

## **RESOLUTION 04-33**

### **A RESOLUTION OF THE CITY OF MARICOPA, ARIZONA, AUTHORIZING THE IMPOSITION OF AND SETTING THE FEES APPLICABLE TO THE GRANT OF A CABLE TELEVISION LICENSE WITHIN THE CITY OF MARICOPA**

**WHEREAS**, pursuant to the Maricopa Cable Television Code, as adopted by Ordinance No. 04-06 (the "Code"), the City Council may, by resolution, set the amount of such fees as it deems appropriate relating to the grant of a license to provide service over a cable network within the City limits; and

**WHEREAS**, federal and state law permit the City to charge a fee to the operator of a cable system as consideration for the grant to the operator of a license to occupy or use the City's streets; and

**WHEREAS**, federal and state law also permit the City to recover, in addition to the License Fee, certain costs incidental to the operation of the License, including application, transfer and renewal fees; and

**WHEREAS**, the City Council has determined that the imposition and collection of such fees, as contemplated by Ordinance 04-06 is necessary and appropriate to (a) allow the City to conduct all necessary reviews and oversight of the cable system and the operator, (b) to compensate the City for allowing the cable system operator to operate in the City's streets or other right-of-way, and (c) to help ensure that the persons or entity primarily benefitting from the provision of such work bears a reasonable portion of the City's costs therefor;

**NOW, THEREFORE, BE IT RESOLVED** that the Maricopa City Council hereby authorizes the City Manager, or his designee, to charge (in addition to other taxes, charges, permit fees or other amounts the City is permitted to collect,) the fees set forth in Exhibit A, which is incorporated by reference as if set forth fully herein, relating to the provision of any service on the Cable System (as defined in the Code). Said Exhibit shall be known as and may be referred to as the Maricopa Cable Television Code Fee Schedule, three copies of which shall be kept on file with the City Clerk and kept available for public use and inspection.


The Maricopa City Council directs that all fees collected under this Resolution shall be deposited with the City's Director of Finance. The Director of Finance shall account for all fees deposited in accordance with accounting policies and regulations adopted by the City.

PASSED AND ADOPTED by the City Council of the City of Maricopa, Arizona, this 5<sup>th</sup> day of October, 2004.

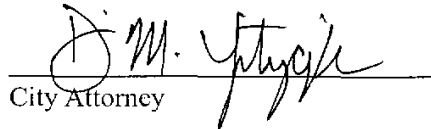
APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

***EXHIBIT "A"***

## **Exhibit A**

### **CITY OF MARICOPA CABLE TELEVISION FEE SCHEDULE**

(Unless otherwise set forth specifically herein, all Capitalized terms shall have the definitions ascribed to them in the Maricopa Cable Television Code (the "Code"))

- A. ***Initial Application fee*** (pursuant to Section 2.2.2(a) of the Code):  
\$5,000.00
- B. ***Initial Renewal fee*** (pursuant to Section 3.1.1 of the Code):  
\$5,000.00
- C. ***Initial Transfer fee*** (pursuant to Section 3.2.1 of the Code):  
\$3,500.00
- D. ***Initial License fee*** (pursuant to 4.1.1 of the Code):

An amount equal to five percent (5%) of Gross Revenue. For purposes of this provision, the term Gross Revenue shall mean and include (subject, however, to any limit expressly set forth under federal, state or local law) all revenue, as determined in accordance with generally accepted accounting principles, which is derived, directly or indirectly, by the Grantee, by any Affiliated Person, and any other Person from or in connection with the distribution of any Service (all as defined by the Code) on the cable system in the Service Area or the provision of any other services using or in connection with the Cable System in the Service Area, other than traditional telecommunications services by a traditional telecommunications provider, or other similar or other service which the City is specifically prohibited by state or federal law from collecting a license or franchise fee. By way of example only and without limitation, "Gross Revenue" shall include all advertising revenue, customer revenues for basic, expanded basic or digital cable services, premium services, pay per view, installation, disconnection, reconnect or service call fees; fees for the provision, sale, rental or lease of convertors, remote controls, additional outlets or other customer premises equipment, internet service provided over the Cable System, cable modem, revenue from the sale, exchange, use or cablecast of any programming developed for community or institutional users, charges for the leased use of studios and or System and all other

services for which a fee may be collected under the law, revenue from all charges for the use or lease of leased access channels or bandwidth, revenue from the production or transmission over the cable system of video programming by licensee including programming produced by its mobile facilities; and any other income derived from the cable system

The term Gross Revenue shall be read liberally to encompass any revenues that are received now, as well as any new revenue sources that may develop in the future.

Nothing herein shall be interpreted, however, to permit the City to include within Gross Revenues for purposes of calculating the License Fee any revenues on which Section 622 of the Cable Act (47 U.S.C. § 542), as amended from time to time expressly prohibits the City from collecting a License Fee.

Gross Revenue shall not include taxes collected by a Grantee on behalf of a governmental authority (it being understood, however, that the License fee required by Article 4 and the License Agreement is not a tax), any increase in the value of any stock, security or asset, or any dividends or other distributions made in respect of any stock or securities.