

ORDINANCE NO. 13, 2021

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PARK HILLS, KENTUCKY GRANTING AND ISSUING A COMPETITIVE, NON-EXCLUSIVE FRANCHISE FOR A COMBINED TERM OF TEN (10) YEARS AND AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A COMPETITIVE CABLE TELEVISION FRANCHISE AGREEMENT WITH CINCINNATI BELL EXTENDED TERRITORIES LLC, ITS PERMITTED SUCCESSORS OR ASSIGNS, PROVIDING FOR THE CONSTRUCTION, ERECTION, INSTALLATION, UPGRADE, MAINTENANCE, REPAIR AND OPERATION OF A CABLE TELEVISION SYSTEM FOR THE PROVISION OF CABLE TELEVISION SERVICES IN THE CITY OF PARK HILLS, ALL UPON THE TERMS, CONDITIONS AND COVENANTS CONTAINED IN THE FRANCHISE AGREEMENT.

WHEREAS, the Telecommunications Board of Northern Kentucky (the “**Board**” or “**TBNK**”) is a public agency established by the Kenton County, Kentucky Fiscal Court and the Cities of Bromley, Covington, Crestview Hills, Edgewood, Elsmere, Fort Mitchell, Fort Wright, Independence, Kenton Vale, Lakeside Park, Ludlow, Park Hills, Ryland Heights, Taylor Mill and Villa Hills (collectively, the “**TBNK Member Government(s)**”) in accordance with the provisions of the Interlocal Cooperation Act of Kentucky (KRS 65.210 - 65.300), and is authorized to exercise jointly the powers of the respective TBNK Member Governments relating to cable television matters, cable services and other telecommunication services, including the negotiation, administration and regulation of cable television franchises, as provided in the formative documents of TBNK (the “**Interlocal Agreement**”); and,

WHEREAS, Cincinnati Bell Extended Territories LLC, a wholly-owned subsidiary of Cincinnati Bell Inc. (“**CBET**”) and the present holder of several nonexclusive, competitive Franchise Agreements, each dated as of January 1, 2009 (the “**Prior Franchise(s)**”), providing for cable television services throughout the geographical confines of each of the TBNK Member Governments (collectively, the “**Franchise Area(s)**”), asked each TBNK Member Government, including the City, through the auspices of TBNK, to renew or otherwise replace the Prior Franchises with another franchise providing for the continued ownership, construction, erection, installation, upgrade, maintenance, repair, use and operation of a cable television system and related facilities along, under, over, above, through or across the streets and rights-of-way within the Franchise Areas; and,

WHEREAS, in connection with the powers and administrative responsibilities set forth in the Interlocal Agreement, the Board has reviewed for and on behalf of the TBNK Member Governments, including the City, CBET’s performance under the Prior Franchises and has further: (1) identified the present and future cable-related community needs and interests of the TBNK Member Governments and their respective citizens; (2) determined that the foregoing meet the requirements of Section 626 of the Cable Act (47 U.S.C. § 546); (3) resolved that CBET substantially complied with the material terms and conditions of the Prior Franchises under applicable law; (4) considered and determined that CBET has the financial, technical and legal

qualifications to own and operate its cable system and to provide cable services over the cable system; and (5) determined that CBET's plans for owning, constructing, operating and maintaining its cable system are adequate; and,

WHEREAS, the Board, acting for and on behalf of the TBNK Member Governments, has further determined that the cable television franchise proposal offered by CBET (often referred to as the Bell Alternative Franchise Agreement or CBET Counterproposal), as modified by: (1) extensive negotiations conducted by the "**Franchise Negotiations Committee**," a committee comprised of three (3) Board members, the Executive Director of TBNK, and the law firm of Frost Brown Todd LLC; and (2) certain directions and instructions received from the Mission Group or Ad Hoc Committee that is/was comprised of several government officials of certain TBNK Member Governments; meets the future cable-related community needs and interests of the TBNK Member Governments and their respective citizens, and materially conforms to the aforesaid directions and instructions received from the Mission Group/Ad Hoc Committee (the "**Proposed Franchise Agreement**"); and,

WHEREAS, acting in accordance with Sections 163 and 164 of the Kentucky Constitution for and on behalf of each TBNK Member Government, the Board placed in the local newspaper an advertisement seeking bid proposals and the submission of an application from the public at large for the (1) construction, operation, maintenance and repair of a Cable System in, on, over and through the streets and rights-of-way of each of the TBNK Member Governments and (2) provision of cable television services; and,

WHEREAS, in response to such advertisement, the Board received prior to 2:00 PM on August 17, 2021 (the time and date by which all bid proposals and applications were to be received), a single bid proposal and application from CBET (the "**CBET Bid Proposal**") and no other person or entity, together with a form of a franchise agreement dated as of June 1, 2021, which franchise agreement and CBET Bid Proposal had been submitted to the Franchise Negotiations Committee and the members of the Board for consideration (the "**CBET Franchise Agreement**"); and,

WHEREAS, after (1) having considered the CBET Bid Proposal, including the accompanying CBET Franchise Agreement, and (2) having made a comparison and evaluation of the aforesaid documents vis-à-vis the Proposed Franchise Agreement, the Board (1) determined that the CBET Bid Proposal and the terms, conditions and covenants of the CBET Franchise Agreement submitted by CBET are identical to the terms, conditions and covenants contained in the Proposed Franchise Agreement in all material respects, and (2) is recommending that the Proposed Franchise Agreement, a copy of which is attached hereto as **Attachment A** and made a part of this Ordinance, and incorporated by reference, be adopted by Ordinance and be granted and issued to CBET by each of the TBNK Member Governments, including the City; and,

WHEREAS, having afforded the public adequate notice and an opportunity for comment pursuant to 47 USC § 546, and based upon the foregoing recitals and the City's acceptance of such recitals, the City desires to: (1) accept the CBET Bid Proposal, including the CBET Franchise Agreement, the terms and conditions of which are identical to those contained in the Proposed Franchise Agreement; and (2) grant and issue a nonexclusive, competitive franchise to CBET, for a

combined Term of ten (10) years, providing for the continued ownership, construction, installation, upgrade, operation, and maintenance of its cable system throughout the respective Franchise Area of the City, pursuant to and upon the terms, conditions and covenants set forth in the Proposed Franchise Agreement, a copy of which is attached hereto as **Attachment A** and made a part of this Ordinance and incorporated by reference, as such Agreement may be further modified or changed as described below in Section V of this Ordinance. *Except as otherwise defined in this Ordinance, the terms defined in the Proposed Franchise Agreement are used in this Ordinance as defined in the Proposed Franchise Agreement.*

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARK HILLS, KENTUCKY, as follows:

SECTION I

Based upon the foregoing recitals and acting in accordance with the Cable Act and Applicable Law, and subject to the terms, conditions and covenants set forth in the Proposed Franchise Agreement, CBET is hereby granted for itself and its permitted successors and assigns, a franchise, in complete form and substance of the Proposed Franchise Agreement, and with the following rights and privileges set forth herein and therein:

(1) to own, construct, erect, install, upgrade, maintain, repair, replace, and operate a Cable System and to provide Cable Services within the geographical limits or Franchise Area of the City;

(2) to locate the Cable System in, upon, along, across, over and under the Streets of the City, as provided in the Proposed Franchise Agreement;

(3) to locate the Cable System on city-owned poles, but subject to (a) the terms and conditions set forth in Article II (Cable System Extension, Operation, Standards and Procedures) and such other provisions of the Proposed Franchise Agreement and (b) any presently existing or future ordinance or regulation of the City; and,

(4) as specifically provided in Article II, Section 5.E (Erection, Removal, and Common Use of Poles) of the Proposed Franchise Agreement, CBET, through a separate pole attachment agreement or utility easement agreement with an affected utility, may locate the Cable System on or within the facilities or property of such utility company.

The franchise and privileges granted in this Ordinance and the Proposed Franchise Agreement authorize CBET to provide Cable Service.

SECTION II

The Franchise granted in this Ordinance is not exclusive. The City expressly reserves the right to grant to other Persons such rights, privileges, or authorizations that are similar to the rights and privileges herein set forth and in the Proposed Franchise Agreement, in the same or other Streets or rights-of-way of the City. The City specifically reserves the right to grant at any time during the Term of the Proposed Franchise Agreement such additional franchises or licenses for a cable television system or broadband network as it deems appropriate.

