

ORDINANCE NO. 282

AN ORDINANCE AMENDING ORDINANCE NO. 243 AND THEREBY EXTENDING THE NON-EXCLUSIVE RIGHT TO ERECT, MAINTAIN AND OPERATE ACROSS, ALONG, IN, OVER AND UNDER THE PRESENT AND FUTURE ALLEYS, AVENUES, BRIDGES, HIGHWAYS, LANES, SIDEWALKS AND STREETS, EASEMENTS DEDICATED FOR COMPATIBLE USES AND OTHER PUBLIC PLACES IN THE CITY OF LAKE NORDEN, SOUTH DAKOTA, AND THE SUBSEQUENT ADDITIONS THERETO, CABLES, LINES, MANHOLES, POLES, TOWERS, WIRES AND ALL OTHER EQUIPMENT AND FIXTURES NECESSARY FOR THE MAINTENANCE AND OPERATION IN THE MUNICIPALITY OF A CABLE TELEVISION SYSTEM FOR THE PURPOSE OF DISTRIBUTION AND TRANSMISSION OF AUDIO, ELECTRICAL, ELECTRONIC AND VISUAL SIGNALS, AND OTHER ELECTRONIC IMPULSES IN ORDER TO FURNISH RADIO AND TELEVISION PROGRAMS AND VARIOUS OTHER COMMUNICATION SERVICES TO THE PUBLIC FOR A PERIOD OF FIVE (5) YEARS COMMENCING 10/1/2007.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAKE NORDEN, SOUTH DAKOTA, AS FOLLOWS:

SECTION I.

This Ordinance amends Ordinance No. 243 and grants Interstate Telecommunications Cooperative, Inc., its nonexclusive right set forth in Ordinance No. 243 to continue for five (5) additional years commencing 10/1/2007. Furthermore, the rights granted herein shall continue indefinitely to renew for additional five (5) year periods hereafter upon the expiration of each five (5) year period unless either party notifies the other party to the contrary in writing at least ninety (90) days prior to the expiration date.

SECTION II.
(replaces Section XVII)

Grantee shall pay three (3%) percent of the annual "gross subscriber revenues" as defined hereinafter annually unto the City as compensation for the said franchise as long as the Grantee operates its cable system for audio and video services within the City. "Gross subscriber revenues" shall include those revenues derived from the monthly service charge paid by subscribers unto Grantee. "Gross subscriber revenues" shall not include any federal or state taxes relating to services provided by or fees charged by the Grantee, nor revenues received as installation charges and fees for reconnections, inspections, modifications or repairs of any installations. Grantee shall pay the amount due for the past calendar year unto the City within ninety (90) days after the conclusion of the calendar year.

The annual payments by the Grantee unto the City shall be in lieu of any license tax, occupation tax, or similar levy. However, nothing contained herein shall in anyway relieve Grantee from the obligation of paying property taxes unto the City of Lake Norden or any other governmental subdivision of the State of South Dakota or any other taxes lawfully levied by the State of South Dakota on Grantee's cable system. Furthermore, such payments do not affect the

responsibility of the Grantee to collect state and local sales tax on the services provided.

SECTION III.
(replaces Section XVIII)

Grantee shall provide a copy of its latest audited annual financial report to the City upon request by the City. Grantee shall not be required to post a bond or a cashier's check for the faithful performance of its obligations under this Ordinance.

SECTION IV.

All Ordinances or parts of any Ordinance in conflict herewith are hereby repealed.

CITY OF LAKE NORDEN

(SEAL)

Janet Andrews Mayor

ATTEST:

Delores Kangas
City Finance Officer

FIRST READING: 7/26/07

SECOND READING: 8/6/07

PUBLISHED: 8/22/07

EFFECTIVE DATE: 9/11/07