

Ordinance
4-1004 & Amendments

First Reading MAY 18, 1998
Second Reading JUNE 1, 1998

MASC-SO 98-002

ORDINANCE NO. _____

**Amending The Business License Ordinance Levying A Business License Tax On
Telecommunications**

BE IT ORDAINED by the Mayor and Council of the City/Town of EASTOVER,
in Council duly assembled, that the Business License Ordinance is amended as follows:

SECTION 1.

Notwithstanding any other provisions of the business license ordinance, license taxes for telecommunications as described in Standard Industrial Classification (SIC) 481 and North American Industry Classification System (NAICS) 5133, including voice and data communications; radiotelephone services; cellular telephone services; paging and beeper services; leasing lines; fiber optic cables, microwave or satellite facilities; selling access and reselling use of facilities or methods to others shall pay an annual business license tax of 3% of gross receipts from all communications activities conducted in the municipality and for communications services billed to customers located in the municipality on which a business license tax has not been paid to another municipality. The tax shall be payable on or before December 31 in each year without penalty. Declining rates shall not apply. The penalty for delinquent payments shall be 5% of the tax due each month, or portion thereof, after the due date until paid.

SECTION 2.

Exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

SECTION 3.

Pursuant to S. C. Code Ann. Sec. 5-7-300, the Agreement with the Municipal Association of South Carolina for collection of current and delinquent license taxes from telecommunications in the form attached hereto is approved, and the Mayor is authorized to execute it.

All ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall be effective on the date of final reading.



Mayor

ATTEST:



Clerk

AGREEMENT

FOR COLLECTION OF BUSINESS LICENSE TAXES FROM TELECOMMUNICATIONS COMPANIES BY THE MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

WHEREAS, the South Carolina General Assembly has adopted Act No. 112 of 1999 which provides for municipalities to charge business license taxes and fees for the use of public rights of way to telecommunications companies; and

WHEREAS, the MUNICIPAL ASSOCIATION OF SOUTH CAROLINA has developed a program for statewide collection of all current and delinquent business license taxes due from establishments providing telecommunications services as defined in S. C. Code § 58-9-2200, including but not limited to those services described in Standard Industrial Classification (SIC) 481 and North American Industry classification System (NAICS) 5133; and

WHEREAS, participating municipalities have adopted rates permitted by S. C. Code § 58-9-2220, delinquent penalties, and a uniform due date of January 1, for such business license taxes; and

WHEREAS, municipalities are authorized to contract for assistance for collection of business licenses taxes pursuant to S. C. Code § 5-7-300;

NOW, THEREFORE, WITNESSETH

THIS AGREEMENT is made between the MUNICIPAL ASSOCIATION OF SOUTH CAROLINA (MASC) and the City/Town of Eastover (Municipality) this 6th day of December, 1999.

It is agreed between the parties as follows:

1. MASC will make the necessary investigations, develop a database for the Municipality, establish a procedure for determining the amount of business license taxes due, communicate with establishments providing retail telecommunications services as defined in S. C. Code § 58-9-2200, including but not limited to those services described in Standard Industrial Classification (SIC) 481 and North American Industry classification System (NAICS) 5133, that are subject to the business license taxes and collect all current and delinquent taxes due on October 1, 1999, and on January 1 thereafter on an annual basis.

2. MASC will bear all administrative expenses, except legal expenses, incurred in connection with the services rendered. Legal expenses incurred by the program shall be prorated to all participants in direct relationship to the disbursements of the program.

3. MASC will deposit all funds received in an appropriate account for which accurate records will be maintained. Business license taxes collected for the municipality, less the service charge herein agreed to, will be disbursed to the Municipality on or before March 1 of each calendar year and thereafter as remaining collections permit.

4. MASC is hereby designated as the exclusive agent of the Municipality for assessment and collection of telecommunications business license taxes and penalties utilizing all procedures and actions authorized by ordinance or State law, and such procedures and actions may be invoked in the name of the Municipality without further approval by the Municipality. The Municipality, pursuant to Rule 17 of the S. C. Rules of Civil Procedure and Rule 17 of the Federal Rules of Civil Procedure, specifically acknowledges the standing of MASC to prosecute a civil action for collection in its behalf and hereby ratifies any such action that MASC may commence.

5. MASC will notify all companies providing retail telecommunications services subject to this agreement and of the requirement that all business license taxes be paid directly to MASC.

6. The Municipality acknowledges that payment of all such taxes directly to MASC is an essential element of the collection program, and that no such taxes will be accepted by the Municipality from or with any establishment providing telecommunications services subject to this agreement. All communications and payments received by the Municipality will be sent to MASC.

7. The Municipality will provide MASC with a certified report on the collection of any business license taxes from telecommunications companies for the last three (3) license years prior to this agreement.