SECTION III

The Term of the Franchise granted in this Ordinance shall be for an initial period of five (5) years, with an automatic renewal period of an additional five (5) year period, but subject to and conditioned upon the terms, requirements and/or qualifications contained in Article I, Section 6 (Duration and Acceptance of Franchise) of the Proposed Franchise Agreement. Subject to Section V of this Ordinance, the Term shall commence: (1) upon the date the last TBNK Member Government adopts an ordinance granting a franchise to CBET upon substantially the same terms, conditions and covenants as are contained in the Proposed Franchise Agreement, and (2) when such franchise agreements are fully executed by the parties thereto. The Effective Date of the Proposed Franchise Agreement shall be evidenced by the Commencement Agreement called for in Article I, Section 6 of the Proposed Franchise Agreement (Duration and Acceptance of Franchise).

SECTION IV

To the extent that there is any resolution or ordinance respecting Cable Systems which, in part or in whole, is directly inconsistent with this Ordinance and which is otherwise applicable to CBET, such part or such whole of the prior resolution or ordinance shall be repealed to the extent of the inconsistency; subject, however, to police and legislative powers reserved by the City below.

All rights and privileges granted in this Ordinance and the Proposed Franchise Agreement are and shall be, at all times during the aforesaid Term, subject to all lawful exercise of the police and legislative powers of the City. CBET shall comply with all Applicable Law and such other ordinances and regulations which the City has adopted or shall adopt, applying to the public generally and to other licensees, grantees, or franchisees.

SECTION V

That the Mayor is hereby authorized and directed to execute the Proposed Franchise Agreement (the Competitive Cable Television Franchise Agreement attached hereto as Attachment A, made a part hereof and incorporated by reference), for and on behalf of the City, and to comply with all of the provisions thereof; provided, however, that prior to the execution of the Proposed Franchise Agreement, the Board, acting through its negotiation team and legal counsel, is hereby authorized to negotiate with CBET and to make such changes to the Proposed Franchise Agreement as the Board may deem necessary or appropriate, so long as such changes do not affect the overall substance of this Ordinance and the Proposed Franchise Agreement.

SECTION VI

The provisions of this Ordinance are severable; and the invalidity of any provision of this Ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect, so long as they remain valid in the absence of those provisions determined to be invalid.

SECTION VII

Subject to Section III and V, this Ordinance shall be signed by the Mayor, attested to by the City Clerk, published and shall take effect and be in full force upon publication.

Passed: 1st Reading: September 11, 2021

Passed 2nd Reading: _____, 2021

KATHY ZEMBRODT
Mayor

ATTEST:

JULIE ALIG, City Clerk

PUBLICATION:

ATTACHMENT A

[See Attached Proposed Franchise Agreement]
Being the Competitive Cable Television Franchise Agreement
by and between the City of Park Hills, Kentucky and Cincinnati Bell Extended
Territories, LLC (no longer "Proposed" with the passage hereof)

ORDINANCE NO. 14, 2021

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PARK HILLS,
KENTUCKY CREATING WITHIN CHAPTER 71: TRAFFIC RULES, OF THE CODE OF
ORDINANCES, SECTION 71.12, REGARDING SIGNAGE POSTING AUTHORITY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CTY OF PARK HILLS,
KENTUCKY, AS FOLLOWS:

SECTION I

That there is hereby created within Chapter 71: Traffic Rules, of the Code of
Ordinances, Section 71.12, to read as follows:

CHAPTER 71: TRAFFIC RULES

SECTION 71.12 SIGNAGE POSTING AUTHORITY

(1) Upon making a reasonable determination, the Mayor, with the approval of
Council, is authorized to direct the Director of Public Works to place speed limit, stop
signs and other appropriate traffic control signage upon any City street where deemed
necessary for vehicular traffic control and to insure public safety without the necessity of
enacting individual Ordinances or necessary inclusion in any Traffic Schedule to assert
validity.

(2) The provisions of Section 71.03, Speed Restrictions, and Chapter 74, Traffic
Schedules, Schedule I, Intersections, of the Code of Ordinances, already in place, shall
not be effected hereby.

SECTION II

That this Ordinance shall be signed by the Mayor, attested to by the City Clerk,
published and be effective upon publication.

