

ORDINANCE NO. 08-12

AN ORDINANCE BY THE CITY OF SKY VALLEY TO AMEND THE CODE OF ORDINANCES OF SKY VALLEY, GEORGIA TO ESTABLISH DUE COMPENSATION APPLICABLE TO ANY TELEGRAPH OR TELEPHONE COMPANY CHARTERED BY THE LAWS OF THIS OR ANY OTHER STATE BY ADOPTING A NEW SECTION; TO PROVIDE FOR CODIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Sky Valley is authorized pursuant to O.C.G.A. 46-5-1 et seq. as amended in 2008 by Senate Bill 379 (the "amended law") to collect due compensation from telegraph or telephone companies that maintain and operate lines and facilities occupying municipal streets and rights of way equal to no more than 3 percent of actual recurring local service revenues received by such company from its retail, end user customers located within the corporate boundaries of the city; and

WHEREAS, if a company does not have retail, end user customers located within the city's municipal boundaries, the payment by such company to a municipal authority in accordance with the rates set by regulations promulgated by the Department of Transportation for the use of its rights of way shall be considered the payment of due compensation; and

WHEREAS, under the amended law, existing franchise agreement and occupational license tax payments greater than 3% of actual recurring local service revenues are grandfathered until the expiration of the franchise agreement or December 31, 2012, whichever is earlier; and payments thereafter will be, at the statutory rate,

THE CITY COUNCIL OF THE CITY OF SKY VALLEY HEREBY ORDAINS:

I. The Code of Ordinances of the City of Sky Valley is hereby amended by adding sections to read as follows:

Section 1. Due compensation for telephone companies with end user retail customers within the city.

(a) The city hereby requires due compensation of 3 percent of actual recurring local service revenues, as defined in paragraphs (8) and (9) of subsection (b) of Section 46-5- 1 of the Official Code of Georgia Annotated; provided, however, that any company which pays in excess of 3 percent of actual recurring local service revenues pursuant to an existing franchise agreement shall continue to pay in accordance with the agreement until the expiration of the franchise agreement or December 31, 2012, whichever occurs first, and any company which pays in excess of 3 percent of actual recurring local service revenues in accordance with an

occupational license tax arrangement shall continue to pay in accordance with such payment schedule until December 31, 2012.

(b) Regarding any telephone company that does not have retail, end user customers located within the city's municipal boundaries, the payment by such company to a municipal authority in accordance with the rates set by regulations promulgated by the Department of Transportation for the use of its rights of way shall be considered the payment of due compensation.

Section 2. Authorized designee.

The City Manager shall, on behalf of the city, exercise day-to-day administrative duties necessary to fulfill the regulatory authority of the city under OCGA 46-5-1, et seq. and shall perform the following duties:

(a) Review application information submitted by a telephone company to the city and, if an application is incomplete, notify the telegraph or telephone company within 15 business days of the receipt of such application, identifying in such notice all application deficiencies.

(b) Report the receipt of a completed application to the Council within 60 calendar days of the receipt of such completed application.

(c) Review payments of due compensation submitted by the company to ensure compliance with the provisions of the amended law and this ordinance.

(d) Provide a coordination function between a telephone company and all city departments on any matter relating to the amended law and this ordinance.

(e) Arrange and evaluate, no more than once a year, a comprehensive review of the records of a company which is reasonably related to the calculation and payment of due compensation.

(f) Provide to all telegraph and telephone companies located in its rights of way written notice of annexations and changes in municipal corporate boundaries.”

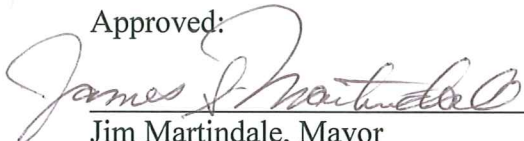
II. The preamble to this ordinance is hereby incorporated into this ordinance as if set out fully herein.

III. 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.

IV. All ordinances and parts of ordinances in conflict herewith or with O.C.G.A. §46-5-1 et seq. are hereby expressly repealed.

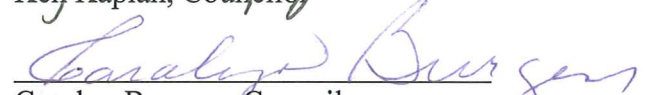
It is so ordained and approved by vote of the City Council of the City of Sky Valley this 10<sup>th</sup> day of November, 2008.

Approved:

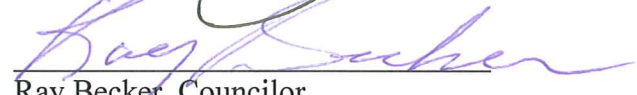
  
Jim Martindale, Mayor

  
Helen Kleiber, Councilor

  
Ken Kaplan, Councilor

  
Carolyn Burgess, Councilor

  
Tom Ewing, Councilor

  
Ray Becker, Councilor

Attest:

  
Mandi Cantrell, City Clerk

Read and adopted on the 15<sup>th</sup> day of November, 2008.