

ORDINANCE NO. 1034

AN ORDINANCE WHICH UPON ADOPTION SHALL AMEND, MODIFY, AND ADD TO WHAT HAS BEEN CODIFIED AS SECTION 13.36.090 OF THE DEVILS LAKE MUNICIPAL CODE, AND IN ITS PLACE INCLUDE THE FOLLOWING:

BE IT ORDAINED by the Board of Commissioners for the City of Devils Lake, North Dakota, pursuant to the Home Rule Charter that Section 13.36.090 of the Devils Lake Municipal Code shall be amended, modified, added to as follows:

13.36.090 - Operation and administration providing.

A. Franchise Fee.

1. Grantee pay city an annual franchise fee in the amount of three percent of grantee's annual gross revenues provided that the city may increase the franchise fee up to the maximum amount permitted by State law provided the city gives at least ninety (90) days notice to the grantee prior to any increase in the franchise fee.
2. The franchise fee shall be payable monthly. The payment shall be made within thirty days of the end of each of grantee's fiscal month, together with a brief report showing the basis for the computation.

B. Indemnification of City.

1. City, its officers, boards, committees, commissions, elected officials, employees and agents shall not be liable for any loss or damage to any real or personal property of any person, or any injury or death of any person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to the system.
2. Grantee shall indemnify, defend, and hold harmless city, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise of the franchise, except claims because of PEG programming or, the city's operation, administration, promotion or management of the PEG access channel or any use of the internet services in public institutions.
3. Nothing in this franchise relieves a person from liability arising out of the failure to exercise reasonable care to avoid injuring the grantee's facilities while performing work connected with grading, regarding, or changing the line of a street or public place or with the construction or reconstruction of a sewer or water system.
4. In order for city to assert its rights to be indemnified, defended, and held harmless, city must with respect to each claim:
 - a. Promptly notify grantee in writing of any claim or legal proceeding which gives rise to such right;
 - b. Afford grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and

- c. Fully cooperate with reasonable requests of grantee, at grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to subsection (B)(4)(b) above.

C. Insurance.

1. As a part of the indemnification provided in Section 13.36.090(B), but without limiting the foregoing, grantee shall file with its acceptance of this franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, including contractual liability coverage, in protection of city in its capacity in such. The policies of insurance shall be in the sum of not less than three hundred thousand dollars for personal injury or death of any one person, and one million dollars for personal injury or death of two or more persons in any one occurrence, three hundred thousand dollars for property damage to any one person and one million dollars for property damage resulting from any one act or occurrence.
2. The policy or policies of insurance shall be maintained by grantee in full force and effect during the entire term of the franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of grantee or for the other reasons, except after thirty days' advance written notice have been provided to city.

Passed First Reading: January 20, 2026.

Passed Second Reading: February 17, 2026.

Final Passage and Adoption: February 17, 2026.

CITY OF DEVILS LAKE

By: _____

Jim Moe, President
Devils Lake City Commission

ATTEST:

Spencer Halvorson
City Administrator/Auditor