

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

1 AN ORDINANCE amending Title 5 of the Lincoln Municipal Code to establish the  
2 Telecommunication/Cable Television Advisory Board by amending Section 5.15.500 to replace  
3 references to the Cable Advisory Board with Telecommunication/Cable Television Advisory Board;  
4 repealing Section 5.15.510, Cable Advisory Board; and adding a new section numbered 5.17.575 to  
5 establish the Telecommunication/Cable Television Advisory Board and to provide for the Board's  
6 powers and functions; and repealing Section 5.15.500 of the Lincoln Municipal Code as hitherto  
7 existing.

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

9 Section 1. That Section 5.15.500 of the Lincoln Municipal Code be amended to read  
10 as follows:

11 **5.15.500 Administration.**

12 (a) For the purpose of providing day-to-day municipal administration of telecommuni-  
13 cations operations within the City, the City Council, through the budgetary process, may consider at  
14 the request of the Mayor or on its own motion, the establishment of a position in the classified service  
15 designated as telecommunications officer who shall be assigned to an existing department of the City.  
16 The officer's power and responsibilities may include, but not be limited to, the following functions:

17 (1) Assisting in the preparation of invitations to bid for a franchise; establishing  
18 criteria for review and ranking of franchise applications; reviewing and screening applications for  
19 franchises and making recommendations to the City Council and Mayor.

20 (2) Monitoring the timely performance of a franchisee in making application for  
21 and obtaining all certificates, permits, and agreements as provided for in this chapter.

22 (3) Monitoring the performance of a franchisee in meeting the construction  
23 timetable as provided for in a franchise.

24 (4) Advising and making recommendations to the City Council and Mayor on  
25 violations of a franchise and on matters which may constitute grounds for revocation of a franchise  
26 in accordance with this chapter.

27 (5) Monitoring and reviewing changes in subscriber fees and rates for conformity  
28 to the franchise and this chapter and advising and making recommendations to the City Council and  
29 Mayor thereon.

1 (6) Advising and making recommendations to the City Council and Mayor on  
2 technical, engineering, and police power regulations of Communications Facility operations within  
3 the City.

4 (7) Cooperating with other communications facilities and governmental units in  
5 the development of and in the supervision of the interconnection of facilities.

6 (8) Receiving and reviewing all franchise records and reports as required by this  
7 chapter, as well as all franchise reports filed with the FCC, and, in the officer's discretion, requiring  
8 the preparation and filing of information in addition to that required therein, as may reasonably be  
9 required to accomplish the purposes of a franchise and this chapter.

10 (9) Monitoring performance of a franchisee under any other terms of a franchise  
11 agreement and this Chapter.

12 (10) Making an annual report to the City Council and Mayor which shall include  
13 among other things, an account of franchise fees received, the total number of hours of utilization of  
14 access channels with hourly subtotals for various programming categories, and a review of any plans  
15 submitted during the year by the franchisee for development of new services.

16 (11) Conducting any evaluations of a Communications Facility in conjunction with  
17 the ~~Cable~~ Telecommunication/Cable Television Advisory Board and reporting to the council and  
18 Mayor. Assisting in any franchise negotiations or renegotiations.

19 (12) Enforcing the requirements of this chapter and the franchise, with the  
20 assistance of the City Attorney or through other appropriate legal counsel, as necessary, including  
21 the recovery of liquidated damages.

22 (13) Receiving subscriber complaints and advising a franchisee of the receipt of  
23 subscriber complaints affecting the franchisee's Communications Facility.

24 (14) Assisting and advising the ~~Cable~~ Telecommunication/Cable Television  
25 Advisory Board.

26 (15) Providing assistance and guidance to City departments in the use of  
27 communications facilities.

28 (16) Providing assistance and guidance to the public in the use of access facilities.

29 (17) Developing a program for utilization of any government access channels and  
30 assisting City departments in their use.

31 (18) Drafting and monitoring regulations pertaining to a franchisee's use of  
32 channels dedicated to access use when they are not being used for that purpose.

33 (b) Unless specified to the contrary elsewhere in this chapter or a franchise, all filings,  
34 submissions, and notifications by the franchisee to the City shall be delivered to, or mailed to, the  
35 telecommunications officer. Where the original of any such filing, submission, or notification is made  
36 to another City office pursuant to this Chapter or the franchise, a copy shall be simultaneously  
37 provided to the telecommunications officer.  
38

1                   Section 2. That Section 5.15.510 of the Lincoln Municipal Code be and the same is  
2 hereby repealed.

