

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MAY 20, 2025 AGENDA

Subject:	Type:	Submitted By:
AMEND MUNICIPAL CODE – SECTION 113.07 GAS AND TELEPHONE COMPANIES	RESOLUTION ◆ ORDINANCE RECEIVE & FILE	KEVIN POKORNY MANAGING DIRECTOR ADMINISTRATIVE SERVICES

SYNOPSIS

An ordinance has been prepared to amend municipal code section 113.07 Gas and Telephone Companies to bring the City Municipal Code into compliance with Neb. Rev. Statute § 86-704 and reduce the occupation tax rate from 5% to 4%.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

The 2024 Nebraska Legislature passed LB1023, reducing the maximum occupation tax a municipality may charge for telecommunication companies from 6.25% to 4%. The City's occupation tax for telephones is currently 5%. Therefore, a recommendation is being made to update the language in Municipal Code 113.07 to reference telecommunication and remove the term telephone. The update also requires the gross receipts to be received by the city on a monthly basis, and removes the current language for semi-annual payments. All telecommunication companies are currently submitting payments monthly.

Additionally, municipal code 113.07 mentions the term Gas. This term was used to describe Natural Gas. The City Municipal Code 118.11 sets the fees for natural gas providers. Therefore, the term Gas is no longer necessary in Municipal Code 113.07.

§ 113.07 GAS AND TELEPHONE GAS AND TELECOMMUNICATION BUSINESSES AND COMPANIES; PROCEDURE.

A. All gas and telecommunications servicesbusinesses and companies ,as defined in City Municipal Code § 120.02, doing business in the City are required to pay the applicable occupation taxes as from time to time specified in the City's master fee ordinance or other City ordinance.

B. The sale of telecommunications services sold on a call-by-call basis shall be sourced to the City of La Vista where the call either originates or terminates and in which the service address is also located.

C. Mobile telecommunications service and ancillary services shall be subject to telecommunications occupation tax by the City of La Vista, Nebraska, whose territorial limits encompass the customer's place of primary use, regardless of where the mobile telecommunications service originates, terminates, or passes through. to the city in an amount equal to four (4) percent of the gross receipts from the legally established basic monthly charges collected for the local exchange of telecommunication services to subscribers within the City, mobile telecommunication services and other similar telecommunication services for revenue in the City. Transmission service occupation tax shall not include accounts charged to the United States government or any of its departments, or the State of Nebraska, or any of its agencies, subdivisions, or departments. The payment of the occupation tax herein levied under § 113.02 of this chapter shall be in semi annual payments using the calendar half year ending June thirtieth and December thirty first each year as a basis for determining and computing the amount of tax payable. Each half year payment shall be due 45 days after the termination of each calendar half year. All payments of tax made after the due date shall draw interest at the rate of 3/4% per month and, after payment has been in default for six months, a penalty of 5% shall be added thereto in addition to the interest charges and shall be paid by the companyor companies subject to the occupation tax. Each succeeding payment may make such adjustment to be shown on the report hereinafter provided for as may be necessary for uncollectibles or any other matters which may have resulted in either an excess or deficiency in the amount of tax paid in any previous period.

a. **Telecommunications service** means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. Telecommunications service includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value-added.

b. **Mobile telecommunications service** means a wireless communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way wireless communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations, whether on an individual, cooperative, or multiple basis for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any personal communication service.

