

**CITY OF WARD  
ORDINANCE 2023-03**

**AN ORDINANCE ESTABLISHING A FRANCHISE TAX FOR FIBER OPTICS SERVICES<sup>1</sup> WITHIN  
THE CORPORATE CITY LIMITS OF WARD, ARKANSAS; AND FOR OTHER PURPOSES**

**WHEREAS, ARKANSAS CODE ANNOTATED (A.C.A.) 14-200-101** states the Cities are permitted to determine the terms and conditions upon which a public utility may be permitted to occupy the streets, highways, or other public areas within the municipality and to collect a reasonable franchise fee; and,

**WHEREAS, THE CITY OF WARD ("CITY")**, recognizes that telecommunications services are essential for health, safety, welfare and economic development of the businesses, residents and the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WARD,  
THAT:**

**SECTION 1: DEFINITIONS:**

- 1) **Fiber Optic Telecommunications Companies ("Company or Companies"):** Any entity providing "Fiber Optic Service" utilizing a Fiber Optic Telecommunications Network.
- 2) **Fiber Optic Telecommunications Network, Network or Telecommunications Network Service:** The company's system of cables, wires, lines, tower, wave guides, optic fiber, microwave, laser beams, and any associated converters, equipment, and facilities designed and constructed for the purpose of producing, receiving, amplifying, or distributing, by audio, video, or other forms of electronic signals, authorized telecommunications services to or from subscribers or locations within or through the City.
- 3) **Gross Revenue:** All revenues (excluding sales tax, extension, terminal equipment, toll, access, yellow pages and miscellaneous equipment revenues) collected by the Company for local Intrastate Wireline Telecommunications Services provided by the Company and billed to its end user customers, in both respects, within the corporate limits of the City and from operation of the Company's Network. Notwithstanding the foregoing definition, the term Gross Revenues shall not include the following:
  - a) Those revenues that the company has received or will receive from another telecommunications service provider and upon which the other telecommunications provider has paid or will pay a Franchise Fee; and,

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<sup>1</sup> As defined

- b) Revenues that the company have received from its corporate parent, subsidiary, or an affiliate.
- 4) **Public Rights-of-Way or City Rights-of-Way:** Streets, avenues, alleys, bridges, viaducts, rights-of-way, easements, grounds and other similar public places owned, controlled, leased, or granted to the City by legal document filed with the County Clerk
- 5) **Service Area:** The service area for imposition of this Franchise Tax is defined as any residential, commercial or public use area within the city limits of the City of Ward, Arkansas and is subject to change from time to time as allowed per law.

**SECTION 2: COMPENSATION TO THE CITY**

**1) Franchise Fee – Amount:**

- a) The Company shall pay the City of Ward a Franchise Fee in the amount equal to 4.25% of the Gross Revenues as defined. The rate shall be 4.25% unless or until agreed otherwise between the parties or otherwise changed by law.
- b) The payment of the Franchise Fee by Company in no way limits the right of the City to charge fees for any permits the Company(s) is required to obtain for any construction project; nor does the payment of a Franchise Fee preclude the right of the City to assess a reasonable Business License Fee upon the Company(s).

**2) Franchise Fee – Payment:**

- a) All such payments of Franchise Fee required by this Section shall be made quarterly and, in any event, not later than thirty (30) calendar days after March 31<sup>st</sup>, June 20<sup>th</sup>, September 30<sup>th</sup> and December 31<sup>st</sup> of each year.
- b) First Payment Following Passage of this Ordinance: In order for companies to adjust their billing software and to make proper notice to customers, as needed, the first payment is due no later than 30 calendar days following September 30, 2023 for Gross Revenues collected the previous quarter.

- 3) **Authority to Pass Franchise Fee Payments on to the System End User:** To the extent provided by law, companies are permitted to collect any franchise fee assessed by the City from its customers.

**SECTION 3 – SEVERABILITY:** If, for any reason, any portion or portions of this ordinance shall be held invalid, such invalidity shall in no way affect the remaining portions.

PASSED AND ADOPTED THIS 17 DAY OF April, 2023

YEAS: 4 NAYS: 2 ABSTAINS: 1