3 **~~5.15.510 Cable Advisory Board.~~**

4 ~~(a) The City may establish a Cable Advisory Board, which shall consist of eleven~~  
5 ~~members, including a chairperson, appointed by the Mayor, subject to confirmation by majority vote~~  
6 ~~of the City Council, for staggered three-year terms. Present members of the Cable Television~~  
7 ~~Advisory Board shall be deemed to be members of the Cable Advisory Board established hereunder~~  
8 ~~and shall serve until their present terms expire. Board members shall be broadly representative of the~~  
9 ~~City's population with diverse backgrounds and a reasonable knowledge of cable communications.~~  
10 ~~No board member shall be affiliated with a local cable franchisee in any way.~~

11 ~~(b) Reasonable expenses of the Cable Advisory Board, including any necessary support~~  
12 ~~staff, shall be provided by the City through the telecommunications officer.~~

13 ~~(c) The board's powers and functions shall include the following:~~

14 ~~(1) Consider unresolved complaints and disagreements between franchisees,~~  
15 ~~subscribers and/or users of a Communications Facility and issue rulings thereon.~~

16 ~~(2) Advise the City Council and Mayor on the regulation of rates in accordance~~  
17 ~~with the provisions of this chapter.~~

18 ~~(3) Advise the City Council and Mayor regarding general policy relating to the~~  
19 ~~cable services provided to subscribers and the operation and use of access and leased access channels~~  
20 ~~with a view to maximizing the diversity and usefulness of programs and services to subscribers.~~

21 ~~(4) Review or assist in the drafting of (unless public access is administered by a~~  
22 ~~franchisee) and comment upon the rules governing use of any public access channels and access~~  
23 ~~production equipment including those adopted by a franchisee.~~

24 ~~(5) Recommend policies to encourage use of access and leased access channels~~  
25 ~~among the widest range of institutions, groups including minorities, and individuals within the City~~  
26 ~~in cooperation with the franchisee.~~

27 ~~(6) Perform such other duties as the City Council and Mayor may from time to~~  
28 ~~time assign to the board.~~

29                   Section 3. That Chapter 5.17 of the Lincoln Municipal Code be amended by adding  
30 a new section numbered 5.17.575 to read as follows:

31 **5.17.575 Telecommunication/Cable Television Advisory Board.**

32                   (a) The City may establish a Telecommunication/Cable Television Advisory Board, which  
33 shall consist of eleven members, including a chairperson, appointed by the Mayor, subject to  
34 confirmation by majority vote of the City Council, for staggered three-year terms. Present members  
35 of the Cable Advisory Board shall be deemed to be members of the initial Telecommunication/Cable

1 Television Advisory Board established hereunder and shall serve until their present terms expire.  
2 Board members shall be broadly representative of the City's population with diverse backgrounds  
3 and a reasonable knowledge of telecommunications. No board member shall be employed by or  
4 affiliated with a local telecommunication company in any way.

5 (b) The board's powers and functions shall include the following:

6 (1) Consider unresolved complaints and disagreements between franchisees, and  
7 subscribers and/or users of a franchised communication facility subject to Lincoln Municipal Code  
8 Chapter 5.15.

9 (2) Advise the City Council and Mayor regarding general policy issues of  
10 community-wide interest relating to telecommunications and technology, including issues related to  
11 cable television franchises, technology access, broadband availability, internet, Universal Service  
12 Fund topics, wireless technologies, and appropriate regulation within the City's authority regarding  
13 telecommunication systems;

14 (3) At the request of the City Council or Mayor, make recommendations regarding  
15 City initiatives that have an impact on cable television service, telecommunication services,  
16 communication services and associated activities. Such initiatives may include, but are not limited  
17 to, revenue, business incentives, cell towers managed by municipal providers, conduit policy, fiber  
18 sharing policy, franchise requirements and services to low income and wireless services.

19 (4) Perform such other duties as the City Council and Mayor may from time to  
20 time assign to the board.

21 Section 4. That Section 5.15.500 of the Lincoln Municipal Code as hitherto existing  
22 be and the same is hereby repealed.

1                   Section 5. That this ordinance shall take effect and be in force from and after passage  
2 and publication in one issue of a daily or weekly newspaper of general circulation in the City,  
3 according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this ___ day of _____, 2013:  _____ Mayor
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