8. The Municipality agrees that MASC will retain, as compensation for services rendered, four (4%) percent of all funds collected for the Municipality pursuant to this agreement, together with any interest earned on funds held on deposit prior to disbursement.

9. The Municipality represents that this agreement has been approved by ordinance duly adopted pursuant to S. C. Code § 5-7-300.

10. This agreement is effective through December 31, 2000, and shall continue from year to year thereafter until terminated by either party upon notice in writing given 90 days prior to December 31 of any year.

CITY/TOWN OF EASTOVER

By: Geraldene Robinson

Mayor

Geraldene Robinson

MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

By: Howard E. Duvall, Jr.

Howard E. Duvall, Jr., Executive Director

AGREEMENT

For Collection of Business License Taxes from Long Distance Telecommunications

WHEREAS, the MUNICIPAL ASSOCIATION OF SOUTH CAROLINA has developed a program for statewide collection of all current and delinquent business license taxes due from establishments providing long distance telecommunications as described in Standard Industrial Classification (SIC) group 481 and North American Industry Classification System (NAICS) sector 5133; and

WHEREAS, participating municipalities have adopted uniform rates and delinquent penalties for such establishments, and a uniform due date of December 31, for such business license taxes; and

WHEREAS, municipalities are authorized to contract for assistance for collection of business license taxes pursuant to S. C. Code Ann. Sec. 5-7-300; NOW, THEREFORE,

WITNESSETH

THIS AGREEMENT is made between the MUNICIPAL ASSOCIATION OF South Carolina (MASC) and the City/Town of EASTOVER this 5th day of JUNE, 1998.

It is agreed between the parties as follows:

1. MASC will make the necessary investigations, develop a database for the Municipality, establish a procedure for determining the amount of business license taxes due, communicate with establishments providing long distance telecommunications as described in Standard Industrial Classification (SIC) group 481 and North American Industry Classification System (NAICS) sector 5133 that are subject to the business license taxes and collect all current and delinquent taxes due on and after December 31, 1998, on an annual basis.
2. MASC will bear all expenses incurred in connection with the services rendered.
3. MASC will deposit all funds received in an appropriate account for which accurate records will be maintained. Business license taxes collected for the municipality, less the service charge herein agreed to, will be disbursed to the Municipality on or before February 1 of each calendar year and thereafter as remaining collections permit.
4. MASC is hereby designated as the exclusive agent of the Municipality for assessment and collection of the business license taxes and penalties utilizing all procedures and actions authorized by ordinance or State law, and such procedures and actions may be invoked in the name of the Municipality without further approval by the Municipality. The Municipality, pursuant to Rule 17 of the S. C. Rules of Civil Procedure, specifically acknowledges the standing of MASC to prosecute a civil action for collection in its behalf and hereby ratifies any such action that MASC may commence.
5. MASC will notify all establishments providing long distance telecommunications as defined in Standard Industrial Classification (SIC) group 481 and North American Industry Classification System sector 5133 of this agreement and of the requirement that all business license taxes be paid directly to MASC.

6. The Municipality acknowledges that payment of all such taxes directly to MASC is an essential element of the collection program, and that no such taxes will be accepted, waived or compromised by the Municipality from or with any establishment providing long distance telecommunications as defined in Standard Industrial Classification (SIC) group 481 and North American Industry Classification System sector 5133. All communications and payments received by the Municipality will be sent to MASC.
7. The Municipality will provide MASC with a report on the collection of any business license taxes for the last three (3) calendar years prior to this agreement.
8. The Municipality agrees that MASC will retain, as compensation for services rendered, four (4%) percent of all funds collected for the Municipality pursuant to this agreement, together with any interest earned on funds held on deposit prior to disbursement.
9. The Municipality represents that this agreement has been approved by ordinance duly adopted pursuant to S. C. Code Ann. Sec. 5-7-300.
10. This agreement is effective through December 31, 2009, and shall continue from year to year thereafter until terminated by either party upon 90 days notice in writing given prior to December 31 of any year.

CITY/TOWN OF EASTOVER

By: *Sheraldene Roberts*
Mayor

MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

By: _____
Howard E. Duvall, Jr.
Executive Director

Proposed Ordinance Number PO - 014

Introduced by: Mayor Robinson

TOWN OF EASTOVER, SOUTH CAROLINA

AN ORDINANCE FOR THE PAYMENT OF A LICENSE OR PRIVILEGE TAX TO BE PAID BY TELECOMMUNICATION DOING BUSINESS IN THE TOWN OF EASTOVER, SOUTH CAROLINA AND TO AUTHORIZE THE MAYOR TO SIGN AN AGREEMENT WITH THE MUNICIPAL ASSOCIATION OF SOUTH CAROLINA TO COLLECT TELECOMMUNICATION FEES OWED THE TOWN.