PASSED: First Reading:

PASSED: Second Reading:

KATHY ZEMBRODT, MAYOR

ATTEST:

JULIE ALIG, CITY CLERK

ORDINANCE NO. 15, 2021

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PARK HILLS,
KENTUCKY AMENDING SECTION 71.11 OF THE CODE OF ORDINANCES
CONCERNING STOP STREETS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARK HILLS,
KENTUCKY, AS FOLLOWS:

SECTION I

That Section 77.11 of the Code of Ordinances shall be and is hereby amended to
read, as follows:

SECTION 71.11 STOP STREETS.

No person shall cause, permit, encourage, assist or engage in the operation of a
motor vehicle in the City without first coming to a complete stop immediately prior to the
intersection on the any streets set out in Chapter 74, Schedule I or at which a stop sign
has been posted.

SECTION II

That this Ordinance shall be signed by the Mayor, attested to by the City Clerk,
published and be effective upon publication.

PASSED: First Reading:

PASSED: Second Reading

KATHY ZEMBRODT, MAYOR

ATTEST:

JULIE ALIG, CITY CLERK

ORDINANCE NO. 16, 2021

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PARK HILLS, KENTUCKY AMENDING SECTIONS 110.01 AND 110.04(B) OF THE CODE OF ORDINANCES AMENDING THE DEFINITION OF CITY AND THE OCCUPATIONAL LICENSE FEE RATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARK HILLS, KENTUCKY, as follows:

SECTION I

That Section 110.01 of the Code of Ordinances shall be and is hereby amended to read as follows:

OCCUPATIONAL AND PAYROLL LICNESES, REGULATIONS, TAXES AND FEES

SECTION 111.01 DEFINITIONS.

CITY. The City of Park Hills, Kentucky, a municipal corporation and city of the ~~fourth~~ home rule class, whose offices are presently located at 1106 Amsterdam Road, Park Hills Kentucky 41011.

SECTION II

That Section 111.04(B) of the Code of Ordinances shall be and is hereby amended to read as follows:

SECTION 111.04 BUSINESS AND PAYROLL TAXATION; LICENSE FEE.

(B) *Occupational license fee rate.* Commencing January 1, 2022 and thereafter, the occupational license fee levied and imposed hereby is at the rate of

:

- (1) Employees: ~~0.0035%~~ 0.00125% of all compensation earned by an employee for labor, work or services provided in the city; or
- (2) Non-employees: ~~0.035%~~ 0.00125% of the taxable gross receipts of everybody, other than employees, who is engaged in any franchise, trade, occupation, profession, or other business in the city with a minimum of \$25 per calendar year and with no a maximum of ~~\$1,000~~ per calendar year.

SECTION III

That any Ordinance of part thereof in conflict herewith shall be considered as repealed and replaced hereby only with respect to said conflict.

SECTION IV

That this Ordinance shall be signed by the Mayor, attested to by the City Clerk, recorded, and be effective upon publication.

PASSED FIRST READING: November 8, 2021

PASSED SECOND READING: December ____, 2021

KATHY ZEMBRODT, MAYOR

ATTEST:

JULIE ALIG, CITY CLERK

PUBLICATION:

CITY OF PARK HILLS

MUNICIPAL ORDER NO. 13, 2021

**A CITY OF PARK HILLS MUNICIPAL ORDER
CONFIRMING THE MAYOR'S RE-APPOINTMENT OF
THE CLUSTER REPRESENTATIVE TO THE
TELECOMMUNICATIONS BOARD OF NORTHERN KENTUCKY**

WHEREAS the term for a cluster representative from the City of Park Hills to the Telecommunications Board of Northern Kentucky (TBNK); will expire on December 31, 2021; and

WHEREAS, That the Mayor of the City of Park Hills, Kentucky has re-appointed Richard Lange as the cluster representative to the TBNK; and

WHEREAS, That the City Council of the City of Park Hills, Kentucky desires to approve the Mayor's re-appointment of Richard Lange as the cluster representative to the TBNK.

NOW, THEREFORE, IT IS HEREBY ORDERED that the re-appointment by the Mayor of Park Hills, Kentucky of Richard Lange as the Park Hills' cluster representative to the TBNK for a term beginning January 1, 2022, and ending December 31, 2022, be, and it is, APPROVED.

DATED this 8th day of November 2021

KATHY ZEMBRODT, MAYOR

ATTEST:

CITY CLERK