

## ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE amending Section 3.24.080 of the Lincoln Municipal Code  
2 relating to the Telecommunication Occupation Tax to further clarify that state universal service fund  
3 fees have been and continue to be a necessary component of telecommunication services which are  
4 subject to the telecommunication occupation tax; and to indicate that Telecommunication Relay  
5 System surcharges and Enhanced Wireless 911 surcharges are no longer subject to the  
6 telecommunication occupation tax; and repealing Section 3.24.080 of the Lincoln Municipal Code  
7 as hitherto existing.

8 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

9 Section 1. That Section 3.24.080 of the Lincoln Municipal Code be amended to read  
10 as follows:

11 **3.24.080 Telecommunication Occupation Tax.**

12 Commencing October 1, 2010, there is hereby levied upon every person, firm, partnership,  
13 corporation, or association engaged in the business of offering, providing or selling telecommu-  
14 nication equipment or telecommunication services to the public for hire in the City of Lincoln an  
15 occupation tax of six percent (6%) on (1) the gross receipts resulting from any telecommunication  
16 services and charges to a customer for which telecommunication services are provided; and (2) the  
17 gross receipts resulting from any sale of telecommunication equipment.

18 (a) Telecommunication services as used in this ordinance is defined as the provision of all  
19 communication services and equipment provided in connection therewith, operable by the general  
20 public as opposed to the employees of a telecommunications business only, using electromagnetic  
21 wire, fiber optics or radio waves to control or direct the sending and receiving of messages at a  
22 distance, and includes transmission, conveyance, or routing of voice, data, audio, video, or any other

1 information or signals to any geographic location, or between or among geographic locations, and  
2 any transmission, conveyance, or routing in which computer processing applications are used to act  
3 on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing,  
4 without regard to whether such service is referred to as voice over internet protocol services or is  
5 classified by the federal communications commission as enhanced or value added;

6 (b) Telecommunication equipment as used in this ordinance is defined as any communi-  
7 cation device sold for the purpose of providing or as part of a telecommunication service as defined  
8 in subsection (a) of this section, including but not limited to, phones, mobile phones, cellular phones,  
9 smart phones, pagers, and all like devices. Telecommunications equipment shall not include  
10 computers, routers, hubs, lamp and key systems or private branch exchanges.

11 (c) Telecommunication services which are subject to this occupation tax includes but shall  
12 not be limited to:

13 (1) Basic local exchange services as defined in Neb. Rev. Stat. § 86-105;

14 (2) Inter-exchange services as defined in Neb. Rev. Stat §86-111, provided that such  
15 inter-exchange service either (a) originates from an end user within the city or (b) terminates with  
16 an end user within the city, and is charged to a service address within the city regardless of where  
17 the charges are actually paid;

18 (3) Commercial mobile services as defined in 47 U.S.C. §332(d)(1) which include any  
19 radio or similar communication services provided pursuant to license or authority granted by the  
20 Federal Communications Commission, charged to a service address within the city regardless of  
21 where the charges are actually paid, including cellular, radio paging, and mobile radio services;

22 (4) Any other similar telecommunication services involving any electronic or electro-  
23 magnetic transmission of messages or any other communications originating and terminating in the  
24 State of Nebraska and charged to a service address in the City of Lincoln, regardless of where the  
25 charges are actually paid;

1 (5) Any other telecommunication services that are a necessary component of the  
2 services provided, regardless of whether the services or fees are required by federal, state or local  
3 authorities or provided by the telecommunication business including, but not limited to, universal  
4 service fund fees imposed under Neb. Rev. Stat. §§ 86-317 et seq., installation, maintenance, any  
5 premise services, service connections, late payment fees, and equipment leasing;

6 (6) Ancillary services and charges that are associated with or incidental to the provision  
7 of telecommunication services including, but not limited to conference bridging, detailed tele-  
8 communications billing, directory assistance, vertical service, or voice mail services; and

9 (7) Telephone cards, phone cards, calling cards, rechargeable cards, telephone tokens  
10 and any other method or device used in purchasing prepaid minutes, prepaid telecommunication  
11 service, or pay-as-you-go services.

12 (d) Gross receipts shall not include any services and charges as follows:

13 (1) For interstate telecommunications between persons in this city and persons outside  
14 of this state;

15 (2) For local carrier access charges, transmission facilities and switching services  
16 provided to telecommunications companies;

17 (3) From accounts charged to the United States government or any of its departments,  
18 or the State of Nebraska, or any of its agencies, subdivisions, or departments.

19 (4) Any cable television services regulated under Chapter 5.15 of the Lincoln Municipal  
20 Code.

21 (5) Any charges or services prohibited from being taxed by the Internet Tax Freedom  
22 Act.

23 (6) Any sales taxes imposed by the State of Nebraska pursuant to Neb. Rev. Stat.  
24 § 77-2703.

25 (7) Any surcharges required by Neb. Rev. Stat. §§ 86-313 or 86-457.

1 (e) The seller of telecommunication services or equipment may itemize, as an add-on  
2 charge, the tax levied on a bill, receipt, or other invoice to the purchaser, but each seller engaged in  
3 selling telecommunication services or equipment shall remain liable for the tax imposed by this  
4 section.

5 No part or portion of the tax provided for in this chapter shall be levied upon or assessed  
6 against or taken from any such gross receipts so excepted from the provisions hereof.

7 Section 2. That Section 3.24.080 of the Lincoln Municipal Code as hitherto existing be  
8 and the same is hereby repealed.

9 Section 3. That this ordinance shall take effect and be in force from and after passage  
10 and publication in one issue of a daily or weekly newspaper of general circulation in the City,  
11 according to law.

Introduced by:  
\_\_\_\_\_

Approved as to Form & Legality:  
  
\_\_\_\_\_  
City Attorney

Approved this \_\_\_ day of \_\_\_\_\_, 2011:  
  
\_\_\_\_\_  
Mayor