BE IT ENACTED by the Town Council of the Town of Eastover:

SECTION 1. Notwithstanding any other provisions of the Business License ordinance, business license taxes for retail telecommunications service as defined in S. C. Code § 58-9-2200, including but not limited to those services described in Standard Industrial Classification (SIC) 481 and North American Industry Classification System (NAICS) 5133, shall pay an annual business license fee based on gross income.

SECTION 2 Pursuant to S. C. Code § 58-9-2220, the following business license tax schedule shall apply to the gross income From retail telecommunications services for the preceding calendar or fiscal year which either originate or terminate in the municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another municipality. The measurement of the amounts derived from the retail of mobile telecommunications services shall include only revenues from the fixed monthly recurring charge of customers whose service address is within the boundaries of the municipality.

The rate for business licenses for retail telecommunications service for 1999 shall be 0.3% of 1998 gross income, due on October 1, 1999, and payable by January 31, 2000, without penalty.

Rate for license taxes due in the years 2000 through 2003:
three tenths of one percent (0.3 %) of gross income for the preceding year-,

Rate for license taxes due in the year 2004 and each year thereafter:
seventy-five hundredths of one percent (0.75 %) of gross income for the preceding year.

For a business in operation for less than one year, the amount of business license tax authorized by this section shall be computed on a twelve-month projected income.

Section 3.

The telecommunications business license tax shall be due on January 1 in each year, beginning in the year 2000. Declining rates shall not apply. Taxes are payable without penalty by January 31 following the due date. After January 31, the delinquent penalty shall be five percent (5 %) of the tax due for each month, or portion thereof, after the due date until paid.

SECTION 4.

As authorized by S.C. Code 5-7-300, the Town elects to use the Municipal Association of South Carolina to collect licence fee from Telecommunication Companies operating within the Town. The Mayor is herein authorized to sign a contract with the Municipal Association of South Carolina in a form similar to that attached hereto for fees not in excess of the amount show on the attached sample contract.

Done in Council this ____ day of _____, 1999.

MAYOR: _____

TOWN CLERK: _____

TOWN ATTORNEY: _____
(Approved as to form)

1st Reading: _____

Second Reading: _____

Third Reading : _____



**TIME WARNER
CABLE**

South Carolina Division



December 6, 1999

CERTIFIED MAIL –
RETURN RECEIPT REQUESTED

Ms. Deidre Dove
Town Administrator
Town of Eastover
500 Van Boklen St.
P.O. Box 36
Eastover, SC 29044

Dear Deidre:

I am pleased to attach a fully executed copy of Time Warner Cable's Eastover franchise renewal agreement.

In taking this opportunity to express our appreciation to Mayor Robinson, the Town Council and you for your cooperation, I would like to thank you for your assistance during this proceeding.

We look forward to a continued harmonious relationship with the Town in the future. If at any time we can be of assistance, please do not hesitate to contact either Sam Nalbhone, Vice President and General Manager or me.

Again many thanks.

Sincerely yours

Bud M. Tibshrany
Vice President of Public Affairs

Attachment

cc: Sam Nalbhone

ADOPTED ORDINANCE 11-1999

Introduced by: Mayor Robinson

TOWN OF EASTOVER, SOUTH CAROLINA

AN ORDINANCE FOR THE PAYMENT OF A LICENSE OR PRIVILEGE TAX TO BE PAID BY TELECOMMUNICATION DOING BUSINESS IN THE TOWN OF EASTOVER, SOUTH CAROLINA AND TO AUTHORIZE THE MAYOR TO SIGN AN AGREEMENT WITH THE MUNICIPAL ASSOCIATION OF SOUTH CAROLINA TO COLLECT TELECOMMUNICATION FEES OWED THE TOWN.

BE IT ENACTED by the Town Council of the Town of Eastover:

SECTION 1 Notwithstanding any other provisions of the Business License ordinance, business license taxes for retail telecommunications service as defined in S. C. Code § 58-9-2200, including but not limited to those services described in Standard Industrial Classification (SIC) 481 and North American Industry Classification System (NAICS) 5133, shall pay an annual business license fee based on gross income.

SECTION 2 Pursuant to S. C. Code § 58-9-2220, the following business license tax schedule shall apply to the gross income From retail telecommunications services for the preceding calendar or fiscal year which either originate or terminate in the municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another municipality. The measurement of the amounts derived from the retail of mobile telecommunications services shall include only revenues from the fixed monthly recurring charge of customers whose service address is within the boundaries of the municipality.

The rate for business licenses for retail telecommunications service for 1999 shall be 0.3% of 1998 gross income, due on October 1, 1999, and payable by January 31, 2000, without penalty.

Rate for license taxes due in the years 2000 through 2003:
three tenths of one percent (0.3 %) of gross income for the preceding year-,

Rate for license taxes due in the year 2004 and each year thereafter:
seventy-five hundredths of one percent (0.75 %) of gross income for the preceding year.

