

ORDINANCE NO. 19454

1 AN ORDINANCE amending Chapter 3.24 of the Lincoln Municipal Code relating
 2 to occupation taxes by amending Section 3.24.080 to provide that the seller of telecommunication
 3 equipment may itemize the tax levied on a bill, receipt, or other invoice to the purchaser; amending
 4 Section 3.24.100 to clarify that the companies paying the telecommunication occupation tax have
 5 until the end of the month to pay the tax from the previous month; and repealing Sections 3.24.080
 6 and 3.24.100 of the Lincoln Municipal Code as hitherto existing.

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

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

10 **3.24.080 Telecommunication Occupation Tax.**

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

17 (a) Telecommunication services as used in this ordinance is defined as the provision of all
 18 communication services and equipment provided in connection therewith, operable by the general
 19 public as opposed to the employees of a telecommunications business only, using electromagnetic
 20 wire, fiber optics or radio waves to control or direct the sending and receiving of messages at a

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

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

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

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

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

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

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

5 (5) Any other telecommunication services that are a necessary component of the
6 services provided, regardless of whether the services or fees are required by federal, state or local
7 authorities or provided by the telecommunication business including, but not limited to, installation,
8 maintenance, any premise services, service connections, late payment fees, and equipment leasing;

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

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

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

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

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

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

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

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

3 (6) Any sales taxes imposed by the State of Nebraska pursuant to Neb. Rev. Stat.
4 § 77-2703.

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

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

11 Section 2. That Section 3.24.100 of the Lincoln Municipal Code be amended to read
12 as follows:

13 **3.24.100 Telecommunication Occupation Tax; Reports; Contents.**

14 On or before the ~~15th~~ last day of each month, any company providing telecommunications
15 equipment or services shall submit to the City Treasurer a full, complete and detailed statement of
16 the income and gross receipts for the preceding month, omitting any exemptions provided for in
17 Section 3.24.080 hereof, and said statement shall be duly verified and sworn to by the officer or offi-
18 cers in charge of the business. All such businesses shall at any reasonable times during business
19 hours permit the city, through its officers, agents or representatives, to inspect the books and records
20 of any such business for the purpose of verifying such report or reports. In the event the amount
21 owed as a result of the findings of an audit or inspection is in excess of three percent (3%) of the
22 telecommunication occupation taxes paid by the business during the audited period, the business
23 shall pay City's out-of-pocket expenses associated with such audit.

1 Access to records and other materials shall not be denied on the basis that said records and
2 materials contain trade secret, proprietary or confidential information; provided, however, that the
3 telecommunication business may require that the City enter into a reasonable confidentiality
4 agreement prior to inspecting any records or material that the business reasonably believes contains
5 trade secrets, proprietary or confidential information which the public release thereof would harm
6 or jeopardize the business's competitive position.

7 Section 3. That Sections 3.24.080 and 3.24.100 of the Lincoln Municipal Code as
8 hitherto existing be and the same are hereby repealed.

9 Section 4. 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:

Jonathan Cook

AYES: Camp, Carroll, Cook,
Emery, Hornung, Snyder, Spatz;
NAYS: None.

Approved as to Form & Legality:

Red Couper
City Attorney

Approved this 28th day of Sept., 2010:
[Signature]
Mayor