D. Unless otherwise provided by any franchise or written agreement issued or entered by the City, all occupation taxes of gas businesses and companies shall be paid monthly, and all occupation taxes of telecommunications businesses and companies shall be paid monthly (such monthly period referred to herein as "Applicable Period"). Each business or company shall prepare and file with the City Administrator (defined in section 113.25 below) a return of gross receipts and other information for each Applicable Period and at the same time pay to the City the tax imposed pursuant to subsection 113.07(A) above. The return shall be on and in such form and

content and include such supporting data as from time to time may be prescribed by this chapter, ordinance or resolution of the City or the City Administrator, shall be verified and sworn to by an officer responsible for the business or company, and shall be filed with the City Administrator on or before the last day of the month immediately after such Applicable Period ends. Returns and tax payments shall be filed and paid: (1) by hand delivery or by United States mail, properly addressed, postage prepaid and postmarked no later than the last day of the appropriate month; or (2) by electronic filing and payment by Automated Clearing Housing or credit card no later than the last day of such month, and in accordance with such procedures as prescribed by the City Administrator from time to time

All such companies at the same time as they make such half year payments of tax shall file with the City Clerk a full, complete and detailed statement of the gross receipts subject to the occupation tax provided for in § 113.02, and said statement shall be duly verified and sworn to by the Manager in charge of the business of the particular company in the city or by a higher managerial employee of such company, and the city shall have the right at any time to inspect through its officers, agents or representatives the books and records of such company for the purpose of verifying such report or reports. However, in case any company shall refuse, fail or neglect to furnish or file such report or reports at the time required by this chapter or shall fail or refuse to permit the city to inspect the books and records of such company for the purpose of verifying such report or reports, then and in that event, the occupation tax for the preceding half year shall be estimated by the City Council and said amount so estimated shall be paid within 45 days following the end of the half year as required by § 113.02, and said amount shall draw interest and penalties as further provided in this section.

(Ref. NE State Statute 77-2703.04)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 113.07; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

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

Section 1. Amendment of Section 113.07. Section 113.07 of the La Vista Municipal Code is hereby amended to read as follows:

§ 113.07 GAS AND TELECOMMUNICATION BUSINESSES AND COMPANIES; PROCEDURE.

(A) All gas and telecommunications businesses and companies doing business in the City are required to pay the applicable occupation taxes as from time to time specified in the City's master fee ordinance or other City ordinance.

(B) The sale of telecommunications services sold on a call-by-call basis shall be sourced to the City of La Vista where the call either originates or terminates and in which the service address is also located.

(C) Mobile telecommunications service and ancillary services shall be subject to telecommunications occupation tax by the City of La Vista, Nebraska, whose territorial limits encompass the customer's place of primary use, regardless of where the mobile telecommunications service originates, terminates, or passes through.

(1) **Telecommunications service** means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. Telecommunications service includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value-added.

(2) **Mobile telecommunications service** means a wireless communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way wireless communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations, whether on an individual, cooperative, or multiple basis for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any personal communication service.

(D) Unless otherwise provided by any franchise or written agreement issued or entered by the City, all occupation taxes of gas businesses and companies shall be paid monthly, and all occupation taxes of telecommunications businesses and companies shall be paid monthly (such monthly period referred to herein as "Applicable Period"). Each business or company shall prepare and file with the City Administrator (defined in section 113.25 below) a return of gross receipts and other information for each Applicable Period and at the same time pay to the City the tax imposed pursuant to subsection 113.07(A) above. The return shall be on and in such form and content and include such supporting data as from time to time may be prescribed by this chapter, ordinance or resolution of the City or the City Administrator, shall be verified and sworn to by an officer responsible for the business or company, and shall be filed with the City Administrator on or before the last day of the month immediately after such Applicable Period ends. Returns and tax payments shall be filed and paid: (1) by hand delivery or by United States mail, properly addressed, postage prepaid and postmarked no later than the last day of the appropriate month; or (2) by electronic filing and payment by Automated Clearing Housing or credit card no later than the last day of such month, and in accordance with such procedures as prescribed by the City Administrator from

time to time.
(Ref. NE State Statute 77-2703.04)

Section 2. 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 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 3. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication by the City Clerk or any designee of the City Clerk in a legal newspaper in or of general circulation within the City, or in book, pamphlet or electronic form in accordance with applicable law.

PASSED AND APPROVED THIS 20TH DAY OF MAY 2025.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Rachel D. Carl, CMC
City Clerk