" shall not include:~~

- ~~(a) To the extent consistent with generally accepted accounting principles, actual bad debt write offs; or~~
- ~~(b) Any taxes on services furnished by a Grantee which are imposed directly on any Subscriber or User by the State of Maryland, the County or other governmental unit and which are collected by the Grantee on behalf of said governmental unit. A Franchise Fee is not such a tax.~~

~~(2) "Gross Revenue" includes an allocated portion of all revenue derived by the Grantee from local advertising, home shopping, or other similar services. The allocation shall be based on the number of Subscribers in the Franchise Area divided by the total number of Subscribers on the System. "Gross Revenues" shall include any revenue received by the Grantee through any means which has the effect of avoiding the payment of Franchise Fees to the Franchise Authority which it is lawfully entitled to receive under the terms of this chapter.~~

All revenue received directly or indirectly by a Grantee arising from, attributable to, or in any way derived from the operation of a Cable System in the County to provide Cable Services. Gross Revenues shall include, but are not limited to, the following:

- (1) Basic Services fees;
- (2) Fees charged to Subscribers for any Cable Service tier other than Basic Service;
- (3) Fees for all digital video Cable Services;
- (4) Fees charged for premium Cable Services;
- (5) Fees for video-on-demand;
- (6) Fees charged to Subscribers for any optional, per-channel or pre-program Cable Services;
- (7) Revenue from the provision of any other Cable Services;
- (8) Charges for installation, additional outlets, relocation, disconnection, reconnection and change-in-service fees for video or audio programming;
- (9) Fees for changing any level of Cable Service programming;
- (10) Fees for service calls for Cable Services;

- (11) Inside wire maintenance fees for Cable Services;
- (12) Service plan protection fees for Cable Services;
- (13) Convenience fees for Cable Services;
- (14) Early termination fees;
- (15) Fees for Leased Access Channels;
- (16) Charges based on the lease of any portion of the Cable System for Cable Service;
- (17) Rental or sales of any and all equipment used to provide Cable Services, including converters and remote control devices;
- (18) Any and all locally-derived advertising revenues;
- (19) Revenues or commissions from locally-derived home shopping channels;
- (20) Revenue from interactive television services to the extent deemed "Cable Services" under applicable law;
- (21) Fees for any and all music services;
- (22) Late payment fees for Cable Services;
- (23) Billing and collection fees for Cable Services;
- (24) NSF check charges for Cable Services; and
- (25) Franchise fees.

Gross Revenues shall not include any revenue from the provision of any telephone or internet service, bad debts, investment income, Subscriber's refunds or credits, refunded deposits, or any taxes on services furnished by Atlantic Broadband and imposed directly upon any Subscriber or user by the County, state, federal or other governmental unit.

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PEG OR PUBLIC, EDUCATIONAL OR GOVERNMENT ACCESS FACILITIES

- ~~(1) Channel capacity designated for public, educational or governmental use; and~~
- ~~(2) Facilities and equipment for the use of such Channel capacity.~~

An access channel that consists of local public, educational and/or governmental programming.

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§29-13. Franchise Fee.

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E. If any franchise fee payment or recomputed amount, cost or penalty, is not made on or before the applicable dates heretofore specified, interest shall be charged daily from such date at the legal maximum rate charged by the United States Internal Revenue Service for late tax payments of 10% per annum and a grantee shall reimburse the County for any reasonable additional expenses and costs incurred by the County by reason of the delinquent payment(s).

F. If Cable Services subject to the Franchise Fee required under this Section 29-13 are provided to Subscribers in conjunction with non-Cable Services and the total cost of the bundle reflects a discount from the aggregate retail prices of the services contained therein, then the Franchise Fee shall be applied to the retail price of the Cable Services in the bundle reduced by no more than a proportionate share of the overall discount.

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§29-42. Violations and Penalties.

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G. In addition to the penalties set forth above, the Franchise Agreement may provide for the assessment of liquidated damages for failure to comply with the terms of this Chapter or the Franchise Agreement.

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SECTION II

BE IT FURTHER ENACTED that this Ordinance shall take effect on the forty-sixth (46th) day following its enactment.

INTRODUCED BY: Commissioner J. Wilson

DATE: December 13, 2016

PUBLIC HEARING HELD: January 24, 2017 @ 7:20 p.m.

VOTE: 5 Yea 0 Nay

DATE OF ADOPTION: February 14, 2017

EFFECTIVE DATE: March 1, 2017