For a business in operation for less than one year, the amount of business license tax authorized by this section shall be computed on a twelve-month projected income.

Section 3. The telecommunications business license tax shall be due on January 1 in each year, beginning in the year 2000. Declining rates shall not apply. Taxes are payable without penalty by January 31 following the due date. After January 31, the delinquent penalty shall be five percent (5 %) of the tax due for each month, or portion thereof, after the due date until paid.

SECTION 4. As authorized by S.C. Code 5-7-300, the Town elects to use the Municipal Association of South Carolina to collect licence fee from Telecommunication Companies operating within the Town. The Mayor is herein authorized to sign a contract with the Municipal Association of South Carolina in a form similar to that attached hereto for fees not in excess of the amount show on the attached sample contract.

Done in Council this ____ day of _____, 1999.

MAYOR: _____

TOWN CLERK: _____

TOWN ATTORNEY: _____
(Approved as to form)

First Reading: 10-11-99

Second Reading: 11-01-99

Third Reading : 12-06-99

ORDINANCE NO. 4-1004
AMENDING THE BUSINESS LICENSE ORDINANCE
LEVYING A BUSINESS LICENSE TAX ON RETAIL
TELECOMMUNICATIONS SERVICES

WHEREAS, South Carolina Code sections 58-9-2200 through 58-9-2270, effective June 30, 1999, provide for municipal business license taxes on "retail telecommunications services" as defined and limited therein; and

WHEREAS, the South Carolina General Assembly, on June 3, 2004, ratified an act (Rat # 0406) amending S.C. Code sections 58-9-2200, 58-9-2220, and 58-9-2230, that will take effect upon approval by the Governor, and that, among other things, authorizes municipalities, for business license tax years beginning after 2003, to levy a maximum business license tax on the gross income derived from the sale of retail telecommunications services for the preceding calendar or fiscal year at the rate of one percent; and

WHEREAS, it is necessary to amend the Business License Ordinance to conform to the State law as amended;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the City/Town of Eastover, that the Business License Ordinance is amended as follows:

Section 1.

a. Notwithstanding any other provisions of the Business License Ordinance, the business license tax for "retail telecommunications services", as defined in S.C. Code section 58-9-2200, shall be at the maximum rate authorized by S.C. Code section 58-9-2220, as it now provides or as provided by its amendment. The business license tax year shall begin on January 1 of each year. The rate for the 2005 business license tax year shall be the maximum rate allowed by State law as in effect on February 1, 2005. Declining rates shall not apply.

b. In conformity with S.C. Code section 58-9-2220, the business license tax for "retail telecommunications services" shall apply to the gross income derived from the sale of retail telecommunications services for the preceding calendar or fiscal year which either originate or terminate in the municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another municipality. The measurement of the amounts derived from the retail sale of mobile telecommunications services shall include only revenue from the fixed monthly recurring charge of customers whose service address is within the boundaries of the municipality. For a business in operation for less than one year, the amount of business license tax shall be computed on a twelve-month projected income.

Section 2.

a. For the year 2005, the business license tax for "retail telecommunications services" shall be due on February 1, 2005, and payable by February 28, 2005, without penalty. For years after 2005, the business license tax for "retail telecommunications services" shall be due on January 1 of each year and payable by January 31 of that year, without penalty.

b. The delinquent penalty shall be five percent (5%) of the tax due for each month, or portion thereof, after the due date until paid.

Section 3.

Exceptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Properly apportioned gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

Section 4

a. Nothing in this Ordinance shall be interpreted to interfere with continuing obligations of any franchise agreement or contractual agreement in the event that the franchise or contractual agreement should expire after December 31, 2003.

b. All fees collected under such a franchise or contractual agreement expiring after December 31, 2003, shall be in lieu of fees or taxes which might otherwise be authorized by this Ordinance.

Section 5

As authorized by S.C. Code section 5-7-300, the Agreement with the Municipal Association of South Carolina for collection of current and delinquent license taxes from telecommunications companies pursuant to S.C. Code section 58-9-2200 shall continue in effect. Notwithstanding the provisions of the Agreement, for the year 2005, the Municipal Association of South Carolina is authorized to collect current and delinquent license taxes, in conformity with the due date and delinquent date for 2005 as set out in this Ordinance and is further authorized, for the year 2005, to disburse business license taxes collected, less the service charge agreed to, to this municipality on or before April 1, 2005, and thereafter as remaining collections permit.

Section 6

All previous ordinances, or portions of ordinances, in conflict with this Ordinance are hereby repealed.

This Ordinance shall be effective on the date of final reading.

Mayor

ATTEST:

Clerk

Attorney approved as to form

First reading: October 4, 2004

Final reading: October 12, 2004