

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
SEPTEMBER 17, 2013 AGENDA**

Subject:	Type:	Submitted By:
AMEND MUNICIPAL CODE SECTION 115.001 AND 115.017	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	PAM. BUETHE CITY CLERK

SYNOPSIS

An ordinance has been prepared to amend Sections 115.001 and 115.017 of the Municipal Code to change the definition of franchisee and to change the rates, fees, and charges.

FISCAL IMPACT

None.

RECOMMENDATION

Approval

BACKGROUND

Over the past several months our city staff and city attorney have been working on franchise agreements with cable companies that have requested permission to provide service within the City. In light of these new franchise agreements, the city attorney has determined that a couple changes need to be made to Chapter 115: Cable Television.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTIONS 115.001 and 115.017; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; ORDERING THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM; AND TO PROVIDE THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Section 115.001 of the La Vista Municipal Code is amended to read as follows:

§ 115.001 DEFINITIONS.

FRANCHISEE. The owner or operator of a cable television system or the provider of cable services within the city who has been granted a certificate by the city or anyone who succeeds the holder of a certificate in accordance with the provisions of this chapter. The words FRANCHISEE and GRANTEE are synonymous when used in this chapter.

§ 115.017 RATES, FEES, AND CHARGES.

(A) The franchising authority reserves the right to regulate the franchisee, the cable system, and the rates, fees, charges, deposits, and associated terms and conditions for cable service (or for related equipment or services such as equipment rental, deposits, and downgrade fees) provided pursuant to this chapter to the fullest extent permitted by applicable law, as amended from time to time, and the franchising authority may, in connection with any such regulation, establish rules and regulations from time to time to the extent permitted by such applicable law. In connection with such regulation, the franchising authority shall comply with FCC rules as amended from time to time and provide the public with an opportunity to comment.

(B) (1) The franchisee shall not discriminate between or among any residential subscribers in the rates, terms, and conditions for any cable service, provided that the foregoing requirement shall not prevent (to the extent otherwise permitted by applicable law) the use of:

(a) Short-term sales promotions and other short-term discounts or reduced charges;

(b) Reasonable discounts or reduced charges to senior citizens or economically disadvantaged groups; or

(c) Bulk rate arrangements.

(2) Nothing in this section shall be construed to prevent the franchisee from individually negotiating the rates, terms, and conditions of cable service provided to nonresidential customers. Notwithstanding the foregoing, franchisee shall not deny service, deny access, or otherwise discriminate on rates or any other terms or conditions of cable services (or any related service provided by franchisee) on the basis of race, color, creed, religion, ancestry, national origin, sex, disability, age, familial status, marital status, income level, demographics, status with regard to public assistance, or location within the franchise area.

(C) Before any new or modified rate, fee, charge, deposit, or associated term or condition for cable service may be imposed, the franchisee must provide notice to the franchising authority of the change and notify affected subscribers. Submission of a franchisee rate card which reflects all current rates, fees, charges, deposits, and associated terms and conditions will satisfy the requirements of this section.

(D) In the event that (i) the franchisee offers one or more cable, internet-related, telecommunications, or any other (cable or non-cable) service on a bundled basis (such that more than one service is provided at a single, combined, discounted or special fee), (ii) at least one of such bundled services is a cable service under this agreement, and (iii) revenues received by franchisee on at least one service provided in the bundled arrangement is not subject to any fee or tax to the franchising authority or is subject to a different rate of fee or tax to the franchising authority than is provided for under this chapter on cable services—then any discount of fees or charges of franchisee to subscribers or customers obtaining bundled services shall be applied either proportionately to the fee of each service provided under the arrangement, such that it is not applied disproportionately to cable services provided under this chapter, or equally to all

| services included in the bundle, as agreed in writing between the franchisee and the city.

SECTION 2. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 17TH DAY OF JANUARY 2012.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk