

FIRST AMENDMENT

BILL NO. 2008-17

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL AND REPLACE CABLE TELEVISION SERVICE AND OTHER VIDEO SERVICE REGULATIONS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Mark R. Vincent, Director
Department of Finance and Business Services

Summary: Establishes new regulations for cable television operators and other video service providers, consistent with NRS Chapter 711, as amended.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1: Title 6, Chapter 20, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby repealed.

SECTION 2: Title 6 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new chapter designed as Chapter 20, to consist of the provisions set forth below as Sections 3 to 25, inclusive, of this Ordinance.

SECTION 3: In the construction of this Chapter, the following definitions shall apply, unless the context clearly requires otherwise:

“Cable operator” has the same meaning as that term is defined in NRS 711.024, as amended.

“Cable service” has the same meaning as that term is defined in NRS 711.025, as amended.

“Cable system” has the same meaning as that term is defined in NRS 711.026, as amended.

“Certificate of authority” and “certificate” have the same meanings as those terms are defined in NRS 711.027, as amended.

“City” means the City of Las Vegas, a municipal corporation of the State of Nevada.

“City Council” means the legislative body of the City.

“City Manager” means the City Manager appointed by the City Council, or his or her designee.

“Code” means the official code of all of the City’s ordinances of a general and permanent character, as may be adopted and amended by the City Council.

“Community antenna television company” has the same meaning as that term is defined in NRS 711.030, as amended.

1 “Community antenna television system” has the same meaning as that term is defined in NRS
2 711.040, as amended.

3 “Facility” or “facilities” means all antennae, poles, wires, cables, conduits, amplifiers,
4 instruments, appliances, fixtures and other personal property used by any authorized user of the
5 rights-of-way for the provision of authorized services within the City.

6 “Franchise fee” means the business license fee imposed by the City on a video service
7 provider for the privilege of providing video service.

8 “Gross revenue” has the same meaning as that term is defined in NRS 711.066, as amended.

9 “Public Works Director” means the Director of the City’s Public Works Department, or his
10 or her designee.

11 “Rights-of-way” means all present and future streets, avenues, highways, alleys, bridges and
12 public ways (excluding railroad rights-of-way) of the City within City limits.

13 “Service area” has the same meaning as that term is defined in NRS 711.105, as amended.

14 “Subscriber” has the same meaning as that term is defined in NRS 711.115, as amended.

15 “Telecommunication” has the same meaning as that term is defined in NRS 711.125, as
16 amended.

17 “Telecommunication provider” has the same meaning as that term is defined in NRS 711.131,
18 as amended.

19 “Telecommunication service” has the same meaning as that term is defined in NRS 711.135,
20 as amended.

21 “Video service” has the same meaning as that term is defined in NRS 711.141, as amended.

22 “Video service network” has the same meaning as that term is defined in NRS 711.145, as
23 amended.

24 “Video service provider” and “VSP” have the same meaning as the term “video service
25 provider” is defined in NRS 711.151, as amended.

26 SECTION 4: Unless the context clearly requires otherwise, words that are not
27 defined in this chapter shall be given the meanings set forth in NRS Chapter 711, as amended, or in
28 Title 47 of the United States Code, as amended, and if not defined therein, their common and ordinary

1 meanings.

2 SECTION 5: A VSP shall at all times comply with all applicable Federal, State and
3 local laws, rules and regulations concerning the provision of video service, including all applicable
4 Federal Communications Commission, Nevada Public Utilities Commission and Nevada Secretary
5 of State rules, regulations and orders.

6 SECTION 6: It is unlawful for any VSP to construct or operate a video service
7 network within the City or to provide video service to subscribers within the City unless the VSP is
8 a holder of a certificate of authority issued by the Nevada Secretary of State that includes service
9 areas within the City.

10 SECTION 7: A VSP that provides telecommunication service within the City,
11 pursuant to the VSP's certificate of authority and over the VSP's video service network, shall not be
12 required to obtain a separate franchise agreement from the City for such telecommunication service.

13 SECTION 8: (A) If a VSP that was not an incumbent cable operator prior to July
14 1, 2007 intends to construct facilities within the City pursuant to a certificate of authority, the VSP
15 shall, until it has constructed all the facilities intended for the City, submit to the City a semiannual
16 report which describes the number of service locations within the City that are capable of receiving
17 video service from the VSP. The VSP shall submit such report no later than the tenth business day
18 in January and July of each year. The information contained in such report shall not be deemed to be
19 a public record and shall not be disclosed to any person other than an officer or employee of the City
20 unless the VSP consents to the disclosure or unless the disclosure is otherwise required by NRS
21 711.600, as amended.

22 (B) All other information and reports submitted to the City pursuant to this
23 Chapter that are not mentioned in Subsection (A) of this Section shall, if required by Nevada's Public
24 Records Law, NRS Chapter 239, as amended, be subject to public inspection and copying.

25 SECTION 9: (A) At all times during which a VSP is authorized to provide video
26 service within the City pursuant to a certificate of authority, the VSP shall maintain a valid unexpired
27 business license specific to its video service business.

28 (B) At all times during which a VSP provides telecommunication service within

1 the City, the VSP shall maintain a valid unexpired business license specific to its telecommunication
2 business as provided in Chapter 6.67 of this Code. The VSP shall pay all business license fees due
3 from its telecommunication service business separately from the payment of the business license
4 fees due from its video service business.

5 (C) In addition to the business licenses required by Subsections (A) and (B) of this
6 Section, a VSP shall at all times maintain all other business licenses specific to any of the VSP's
7 business activities other than those of providing video service and telecommunication service, as
8 such other business activities are specified in this Code; provided that nothing in this Section shall be
9 construed to require a separate business license for the provision of "information service," as that term
10 is defined in 47 U.S.C. 153(20), as amended. The VSP shall pay all license fees due from such other
11 businesses separately from the payment of fees due from its video service and telecommunication
12 service businesses.

13 (D) In addition to payment of the fees specified in Subsections (A) through (C) of
14 this Section, a VSP shall pay all lawful property taxes, ad valorem taxes and local improvement
15 district assessments, and all exactions, fees and charges that are generally applicable during the
16 VSP's real property development or use as required by this Code.

17 (E) Acceptance by the City of any payment due under this Section shall not be
18 deemed to be a waiver by the City of any breach of the VSP's obligations under its certificate of
19 authority or applicable law, and such acceptance shall not preclude the City from later establishing
20 that a larger amount was actually due or from collecting such balance.

21 SECTION 10: (A) A VSP shall pay, on a quarterly basis, a franchise fee of five
22 percent of the VSP's gross revenue from its video service subscribers within the City. Each payment
23 shall be for the preceding calendar quarter, shall be due no later than the fifteenth day of February,
24 May, August and November, and shall be applied to the VSP's video service business license fee.

25 (B) A VSP shall submit a written report with each quarterly payment of franchise
26 fees providing in reasonable detail a summary of its revenue categories for that quarter and how the
27 franchise fees were calculated.

28 (C) If a VSP fails to pay a franchise fee as required by this Section, the VSP shall

1 pay a penalty of two percent per month (or any portion thereof) of the delinquent amount until such
2 time as payment in full is received by the City.

3 (D) A VSP may pass the franchise fee through to its subscribers within the City
4 based on the gross revenue received from each such subscriber and may designate the amount of the
5 franchise fee as a separate line item on the subscriber's bill.

6 SECTION 11: (A) Not more than once every three years, the City may, upon forty-
7 five days' written notice to a VSP, review and audit the business records of a VSP to ensure payment
8 of all franchise fees due pursuant to the VSP's certificate of authority and this Chapter. If the results
9 of such a review and audit identify an underpayment of franchise fees in an amount that requires
10 corrective action, the City may perform a subsequent compliance review and audit to determine
11 whether the VSP has corrected the underpayment of fees. The compliance review and audit must be
12 performed not later than twelve months after the date on which the results of the initial review and
13 audit are finalized.

14 (B) A VSP shall keep complete and accurate business records concerning the
15 franchise fees due pursuant to its certificate of authority for a period of at least four years or, if such
16 period is greater, until such time as the City has completed any pending audit through the payment of
17 all fees determined by the City to be due or through the resolution of any disputed amounts pursuant
18 to NRS 711.680, as amended. The City may review and audit all records concerning the VSP's
19 revenue that may reasonably be considered by the City to be subject to a franchise fee. The VSP shall
20 make the requested records available to the City for purposes of conducting its review and audit within
21 forty-five days after receiving the City's written request for such books and records.

22 (C) If the City determines that any amounts are due as a result of a review and audit
23 pursuant to this Section, it shall give the VSP written notice of the amounts determined to be due
24 and the basis for determining such amounts were due. The VSP shall pay all such amounts in full
25 within thirty days following receipt of the City's notification, subject to the VSP's rights to contest
26 the City's determination pursuant to NRS 711.680, as amended.

27 (D) The City and the VSP shall each pay its own costs and fees relating to a
28 review and audit of the VSP pursuant to this Section; provided that if the VSP elects to have the City

1 review and audit the requested business records at a location outside the City, the VSP shall pay
2 the per diem allowances and travel expenses incurred by the City to perform the review and audit at
3 that location.

4 SECTION 12: The requirements set forth in Sections 13 through 24 of this Ordinance
5 shall be construed and applied by the City in a competitively neutral manner that does not discriminate
6 among VSP's or as between VSP's and any other users of the rights-of-way for the construction and
7 operation of facilities.

8 SECTION 13: A VSP shall install all of its facilities in the rights-of-way in a manner
9 consistent with the Americans with Disabilities Act ("ADA"), including any reconstruction or
10 modification of existing facilities. Following notice by the City of an ADA violation or construction
11 problem caused directly or indirectly by a VSP, the VSP shall, within thirty days or such other time
12 as the Public Works Director reasonably determines to be appropriate, remedy the ADA violation or
13 problem.

14 SECTION 14: (A) The City may require a VSP to obtain a construction,
15 encroachment or occupancy permit for any work in the rights-of-way, may inspect any construction,
16 installation, maintenance or repair work performed in the rights-of-way, and may charge a VSP a
17 fee to issue such permit or to perform such inspection. The City shall act upon any request by a VSP
18 for a permit no later than ten business days after the date on which the request is made.

19 (B) If there is an emergency requiring immediate response work or repair in, on,
20 under or over any rights-of-way, a VSP may begin such work or repair without first obtaining a
21 permit; provided that the VSP shall notify the Public Works Director as promptly as is reasonably
22 possible after learning of the need for the emergency work, shall subsequently obtain any permit
23 that otherwise would have been required for non-emergency work, shall pay all applicable fees for
24 such permit, and shall restrict any work performed in the rights-of-way prior to obtaining a permit to
25 emergency work and repairs.

26 (C) The amount of any permit or inspection fee under this Section or Section 15 of
27 this Ordinance shall not exceed the actual costs incurred by the City in administering the process of
28 issuing such permits and performing such inspections.

1 SECTION 15: Before a VSP may conduct any underground work involving
2 excavation, new construction or relocation work in the rights-of-way which will block one or more
3 lanes of motor vehicle traffic, the VSP shall:

4 (A) Notify the City and comply with any special conditions relating to location,
5 scheduling, coordination and public safety;

6 (B) Apply for and obtain a permit from the Public Works Director;

7 (C) Submit and obtain approval of a traffic barricade plan;

8 (D) File maps and drawings showing the location of any construction or extension
9 of its facilities in the rights-of-way; for conduit, the maps and drawings shall show the size, location,
10 burial depth and configuration of the conduit, the trench backfill material and width, and the
11 method of pavement restoration;

12 (E) Participate in the "Call Before You Dig" program set forth in NRS Chapter 455,
13 as amended, with regard to giving and receiving notice of the location of facilities and excavations;

14 (F) Pay all permit fees; and

15 (G) Provide security and proof of insurance as required by this Chapter.

16 SECTION 16: (A) In using the rights-of-way for its facilities, a VSP shall comply
17 with the following requirements:

18 (1) All construction work in the rights-of-way performed by or on behalf
19 of a VSP shall be performed in a safe manner subject to the approval of the Public Works Director
20 and in accordance with all applicable laws, rules, regulations and permitting requirements related
21 to public safety or the use of the rights-of-way. When the public improvement designs prepared by
22 a VSP are not covered by, or are not at least minimally compliant with, the improvement standards
23 adopted in Title 13 of this Code, plans and specifications for construction, reconstruction, installations
24 and repairs of public improvements must bear the seal of a Nevada registered professional engineer.

25 (2) The VSP shall not place any facilities on, over or within the median
26 portion of any boulevard or parkway without the prior written consent of the Public Works Director.

27 (3) The VSP shall not place any of its above-ground facilities in any
28 sidewalk area in the rights-of-way without the prior written consent of the Public Works Director.

1 (4) A VSP shall not attach any of its facilities to any City-owned facilities
2 unless the VSP has entered into a written agreement with the City for the rights of attachment and use.

3 (5) The City may require through any permitting process that any
4 installations, excavations and restorations affecting street or lane closures shall, as often as practicable,
5 be performed after 6:30 p.m. and before 6:00 a.m. No such work shall be performed from 7:00 a.m.
6 to 9:00 a.m. or from 4:00 p.m. to 6:00 p.m., except for emergency work or repairs performed in
7 accordance with Section 14 of this Ordinance.

8 (6) The City may assist in the coordination and scheduling of the VSP's
9 projects when such projects may be reasonably coordinated with the placement of any other
10 rights-of-way user's facilities; provided that, subject to the City's permitting processes, a VSP may
11 otherwise control the scheduling of its projects consistent with this Chapter.

12 (7) Whenever it is commercially reasonable to do so, the VSP shall use
13 trenchless technology in the placement of its facilities. Except in an emergency as specified in Section
14 14 of this Ordinance, the VSP shall, not less than seven working days prior to the commencement of
15 any work by the VSP that involves excavation in the rights-of-way, notify the Public Works Director
16 and any appropriate utility coordinating committee for purposes of utility location. Minimum notice
17 to the City shall be by telephone communication or in person prior to any work, followed by written
18 notice as soon as practical. The VSP shall provide advance notice so as not to disrupt services of the
19 City or any other person using the rights-of-way and to allow the City to place any inspector it may
20 deem necessary at the site of the project.

21 (B) A VSP shall at all times take all reasonable precautions to minimize
22 interruption to traffic flow, damage to property, or creation of a hazardous condition.

23 (C) After an excavation is made and after any excavation work is completed, a VSP
24 shall, as soon as practicable but not later than seventy-two hours, remove all surplus material; except
25 that if the surplus material is blocking a public street or sidewalk, the VSP shall remove such material
26 no later than twenty-four hours after the excavation is made or the excavation work completed.

27 (D) A VSP shall reconstruct, replace or restore any landscaping, street or alley, or
28 any water, sewer, sanitary sewer, storm drainage, traffic signal or street light facilities, or any other

1 facility of the City disturbed by the VSP, within thirty days of written notice by the City, to a condition
2 acceptable to the Public Works Director, consistent with specifications, requirements and regulations
3 of the City in effect at the time of such restoration. Any such improvements so disturbed by the VSP
4 shall be reconstructed, replaced or restored only under the supervision of City personnel. All costs
5 incurred in surplus material removal and restoration, whether done with the City's work forces and
6 equipment or otherwise, shall be paid by the VSP, including the cost of any inspectors the City may
7 assign to the project.

8 SECTION 17: (A) All of a VSP's facilities shall be placed so that they do not
9 interfere with the use of the rights-of-way by the City and shall only be placed after approval of the
10 location by the Public Works Director, in accordance with any generally applicable specifications
11 adopted by the City governing the location of facilities.

12 (B) Whenever the City excavates or performs any non-emergency work in the
13 rights-of-way and such excavation or work may disturb but not require the removal or relocation of
14 a VSP's facilities, the City shall notify the VSP seventy-two hours in advance of the excavation or
15 work to enable the VSP to take such measures as it may deem necessary to protect its facilities from
16 damage and inconvenience, or from injury or damage to the public or the rights-of-way. If the VSP
17 cannot take such measures, the VSP shall be required to relocate its facilities in accordance with this
18 Section, in which case, the VSP shall, upon request, furnish field markings to the City showing the
19 location of all of its facilities in the area involved in such proposed excavation or work.

20 (C) The City reserves all rights to:

21 (1) Construct, install, maintain and operate any public improvement, work
22 or facility, to do any work that the City may deem desirable on, over or under the rights-of-way, and
23 to construct, install, maintain and operate any public improvement, work or facility;

24 (2) Vacate, alter or close any rights-of-way; and

25 (3) Require the removal or relocation of a VSP's facilities in the
26 rights-of-way as may reasonably be required after notice to the VSP, including but not limited to City
27 projects for the installation of landscaping, or water, sanitary sewer, storm drainage, traffic signal or
28 street light facilities, or any road construction or reconstruction.

1 (D) A VSP shall remove and relocate its facilities within sixty days following
2 written notice from the City to do so. Prior to any such relocation, the City shall provide for a
3 temporary suitable location for the relocated facilities sufficient for the VSP to maintain service.

4 (E) Subject to Subsection (F) of this Section and the provisions of NRS 271.800
5 and 271.850, all costs directly attributable to the removal or relocation of a VSP's facilities shall be
6 paid by the VSP.

7 (F) The City may require a VSP to relocate its facilities to accommodate another
8 rights-of-way user, if the VSP's and other user's facilities can both be located in the rights-of-way
9 without interfering with the VSP's operations, subject to the following:

10 (1) The other user shall pay the VSP the costs of any relocation occasioned
11 by such user.

12 (2) The VSP shall remove and relocate its facilities upon receipt of payment
13 of the VSP's estimated costs from the other user.

14 (3) If the VSP's estimated costs do not cover all of the VSP's final costs
15 of the removal or relocation, the VSP shall bill the other user for the balance of the costs following
16 completion of the work benefiting the other user, and the other user shall pay the VSP any balance
17 owed within thirty days of receipt of the billing statement; and

18 (4) If the VSP's estimated costs exceed the VSP's final costs of the removal
19 or relocation, the VSP shall refund any overpayment to the other user within thirty days after
20 completion of the work benefiting the other user.

21 (G) When the City proposes to improve the rights-of-way, including but not limited
22 to work related to streets, sidewalks, landscaping, traffic signalization, street lights, water lines, storm
23 drainage or sanitary sewers, and such improvements include excavation and the placement of
24 underground utilities vaults and conduit sufficient for a VSP's facilities by and at the expense of
25 someone other than the VSP, then upon notification by the City to the VSP and such reasonable
26 scheduling as may be required by the City, the VSP shall replace its then-existing overhead facilities
27 within the affected rights-of-way with underground facilities within such area. The VSP shall pay all
28 costs of such underground placement. The conversion from overhead to underground shall be

1 conditioned upon the City requiring the undergrounding in the area in which both the existing and new
2 facilities are and will be located and on the City requiring all existing overhead communication and
3 utility facilities in such area to be removed.

4 (H) Nothing in this Section shall be construed to require a VSP to place its facilities
5 in ducts or conduits owned or leased by the City.

6 SECTION 18: A VSP shall not acquire any vested right or interest in any particular
7 rights-of-way location for any of its facilities constructed, operated or maintained in any existing or
8 proposed rights-of-way, even though such location was approved by the City; provided that whenever
9 the City vacates any rights-of-way for the convenience or benefit of any person, the City shall preserve
10 a VSP's rights for any legally established, existing facilities of the VSP in such vacated portion of the
11 rights-of-way.

12 SECTION 19: (A) Whenever it becomes necessary to temporarily rearrange,
13 remove, lower or raise any facilities of a VSP to permit the passage of any building, machinery or
14 other object, the VSP shall perform such rearrangement, removal, lowering or raising upon the receipt
15 of written notice from the person desiring to move such building, machinery or object. The written
16 notice shall detail the route of movement of the building, machinery or object. All costs incurred by
17 the VSP in making such rearrangement, removal, lowering or raising of its facilities shall be borne by
18 the person seeking such rearrangement, removal, lowering or raising, unless the facilities have been
19 placed or maintained in violation of any Federal, State or local law, rule or regulation and thereby
20 interferes with the movement of the building, machinery or object; provided that under no
21 circumstances shall the City be responsible for the VSP's costs incurred in complying with this
22 Section.

23 (B) Whenever, in case of an emergency, it becomes necessary to remove any of a
24 VSP's facilities, the City shall not be liable to the VSP for any charge, loss, damage, restoration cost
25 or repair resulting from the emergency removal.

26 SECTION 20: A VSP shall maintain on file maps and operational data pertaining to
27 its operations in the rights-of-way, which the City may inspect at any time upon reasonable notice to
28 the VSP during normal business hours. Upon request by the City, the VSP shall furnish to the Public

1 Works Director, as soon as practical and without charge, current maps either in a hard-copy printed
2 form or in the City's geographical information systems format or compatible data base, showing the
3 location and dimension of any existing and proposed facilities, but not other proprietary information,
4 used in operating the VSP's facilities in the rights-of-way.

