

CITY OF NOKOMIS

ORDINANCE NO. 2052

AN ORDINANCE ESTABLISHING NEW SERVICE PROVIDER FEE FOR ANY
HOLDER WHO OFFERS CABLE SERVICE OR VIDEO SERVICE ON A
COMMERCIAL BASIS PURSUANT TO 220 ILCS 5/21-801

PASSED BY THE CITY COUNCIL
OF THE
CITY OF NOKOMIS

THIS 13TH DAY OF AUGUST 2018

FILED
AUG 20 2018

Sandy Leithuser COUNTY CLERK

Published in pamphlet form by authority of the City Council of the City of Nokomis,
Montgomery County, Illinois, this 16th day of August 2018.

ORDINANCE ESTABLISHING NEW SERVICE PROVIDER FEE FOR ANY HOLDER WHO OFFERS CABLE SERVICE OR VIDEO SERVICE ON A COMMERCIAL BASIS PURSUANT TO 220 ILCS 5/21-801

WHEREAS, the City Council of the City of Nokomis, Montgomery County, Illinois, wishes to establish a new service provider fee (“franchise fee”) pursuant to 220 ILCS 5/21-801(b), which provides that a cable operator or “holder” authorized to provide cable service or video service “shall be liable for and pay the service provider fee to the local unit of government,” but only as long as “[t]he local unit of government shall adopt an ordinance imposing such a fee.”

WHEREAS, the City Council of the City of Nokomis, Montgomery County, Illinois, shall adopt an ordinance authorizing the collection of a service provider fee permitted by 220 ILCS 5/21-801(b);

WHEREAS, pursuant to 220 ILCS 5/21-401(b)(c), any holder providing cable service or video service in the City of Nokomis, Montgomery County, Illinois, is hereby imposed a service provider fee of (5%) of the holder’s “gross revenues,” which 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 local unit of government’s jurisdiction;

WHEREAS, pursuant to 220 ILCS 5/21-401(b), the holder shall be liable for and pay the service provider fee to the City of Nokomis, Montgomery County, Illinois on the first day of the calendar month following thirty (3) days after receipt of the ordinance by the holder;

WHEREAS, this Ordinance 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(b)(6) to the City of Nokomis, Montgomery County, Illinois;

WHEREAS, pursuant to 220 ILCS 5/21-401(b) 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; and

WHEREAS, pursuant to 220 ILCS 5/21-401(c)(3)(h), the fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the City of Nokomis in which a fee is paid.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Nokomis, Montgomery County, Illinois, as follows:

Section I: Any holder providing cable service or video service in the City of Nokomis shall pay to the City an amount equal to 5% of annual gross revenues derived from the provision of cable or video service to households located within the City. The twelve (12) month period for the computation of the service provider fee shall be a calendar year.

Section II: The service provider fee payment shall be due quarterly and payable within forty-five (45) days after the close of the preceding calendar quarter. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation. If mailed, the fee shall be considered paid on the date it is postmarked.

Section III: For purposes of the calculation of the service provider fee, "gross revenues" shall mean consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the cable service provider or video service provider for the operation of its cable system to provide cable or video service within the City, including the following: (i) recurring charges for cable service 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, 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 cable system from advertising or for promotion or exhibition of any products or services; and (viii) a pro rata portion of compensation derived by the cable system from the promotion or exhibition of any products or services sold by "home shopping" channels or similar services carried by the cable system.

Section IV: For purposes of the calculation of the service provider fee, "gross revenues" shall not include: (i) revenues not actually received, even if billed, such as bed debt; (ii) the service provider fee or any tax, fee or assessment of general applicability; (iii) any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunications services, voice over internet protocol (VoIP) services, information services, the provision of directory or Internet advertising, or any other revenues attributed by the holder to non-cable service on non-video 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; (vi) security deposits collected from subscribers, or (vii) any 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.

Section V: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

Section VI: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

PASSED THIS 13th day of August, 2018.

	<u>Aye</u>	<u>Nave</u>	<u>Absent</u>
Terry Hill	<u>X</u>	<u> </u>	<u> </u>
Jeanne Voyles	<u>X</u>	<u> </u>	<u> </u>
Kent Voils	<u> </u>	<u> </u>	<u>X</u>
Tim Brookshire	<u>X</u>	<u> </u>	<u> </u>
Alan Hard	<u>X</u>	<u> </u>	<u> </u>

APPROVED THIS 13th day of August, 2018.



MAYOR

ATTEST:



CITY CLERK

STATE OF ILLINOIS)
COUNTY OF MONTGOMERY) SS.
CITY OF NOKOMIS)

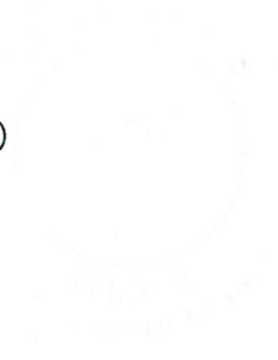
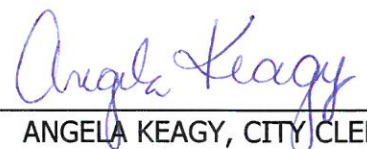
I, Angela Keagy, certify that I am the duly appointed and acting City Clerk of the City of Nokomis, Montgomery County, Illinois.

I further certify that on August 13, 2018 the City Council of such municipality passed and approved **ORDINANCE NO. 2052, AN ORDINANCE ESTABLISHING NEW SERVICE PROVIDER FEE FOR ANY HOLDER WHO OFFERS CABLE SERVICE OR VIDEO SERVICE ON A COMMERCIAL BASIS PURSUANT TO 220 ILCS 5/21-801**, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2052 including the Ordinance and a cover sheet thereof, was prepared and posted in the Municipal Complex commencing on August 15, 2018 and continuing for a least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request to the City Clerk.

DATED at Nokomis, Illinois, this 16th day of August, 2018.

(SEAL)



ANGELA KEAGY, CITY CLERK