

ORDINANCE NO. 3211

AN ORDINANCE OF THE CITY OF NORTH LAS VEGAS AMENDING TITLE 5, CHAPTER 52 OF THE NORTH LAS VEGAS MUNICIPAL CODE RELATING TO UTILITY LICENSE FEES GENERALLY TO AMEND CERTAIN DEFINITIONS AND PROVISIONS RELATED TO TELECOMMUNICATION SERVICE PROVIDERS AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, the City of North Las Vegas Municipal Code (“NLVMC”) Chapter 5.52 concerns utility license fees;

WHEREAS, NLVMC Section 5.52.010 erroneously defines a “Fee” as a charge imposed upon a public city for a business license, a franchise or a right-of-way over streets or other public areas, except any paid pursuant to the provisions of NRS 709.110, 709.230 or 709.270;

WHEREAS, NLVMC Section 5.52.010 defines a “Public utility” to include “[a] telecommunication service, if the business holds a certificate of public convenience and necessity issued by the Public Service Commission of Nevada and derives intrastate revenue from the provision of that service to retail customers”;

WHEREAS, with respect to telecommunication service, NLVMC Section 5.52.010 defines “Revenue”, “total operating revenue” or “gross revenue” as “all revenue received from customers located within the city for all intrastate telecommunications services”;

WHEREAS, NLVMC Section 5.52.030 requires every person engaged in the business of furnishing to the public certain utility services to pay a quarterly license fee and provide certain information to the City;

WHEREAS, the City desires to amend NLVMC Section 5.52.010 to amend the apparent scrivener’s error and amend the term “public city” to “public utility”;

WHEREAS, the City desires to amend NLVMC Section 5.52.030 to clarify that its provisions encompass all telecommunication service providers who hold a certificate of public convenience and necessity issued by the Public Utilities Commission and operate as public utilities, including those that indirectly provide telecommunication services to the public utilizing City rights-of-way in whole or in part and receive intrastate revenue related thereto;

WHEREAS, the City desires to amend NLVMC Section 5.52.010 to revise the definition of “public utility” to include all telecommunication service providers who receive intrastate revenue from the provision of such services to the public within the City;

WHEREAS, the City desires to amend NLVMC Section 5.52.010 to revise the definition of “Revenue”, “total operating revenue” or “gross revenue” to account for all revenues received from the provision of telecommunication services to the public within the City;

WHEREAS, the Nevada “Public Services Commission” is now known as the Nevada “Public Utilities Commission”;

WHEREAS, the City desires to amend NLVMC Section 5.52 to change the use of the term “Public Services Commission” to “Public Utilities Commission” throughout.

NOW THEREFORE, the City Council of the City of North Las Vegas does ordain:

SECTION 1: Title 5, Chapter 52, Section 010, of the NLVMC is hereby amended as follows:

"Fee" means a charge imposed upon a public utility for a business license, a franchise or a right-of-way over streets or other public areas, except any paid pursuant to the provisions of NRS 709.110, 709.230 or 709.270.

"Public utility" means a business that provides:

1. Electric or gas service, whether or not the business is subject to regulation by the Public Utilities Commission of Nevada;
2. A telecommunications service, if the business holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada and derives intrastate revenue from the provision of telecommunication services directly or indirectly to the public, ;
3. A commercial mobile radio service as that term is defined in 47 CFR Section 20.3 on the effective date of the ordinance codified in this chapter, or as may be amended.

"Revenue," "total operating revenue" or "gross revenue" means:

1. In the case of telecommunication service:
 - a. For a provider of telecommunication service considered a “telecommunications carrier” as that term is defined in 47 U.S.C. § 153 on July 16, 1997, which derives intrastate revenue from the provision of telecommunication service to retail customers, all revenue received from customers located within the city for all intrastate telecommunications services; or

- b. For all other providers of telecommunication service, all revenue received from the provision of intrastate telecommunication services within the City.
2. In the case of a public utility that provides commercial mobile radio service, all revenue received from the first fifteen dollars (\$15.00) charged monthly for each line of access for each of its customers located within the city. For purposes of calculating revenue received within the city, the customer's billing address shall be determinative;
3. In the case of natural gas service, all revenue received from customers located within the city for natural gas services. Revenue includes proceeds from the sale of natural gas to retail customers located within the city, but does not include any proceeds from the interstate sale of natural gas to a provider of electric energy which holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada;
4. In the case of electric service, all revenue received from customers located within the city.

SECTION 2: Title 5, Chapter 52, Section 030, Subsection A of the NLVMC is hereby amended as follows:

Every person engaged in the business of furnishing to the public telecommunications service, commercial mobile radio service, gas or electricity, shall pay a quarterly license fee to carry on each of such businesses as follows:

A. Telecommunication Service and Commercial Mobile Radio Service.

1. The fee for a license to engage in a telecommunication or commercial mobile radio service business is payable not later than thirty (30) calendar days after the end of the applicable calendar quarter and shall be four percent of its total revenue commencing May 24, 1997, and five percent of its total revenue commencing May 24, 1999.
2. A license fee not received or postmarked within thirty (30) calendar days after the end of the applicable calendar quarter shall be delinquent and the licensee shall pay, in addition to the license fee, a penalty of one percent of the delinquent amount per month and interest of one percent of the delinquent amount per month.
3. Each telecommunication or commercial mobile radio service provider which derives or intends to derive intrastate revenue from customers located within the city shall, not later than sixty (60) calendar days after the effective date of the ordinance codified in this chapter or thirty (30) calendar days before the company begins to provide intrastate telecommunications or commercial mobile radio service to those customers, whichever occurs later, provide to the city:

- a. An acknowledgment that the company is operating or intends to operate within the city; and
 - b. The date that the company began or intends to begin to derive revenue from customers located within the city.
4. Each business that is subject to this chapter shall, not later than thirty (30) calendar days after the end of each calendar quarter, provide to the city a statement of the amount of revenue the telecommunications or commercial mobile radio service business derived during that calendar quarter from the sale of all intrastate telecommunication or commercial mobile radio services within the city.

SECTION 3: Title 5, Chapter 52, Section 060, Subsection A of the NLVMC is hereby amended as follows:

- A. Except as otherwise stated in this chapter, if any of the public utility companies listed pay a lesser fee than the percentage specified in this chapter, such company, or companies, shall increase its rate by the difference between its contract or franchise rate and the fee specified herein, but not to exceed a combined total of five percent of its gross revenues as defined herein.
- B. This provision shall apply to all public utility companies described in this chapter, or any of them, whether under the permission and regulation of the Public Utilities Commission of Nevada, or otherwise.

SECTION 4: NON-INFRINGEMENT OF RIGHTS. The City Council of the City of North Las Vegas has been informed by the City Attorney as to the constitutionality of this ordinance and based upon such information we are adopting this ordinance in good faith with a reasonable belief that the actions taken by the City of North Las Vegas are not in violation of any rights, privileges, or immunities secured by the laws providing for equal rights of citizens or persons.

SECTION 5: SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall in no way affect the validity and enforceability of the remaining provisions of this Ordinance.

SECTION 6: EFFECTIVE DATE. This Ordinance shall become effective after its passage by the City Council of the City of North Las Vegas, and after such passage by the City Council, publication once by title in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

SECTION 7: PUBLICATION. The City Clerk shall cause this Ordinance, immediately following its adoption, to be published once by title, together with the names of the

Councilmembers voting for or against passage, in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

PASSED AND ADOPTED THIS _____ day of _____, 2024.

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED:

PAMELA A. GOYNES-BROWN,
MAYOR

ATTEST:

JACKIE ROGERS CITY CLERK