5 SECTION 21: Except in the case of emergency pursuant to Section 14 of this
6 Ordinance, a VSP that is the initiator of a project in the rights-of-way along which residential yards
7 are located and maintained that will result in disruption of such yards or result in the installation of
8 new exposed surface facilities shall give written notification to residents who are located adjacent to
9 the proposed project at least two days prior to the date on which the VSP proposes to commence the
10 proposed project. Such notice shall be by personal delivery, by posted notice on the street where the
11 proposed project is scheduled to be built (which notice is to be large enough to be clearly read by
12 passing motorists), by door hanger or by mail, with a description of the proposed project, the name
13 of the VSP, and a telephone number at which the VSP can be reached twenty-four hours per day.

14 SECTION 22: (A) As security for performance of its rights-of-way obligations
15 under this Chapter, a VSP shall, at all times during which it holds a certificate of authority permitting
16 the VSP to provide video service within the City, provide security in the form of a letter of credit,
17 performance bond or cash deposit, delivered to the Director of the Department of Finance and
18 Business Services, in the amount of \$100,000.

19 (B) If a VSP has already posted a letter of credit, performance bond, or cash deposit
20 for \$100,000 or more in connection with its use of the City's right-of-way for other purposes, the
21 provisions of Subsection (A) of this Section shall not apply to the VSP provided that such existing
22 security is in full force and effect during all times of VSP's use of the right-of-way for video service
23 purposes and the terms of such security are made applicable to the VSP's use of the right-of-way for
24 video service purposes in accordance with the terms of Subsections (C), (D) and (E) of this Section.

25 (C) Any bond provided pursuant to this Section shall:

26 (1) In addition to all other costs, provide for payment of reasonable
27 attorney's fees;

28 (2) Be issued by a surety company authorized to do business in the State

1 of Nevada and listed in Department Circular 570 of the U.S. Department of the Treasury Fiscal
2 Service (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and
3 as Acceptable Reinsuring Companies, Current Revision);

4 (3) Require the attorney-in-fact who executes the bond on behalf of the
5 surety to affix thereto a certified and current copy of his or her power of attorney; and

6 (4) Guarantee the performance of all of the VSP's rights-of-way obligations
7 under its certificate of authority and all applicable laws.

8 (D) The following procedures shall apply to drawing on the security required in this
9 Section:

10 (1) If a VSP fails to make timely payment of any amount due to the City,
11 or fails to compensate the City within thirty days of written notification that such amount is due for
12 any damages, costs or expenses the City suffers or incurs by reason of any act or omission of the VSP,
13 or fails after thirty days' written notice to comply with any provision of its certificate or this Code that
14 can be remedied by drawing on the security, the City may withdraw the amount thereof, with
15 applicable interest and penalties, from the security.

16 (2) Within three days of a withdrawal from the security, the City shall
17 personally deliver or send by certified mail written notification to the VSP of the amount, date and
18 purpose of such withdrawal.

19 (3) If at the time of a withdrawal from the security by the City, the amounts
20 available are insufficient to provide the total payment towards which the withdrawal is directed, the
21 balance of such payment shall continue as the obligation of the VSP to the City until it is paid.

22 (4) No later than thirty days after the delivery or mailing of notification to
23 the VSP of a withdrawal from the security, the VSP shall restore the security to the total amount
24 specified in Subsection (A) of this Section.

25 (E) Recovery by the City of any amount from the security required by this Section
26 does not limit a VSP's obligation to provide insurance or to indemnify the City as otherwise required
27 by this Chapter.

28 SECTION 23: (A) A VSP shall at all times during which it holds a certificate of

1 authority permitting it to provide video service within the City maintain in full force and effect, at its
2 own cost, a general comprehensive liability insurance policy for the protection of the City, which
3 shall:

4 (1) Be issued by an insurance company approved by the City and in a form
5 satisfactory to the City Attorney;

6 (2) Name the City and its elected and appointed officers, boards,
7 commissions, agents and employees as additional insureds;

8 (3) Insure against liability for loss or damage for personal injury, death and
9 property damage occasioned by the VSP's operations pursuant to its certificate of authority, with
10 minimum limits of one million dollars for personal injury or death of any one person and three million
11 dollars for personal injury or death of two or more persons in any one occurrence, and five hundred
12 thousand dollars for damage to property for any one occurrence; and

13 (4) Contain a provision that a written notice of cancellation of or reduction
14 in coverage shall be delivered to the City at least thirty days in advance of the effective date thereof.

15 (B) Recovery of any amount by the City from the insurance required by this Section
16 does not limit a VSP's obligation to provide security or to indemnify the City as otherwise required
17 by this Chapter.

18 SECTION 24: (A) A VSP shall defend, indemnify and hold the City harmless from
19 and against all claims for damages to persons or property in any way related, directly or indirectly, to
20 the construction, maintenance and operation of its facilities or its use of the rights-of-way, when or
21 to the extent injury or damage is caused or alleged to be caused, wholly or in part, by any act,
22 omission, negligence or misconduct of the VSP or any of the VSP's contractors, subcontractors,
23 officers, agents or employees, or by any person for whose act, omission, negligence or misconduct the
24 VSP is by law responsible. This Section is intended to require the VSP to indemnify the City to the
25 maximum extent allowed by law for claims related to the VSP's use of the rights-of-way and is not
26 intended to create liability for the benefit of any party other than the City.

27 (B) If any claim is made against the City that is covered by Subsection (A) of this
28 Section, and if a court of competent jurisdiction shall adjudge by final decree that the City is liable

1 therefor, the VSP shall indemnify and hold the City harmless from any such liability, including any
2 court costs, expenses and reasonable attorney's fees incurred by the City in defense thereof and
3 incurred at any stage of the proceedings.

4 (C) Upon commencement of any suit, proceeding at law or in equity against the City
5 relating to any matter covered by Subsection (A) of this Section, the City shall give the VSP prompt
6 notice of such suit or proceeding; whereupon the VSP shall provide a defense to such suit, including
7 any appellate proceedings brought in connection therewith, and pay any settlement, costs and
8 judgments that may be rendered against the City by reason of such suit.

9 (D) If the VSP fails to comply with its obligations under Subsection (C) of this
10 Section, after reasonable notice to the VSP by the City, the City shall have the right to defend any
11 claims against it and, in addition to being reimbursed for any settlement or judgment that may be
12 rendered against the City, the VSP shall reimburse the City's reasonable attorney's fees and all
13 expenses incurred by the City by reason of undertaking the defense of such suit, regardless of whether
14 such suit is successfully defended or settled, or fully adjudicated. If the City is required to defend any
15 such suit because of the VSP's failure to do so, the City shall have the right to enter into any
16 settlement as the City may deem in its best interest, without the prior approval of the VSP.

17 SECTION 25: A VSP shall comply with all customer service requirements for VSP's
18 specified in NRS 711.620, as amended.

19 SECTION 26: Section 1 of this Ordinance shall become effective as of 12:01 a.m. the
20 day after publications of this Ordinance by title.

21 SECTION 27: Sections 2 through 25, inclusive, of this Ordinance shall become
22 effective as of 12:02 a.m. on the day after publication of this Ordinance by title.

23 SECTION 28: If any section, subsection, subdivision, paragraph, sentence, clause or
24 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
25 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
26 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
27 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
28 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,

1 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
2 invalid or ineffective.

3 SECTION 29: Whenever in this ordinance any act is prohibited or is made or declared
4 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
5 required or the failure to do any act is made or declared to be unlawful or an offense or a
6 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
7 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
8 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
9 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

10 SECTION 30: All ordinances or parts of ordinances or sections, subsections, phrases,
11 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
12 1983 Edition, in conflict herewith are hereby repealed.

13 PASSED, ADOPTED and APPROVED this _____ day of _____, 2008.

14 APPROVED:

15
16 By OSCAR B. GOODMAN, Mayor

17 ATTEST:

18 BEVERLY K. BRIDGES, CMC
19 City Clerk

20 APPROVED AS TO FORM:

21 Jenny G. Bettis, 5-4-08
22 Date
23
24
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27
28

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2008, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2008, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as amended and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11
12 APPROVED:

13 By _____
14 OSCAR B. GOODMAN, Mayor

15 ATTEST:

16 _____
17 BEVERLY K. BRIDGES, CMC
18 City Clerk
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