

ORDINANCE NO. 2025-02

**AN ORDINANCE ADOPTING A CABLE/VIDEO SERVICE PROVIDER FEE
FOR THE CITY OF VIRDEN**

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/1-2-1, provides that the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and

WHEREAS, the City of Virden ("the City") has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 5/21-100 *et seq.* (the "Act"); and

WHEREAS, this Ordinance is intended to establish the service provider fee the Act authorizes municipalities to impose on a holder under 220 ILCS 5/21-801.

NOW, THEREFORE, be it ordained, by the Mayor and City Council of the City of Virden as follows:

Section 1. The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

Section 2. Adoption of Fee. Title 2 of the Municipal Code of the City of Virden shall be supplemented with the addition of Chapter 4 which will read as follows:

CHAPTER 4 Cable/Video Service Provider Fee.

2-4-1. Definitions.

As used in this Chapter, the following terms shall have the following meanings:

- (a) "Cable service" means that term as defined in 47 U.S.C. § 522(6).
- (b) "Commission" means the Illinois Commerce Commission.
- (c) "Gross revenues" means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the City of Virden.

- (l) Gross revenues shall include the following:

- (i) Recurring charges for cable or video service.
 - (ii) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
 - (iii) Rental of set top boxes and other cable service or video service equipment.
 - (iv) Service charges related to the provision of cable service or video service, including, but not limited to, activation, installation, and repair charges.
 - (v) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
 - (vi) Late payment fees or charges, insufficient funds check charges and other charges assessed to recover the costs of collecting delinquent payments.
 - (vii) A pro rata portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the City. The allocation shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
 - (viii) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (ix).
 - (ix) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities or applications, the portion of the holder's revenue attributable to the other services, capabilities or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
 - (x) The service provider fee permitted by 220 ILCS 5/21-801(b).
- (2) Gross revenues do not include any of the following:
- (i) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
 - (ii) Refunds, discounts or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit or discount is attributable to cable service or video service.

- (iii) Regardless of whether the services are bundled, packaged or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or nonvideo service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards or orders.
- (iv) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the City and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.
- (v) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal or any other governmental entity and collected by the holder of the state-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
- (vi) Security deposits collected from subscribers.
- (vii) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

(3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b), which would otherwise be paid by the cable service or video service.

(d) "Holder" means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(e) "Service" means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(f) "Service provider fee" means the amount paid under this Chapter and 220 ILCS 5/21-801 by the holder to a City for the service areas within its territorial jurisdiction.

(g) "Video service" means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to

delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail or other services offered over the public Internet.

2-4-2. Cable/Video Service Provider Fee Imposed.

(a) Fee Imposed. A fee is hereby imposed on any holder providing cable service or video service in the City.

(b) Amount of Fee. The amount of the fee imposed hereby shall be five percent (5%) of the holder's gross revenues.

(c) Notice. The holder shall notify the City at least ten (10) days prior to the date on which the holder begins to offer cable service or video service in the City.

(d) Holder's Liability. The holder shall be liable for and pay the service provider fee to the City. The holder's liability for the fee shall commence on the first day of the calendar month following thirty (30) days after receipt of the Ordinance adopting this Chapter by the holder. The Ordinance adopting this Chapter shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/21-401 to the City.

(e) Payment Date. The payment of the service provider fee shall be due on a quarterly basis, forty-five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

2-4-3 Applicable Principles.

All determinations and calculations under this Chapter shall be made pursuant to generally accepted accounting principles.

2-4-4 No Impact on Other Taxes Due from Holder.

Nothing contained in this Chapter shall be construed to exempt a holder from any tax that is or may later be imposed by the City, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A state-issued authorization shall not affect any requirement of the holder with respect to payment of the City simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A state-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 9-1-1 or E9-1-1 fees, taxes or charges.

2-4-5. Audits of Cable/Video Service Provider.

(a) Audit Requirement. The City will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the requirements the City imposes on cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the City. Audits of franchisees pursuant to agreements entered prior to August 3, 2010, shall be conducted according to the terms of those agreements, subject to the provisions of the Local Taxpayer's Bill of Rights. Audits of franchisees pursuant to agreements entered after August 3, 2010, and service providers under the Act shall be conducted subject to the provisions of Section 11-42-11.05 of the Illinois Municipal Code. No acceptance of amounts remitted should be construed as an accord that the amounts are correct.

(b) Additional Payments. Any additional amount due after an audit shall be paid within sixty (60) days after the municipality's submission of an invoice for the sum.

2-4-6 Late Fees / Payments.

All fees due and payments which are past due shall be governed by ordinances adopted by this municipality pursuant to Section 11-42-11.05 of the Illinois Municipal Code.

Section 3. Repeal of Conflicting Provisions. All ordinances, resolutions, and policies or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

Section 4. Severability. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Section 5. The clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect after its passage and publication in accordance with 65 ILCS 5/1-2-4.

PASSED THIS 5TH day of MAY, 2025.

AYES: 7

NAYS: 0

ABSTENTIONS: 0

ABSENT: 1

APPROVED THIS 5TH day of MAY, 2025.


MAYOR

ATTEST:


City Clerk

ORDINANCE CERTIFICATE

STATE OF ILLINOIS)
) SS.
COUNTY OF MACOUPIN)


I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City of Virden, Macoupin County, Illinois.

I do further certify that the ordinance attached hereto is a full, true, and exact copy of Ordinance No. 25-02, adopted by the Mayor and City Council of said City on the 5TH day of MAY, 2025, said Ordinance being entitled:

AN ORDINANCE ADOPTING A CABLE/VIDEO SERVICE PROVIDER FEE FOR THE CITY OF VIRDEN

I do further certify that prior to the making of this certificate, the said Ordinance was spread at length upon the permanent records of said City, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 6TH day of MAY, 2025.



City Clerk

