

ORDINANCE 2024-08
(was misnumbered 24-06)

AN ORDINANCE OF THE CITY OF WALTON, KENTUCKY, CREATING A NON-EXCLUSIVE FRANCHISE FOR THE INSTALLATION, CONSTRUCTION, ERECTION, LAYING, AND THE OPERATION AND MAINTENANCE OF CABLE TELEVISION AND RELATED FACILITIES AND APPURTENANT EQUIPMENT IN, ALONG AND ACROSS THE PUBLIC WAYS, ROADS, STREETS, ALLEYS AND OTHER PUBLIC PLACES IN THE CITY OF WALTON, KENTUCKY: FOR FURNISHING AND SELLING CABLE AND RELATED SERVICES AND PRODUCTS BY MEANS OF SAID FACILITIES; AND PROVIDING FOR THE SALE OF SAID FRANCHISE.

WHEREAS, the City of Walton (“City”) wishes to ensure that cable television and related services continue to be furnished to its citizens in a reliable and efficient manner;

WHEREAS, the City is aware that the provision of such service requires the continued use of public streets, ways, alleys and other public places, and that the Kentucky Constitution requires that providers are required to have a franchise with the City;

WHEREAS, the franchises granted to and acquired by the current franchisees under which they provide such cable television and related services have or will expire;

WHEREAS, the City wishes to provide for the sale of new franchises for the benefit of its citizenry, giving effect to Section 96.010 of the Kentucky Revised Statutes;

NOW, THEREFORE, BE IT ORDAINED as follows:

SECTION 1: Nonexclusive competitive franchises (“Franchises”) to use the City’s public rights-of-way, public streets, ways, alleys and other public places for the provision of and related cable television and related services are hereby created.

SECTION 2: The Franchises created by this Ordinance shall be bid in accordance with the applicable requirements of the Constitution of the Commonwealth of Kentucky and Chapter 424 of the Kentucky Revised Statutes, as well as any applicable City Ordinances.

SECTION 3: The Franchises created by this Ordinance shall be awarded to the highest and best bidders as shall be determined by the City in its sole discretion. In awarding the Franchises, the City shall consider the technical, managerial, and financial qualifications of the bidders to perform their obligations under the Franchises. The winning bidder shall include provisions for the collection of a franchise fee from its customers to be remitted to the City, if the City decides to implement that provision. The City reserves the right to implement or increase the franchise fee at any time upon prior ninety (90) days written notice to the winning bidder. Should the City exercise said right to implement or increase the franchise fee, the City shall receive a monthly payment of up to five percent (5%) of gross receipts per month from the winning bidder’s sale of natural gas (which includes businesses, industrial facilities and dwellings) inside the City’s

corporate limits beginning with the first billing cycle on or after the later of ninety (90) days after the date of the written notice or the effective date of the franchise fee specified in the City's notice.

SECTION 4: The winning bidders and the City shall negotiate, execute and be bound by Franchise Agreements to contain terms that are fair and reasonable to the City, to the purchasers of the Franchises and to the patrons of the utilities, pursuant to KRS Section 96.010. Such Franchise Agreements shall take effect upon execution and according to the terms of the Agreements.

SECTION 5: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6: Should any section, clause, line, paragraph, or part of this Ordinance be held unconstitutional or invalid for any reason, the same shall not affect the remainder of this Ordinance or the attached Agreement, as applicable.

SECTION 7: Time is of the essence in carrying out the terms and the provisions of this Ordinance and the Franchises created herein.

SECTION 8: This Ordinance shall become effective from and after its passage and publication.

SECTION 9: This ordinance may be read and published in summary form.

PASSED AND APPROVED ON FIRST READING BY 5 OF 6 MEMBERS OF CITY COUNCIL ON THE 11th DAY OF JUNE, 2024.

PASSED AND APPROVED ON SECOND READING BY 5 OF 6 MEMBERS OF CITY COUNCIL ON THE 17th DAY OF JUNE, 2024.

APPROVED:

TERRI COURTNEY, MAYOR

ATTEST:

GEVANA HICKS, CITY CLERK

DATE OF PUBLICATION: June 26, 2024