

**ORDINANCE O-64-~~08~~**

Deleted: 07

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF BERKELEY LAKE TO ESTABLISH A NEW FRANCHISE FEE APPLICABLE TO HOLDERS OF CABLE OR VIDEO FRANCHISES ISSUED BY THE STATE OF GEORGIA BY ADOPTING A NEW SECTION 54-21(d); TO DESIGNATE AN AGENT; 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 Berkeley Lake shall be notified by the Secretary of State's Office and a cable or video provider of an application for a state issued franchise in the city;

WHEREAS, the City of Berkeley Lake currently collects a franchise fee from any current cable or video providers;

WHEREAS, the City of Berkeley Lake considers collecting a franchise fee from a cable or video provider utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City of Berkeley Lake and to protect public works infrastructure;

WHEREAS, the City of Berkeley Lake is authorized pursuant to O.C.G.A. 36-76-1 et seq. known as the "Consumer Choice for Television Act" of 2007 to collect a franchise fee of up to 5%, the maximum amount established by federal and state law, of each cable or video provider's gross revenues generated within the city; and

WHEREAS, the City of Berkeley Lake is authorized to designate an agent to provide notice of the city's franchise fee rate;

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BERKELEY LAKE** that the Code of Ordinances of the City of Berkeley Lake shall be amended to add a new item (d) to Section 54-21 entitled "Franchise fee for state issued cable or video franchise" as follows:

(d) *Franchise fee of 3% of gross revenues for state issued cable or video franchise.* The city

hereby requires a franchise fee of 3% gross revenues generated within the city for any cable or video state franchise issued in its corporate boundaries by the State of Georgia. The city hereby authorizes the City Clerk, upon receipt of notice to the city of its rights to designate a franchise fee for an applicant for or holder of an existing state franchise, to provide written notice to the Secretary of State and each applicant for or holder of a state franchise within a service area that is wholly or partially located within the city limits of the 3% franchise fee rate applicable to such applicant or holder of a state franchise.

**Severability**

If any article, section, subsection, paragraph, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decision shall not affect or invalidate the remaining portions of this ordinance.

**Repeal of Conflicting Provisions.**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**Effective Date**

This ordinance shall be effective upon its adoption by the Council of the City of Berkeley Lake.

**SO ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
LOIS SALTER, MAYOR  
CITY OF BERKELEY LAKE

ATTEST:

\_\_\_\_\_  
TOM ROZIER  
City Administrator

First Read:  
Second Read and Adoption:

