

# Public Notices

## Eagle Communication franchise ordinance

**PUBLIC NOTICE**  
(Published in The Oberlin Herald, Wednesday, October 12, 2011) 11  
**ORDINANCE NO. 844**  
An Ordinance of the City of Oberlin Granting a Franchise to Eagle Communications for the Construction and Operation of a Communications System

The City of Oberlin, having determined that Eagle Communications was granted the rights by the state of Kansas to provide telecommunication services in the city of Oberlin, KS, does hereby ordain as follows:

**SECTION 1**  
Definition of Terms

1.1 Terms. For the purpose of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

1. "1984 Cable Act" means the Cable Communications Policy Act of 1984, as amended.  
g. "1992 Cable Act" means the Cable Television Consumer Protection and Competition Act of 1992, as amended.  
h. "Affiliate" means an entity which owns or controls, is owned or controlled by, or is under common ownership with Grantee.  
i. "Basic Cable" is the tier of service regularly provided to all subscribers that includes the retransmission of local broadcast television signals.  
j. "Non-Basic Cable" means those cable services offered by Franchisee in addition to or supplemental to Basic Cable, and shall include any and all second tier or premium services sold or extended by Franchisee to subscribers.  
k. "Communications Service" means the transmission of video programming or other programming service or any other lawful communication service to subscribers.

k. "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide Communications Service and other service to subscribers.

l. "FCC" means Federal Communications Commission, or successor governmental entity thereto.

m. "Franchise" shall mean the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the Cable System for the purpose of offering Communications Service or other service to subscribers.

n. "Franchising Authority" means the City of Oberlin or the lawful successor, transferee, or assignee thereof.

o. "Grantee" means Eagle Communications, Inc., or the lawful successor, transferee, or assignee thereof.

1. "Gross Revenues" mean the monthly Basic Cable Service revenues received by Grantee from Subscribers of the Cable System; provided, however, that such phrase shall not include: (i) revenues received from any advertising carried on the Cable System; (ii) any taxes on Communications Service which are imposed directly or indirectly on any Subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency; (iii) revenues derived from services sold on a per channel or per view basis; or (iv) any revenues derived from installation charges.

n. "Person" means an individual, partnership, association, joint stock company, trust corporation, or governmental entity.

o. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing or transmitting Communications Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

r. "Service Area" means the present municipal boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.

s. "Service Tier" means a category of Communications Service or other services, provided by Grantee and for which a separate charge is made by Grantee.

t. "Subscriber" means a person or user of the Cable System who lawfully receives Communications Services or other service therefrom with Grantee's express permission.

u. "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

**SECTION 2**  
Grant of Franchise

2.1 Grant. The City hereby grants to Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Cable System and offer Communications Service and other services in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such as poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System.

2.2 Term. The Franchise granted pursuant to this Ordinance shall be for an initial term of five (5) years from the effective date of the Franchise as set forth in Section 2.3, unless otherwise lawfully terminated in accordance with the terms of this Ordinance.

2.3 Acceptance/Effective Date. Grantee shall accept the Franchise granted pursuant hereto by signing this ordinance and filing same with the City Clerk or other appropriate official or agency of the Franchising Authority within sixty (60) days after the passage and final adoption of this Ordinance. Subject to the acceptance by Grantee, the effective date of this Ordinance shall be the sixtieth day after its passage and final adoption.

2.4 Favored Nations. In the event the Franchising Authority enters into a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than Grantee to enter into the Franchising Authority's streets and public ways for the purpose of constructing or operating a communications system or providing

communications service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

**SECTION 3**  
Standards of Service

3.1 Conditions of Street Occupancy. All transmission and distribution structures, poles, other lines, and equipment installed or erected by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said Public Ways.

3.2 Restoration of Public Ways. If during the course of Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by Grantee, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

3.3 Relocation at Request of Franchising Authority. Upon its receipt of reasonable advance notice, not to be less than five (5) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of the Grantee when lawfully required by Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the Franchising Authority; but, the Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right of way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the Grantee.

3.4 Relocation at Request of Third Party. The Grantee shall, on the request of any person holding a building moving permit issued by the Franchising Authority, temporarily raise or lower its wires to permit the moving of such building, provided: (a) the expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such payment in advance; and (b) the Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary wire changes.

3.5 Trimming of Trees and Shrubs. The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment. Grantee shall be permitted to charge persons who own, or are responsible for, such trees or natural growth for the cost of such trimming, provided that similar charges are assessed by and paid to the utilities of the Franchising Authority for tree trimming. The Grantee shall reasonably compensate the Franchising Authority or property owner for any damages caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the System undertaken by Grantee. Such replacement shall satisfy any and all obligations Grantee may have to the Franchising Authority or property owner pursuant to the terms of this Section.

3.6 Safety Requirements. Construction, installation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations. The Cable System shall not unreasonably endanger or interfere with the safety of persons or property in the Service Area.

3.7 Aerial and Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the public utilities are underground, the Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In those areas of the Service Area where the transmission or distribution facilities of the public utilities are both aerial and underground, Grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities or any part thereof, aerially or underground. Nothing contained in this Section 3.7 shall require Grantee to construct, operate, and maintain underground any ground-mounted appearances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this Section 3.7, in the event that all of the transmission or distribution facilities of the public utilities are placed underground after the effective date of this Ordinance, Grantee shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

3.8 Required Extension of Service. The Cable System, as constructed as of the date of the passage and final adoption of this Ordinance, substantially complies with the material provisions hereof. Grantee is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever Grantee shall receive a request for service from at least fifteen (15) Subscribers within 1320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for system extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the Cable System, or as provided for under Section 3.9 of this Ordinance.

3.9 Subscriber Charges for Extensions of Service. No Subscriber shall be refused service arbitrarily, however, for unusual circumstances, such as a Subscriber's request to locate his cable drop underground, existence of more than one hundred fifty (150) feet of distance from distribution cable to connection of service to Subscribers, or a density of less than fifteen (15) Subscribers per 1320 cable-bearing strand feet of trunk or distribution cable. Communications Service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by Grantee and Subscribers in the area in which Communications Service may be expanded, Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of potential Subscribers per 1320 cable-bearing strand feet of its trunks or distribution cable, and whose denominator equals fifteen (15) Subscribers. Potential Subscribers will bear the remainder of the construction and other costs on a pro rata basis. Grantee may require that the payment of the capital contribution in aid of construction borne by such potential

Subscribers be paid in advance.

3.10 Service to Public Buildings. The Grantee shall provide without charge one (1) outlet of Basic Service to the Franchising Authority's office building and public school building(s) that are passed by its Cable System. The outlets of Basic Service shall not be used to distribute or sell Communications Services in or throughout such buildings; nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold Grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this Section 3.10, the Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said buildings or premises exceeds one hundred fifty (150) cable feet, unless it is technically feasible and so long as it will not adversely affect the operation, financial condition, or market development of the Cable System to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of 150 cable feet. In the event that additional outlets of Basic Service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials. Upon request of Grantee, the building owner may also be required to pay the service fees associated with the provision of Basic Service and the additional outlets relating thereto.

**SECTION 4**  
Regulation by Franchising Authority

4.1 Franchise Fee.

(A) Grantee shall pay to the Franchising Authority a franchise fee equal to three percent (3%) of the receipts on basic cable and on non-basic cable received by Grantee from the operation of the Communications System on an annual basis; provided, however, that Grantee may credit against any such payments: (i) any tax, fee, or assessment of any kind imposed by Franchising Authority or other governmental entity on a communications provider, or subscriber, or both, solely because of their status as such; (ii) any tax, fee or assessment of general applicability which is unduly discriminatory against communications providers or subscribers (including any such tax, fee, or assessment imposed, both on utilities and communications providers and their services); and (iii) any other special tax, assessment, or fee such as a business, occupation, and entertainment tax. For the purpose of this section, the 12-month period applicable under the Franchise for the computation of the franchise fee shall be a calendar year, unless otherwise agreed to in writing by the Franchising Authority and Grantee. The franchise fee payment shall be due and payable for the preceding six (6) month period ending on the 31st day of December and the 30th day of June, respectively. Each payment shall be accompanied by a letter from Grantee showing the basis for the computation.

(B) Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be five (5) years from the date on which payment by the Grantee is due. Unless within five (5) years from and after said payment due date the Franchising Authority initiates a lawsuit for recovery of such franchise fees in a court of competent jurisdiction, such recovery shall be barred and the Franchising Authority shall be estopped from asserting any claims whatsoever against the Grantee relating to any such alleged deficiencies.

4.2 Rates and Charges. The Franchising Authority may not regulate the rates for the provision of Communications Service and other services, including, but not limited to, ancillary charges relating thereto, except as expressly provided herein and except as authorized pursuant to federal and state law including, but not limited to, the 1984 Cable Act, the 1992 Cable Act, the Telecommunications Act of 1996, and FCC Rules and Regulations relating thereto. From time to time, and at any time, Grantee has the right to modify its rates and charges, at its discretion and without consent of the Franchising Authority, including, but not limited to, the implementation of additional charges and rates; provided, however, that Grantee shall give notice to the Franchising Authority of any such modifications or additional charges thirty (30) days prior to the effective date thereof.

4.3 Renewal of Franchise. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the 1984 Cable Act (as such existed as of the effective date of the 1984 Cable Act), unless the procedures and substantive provisions set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

In addition to the procedures set forth in said Section 626(a), the Franchising Authority agrees to notify Grantee of its preliminary assessments regarding the identity of future cable-related community needs and interests, as well as, the past performance of Grantee under the then current Franchise term. The Franchising Authority further agrees that such a preliminary assessment shall be provided to the Grantee prior to the time that the four (4) month period referred to in Subsection c of Section 626 is considered to begin. Notwithstanding anything to the contrary set forth in this Section 4.3, the Grantee and Franchising Authority agree that at any time during the term of the current Franchise, while affording the public appropriate notice and opportunity to comment, the Franchising Authority and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof. The Grantee and the Franchising Authority consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the 1984 Cable Act.

4.4 Performance Review. Within six (6) months prior to the expiration of the term hereof the Franchising Authority may initiate a review of the performance of Grantee under this agreement. If after this review, the performance of Grantee is determined to be unsatisfactory, the Franchise Authority shall notify Grantee in writing of the specific areas of inadequate performance and shall give Grantee no less than one hundred twenty (120) days to correct the specific performance. If Grantee refuses to make the requested improvements, this Franchise may be terminated in accordance with Section 7 hereof.

4.5 Conditions of Sale. Except to the extent expressly required by federal or state law, if a renewal or extension of Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the Cable System valued as a going concern.

Grantee and Franchising Authority agree that in the case of a lawful revocation of the franchise, at Grantee's request, which shall be made in its sole discretion, Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. The Franchising Authority further agrees that during such a period of time, it shall authorize the Grantee to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If at the end of that time, Grantee is unsuccessful in procuring qualified transferee or assignee of its Cable System which is reasonably acceptable to the Franchising Authority, Grantee and Franchising Authority may avail themselves of

any rights they may have pursuant to federal or state law; it being further agreed that Grantee's continued operation of its Cable System during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee. Notwithstanding anything to the contrary set forth in Section 4.4, neither Franchising Authority nor Grantee shall be required to violate federal or state law.

4.6 Transfer of Franchise. Grantee's right, title or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an Affiliate, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. Grantee shall give the Franchising Authority at least a 30 day notice of any such proposed assignment, sale or transfer. If Grantee does not receive written notice of the Franchising Authority's objection to such assignment within thirty (30) days of receipt of notice of said proposed assignment, sale or transfer, the Franchising Authority's consent shall be deemed to have been given. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Grantee in the Franchise or Cable System in order to secure indebtedness.

**SECTION 5**  
Compliance and Monitoring

5.1 Books and Records. The Grantee agrees that the Franchising Authority may review such of its books and records, during normal business hours and on a non-disruptive basis, as is reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee to it as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof.

**SECTION 6**  
Insurance, Indemnification, and Bonds or Other Surety

6.1 Insurance Requirements. Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Comprehensive General Liability Insurance in the amount of \$1,000,000 combined single limit for bodily injury, and property damage. Said insurance shall designate the Franchising Authority as an additional insured.

6.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System, including, but not limited to, reasonable attorneys' fees and costs.

6.3 Bonds and Other Surety. Except as expressly provided herein, Grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the Franchise or continuing its existence. The Franchising Authority acknowledges that the legal, financial, and technical qualifications of Grantee are sufficient to afford compliance with the terms of the Franchise and the enforcement thereof. Grantee and Franchising Authority recognize that the costs associated with bonds and other surety may ultimately be borne by the Subscribers in the form of increased rates for Communications Services. In order to minimize such costs, the Franchising Authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefor. The Franchising Authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than \$10,000, conditioned upon the substantial performance of the material terms, covenants, and conditions of the Franchise. Initially, no bond or other surety will be required. In the event that one is required in the future, the Franchising Authority agrees to give Grantee at least sixty (60) days prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in the Grantee's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the Franchise or afford compliance therewith.

**SECTION 7**  
Enforcement and Termination of Franchise

7.1 Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, it shall notify Grantee in writing of the exact nature of the alleged noncompliance.

7.2 Grantee's Right to Cure or Respond. Grantee shall have thirty (30) days from receipt of the notice described in Section 7.1: (a) to respond to the Franchising Authority contesting the assertion of noncompliance, or (b) to cure such default, or (c) in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

7.3 Public Hearing. In the event that Grantee fails to respond to the notice described in Section 7.1 pursuant to the procedures set forth in Section 7.2, or in the event that the alleged default is not remedied within sixty (60) days after the Grantee is notified of the alleged default pursuant to Section 7.1, the Franchising Authority shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of the Franchising Authority which is scheduled at a time which is no less than five (5) business days therefrom. The Franchising Authority shall notify the Grantee of the time and place of such meeting and provide the Grantee with an opportunity to be heard.

7.4 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after such meeting, determines that Grantee is in default of any provision of the Franchise, the Franchising Authority may:

(a) Foreclose on all or any part of any security provided under this Franchise, if any, including without limitation, any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the Franchising Authority reasonably determines is necessary to remedy the default;

(b) Commence an action at law for monetary damages or seek other equitable relief;

(c) In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or

(d) Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

The Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the Franchising Authority to enforce prompt compliance.

7.5 Acts of God. The Grantee shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

**SECTION 8**

Unauthorized Reception

8.1 Misdemeanor. In addition to those criminal and civil remedies provided by state and federal law, it shall be a misdemeanor for any person, firm or corporation to create or make use of any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the Cable System without the express consent of the Grantee. Further, without the express consent of Grantee, it shall be a misdemeanor for any person to tamper with, remove, or injure any property, equipment, or part of the Cable System or any means of receiving Communications Service or other services provided thereto. Subject to applicable federal and state law, the Franchising Authority shall incorporate into its criminal code, if not presently a part thereof, criminal misdemeanor law which will enforce the intent of this Section 8.1.

**SECTION 9**  
Miscellaneous Provisions

9.1 Documents Incorporated and Made a Part Hereof. The following documents shall be incorporated herein by this reference, and in the case of a conflict or ambiguity between or among them, the document of latest date shall govern:

(a) Any enabling ordinance in existence as of the date hereof; and

(b) Any franchise agreement between Grantee and Franchising Authority reflecting the renewal of the Franchise, if any.

9.2 Preemption. If the FCC, or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the Franchise, then to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by the Franchising Authority, the jurisdiction of the Franchising Authority shall cease and no longer exist.

9.3 Actions of Franchising Authority. In any action by the Franchising Authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

9.4 Notice. Unless expressly otherwise agreed between the parties, every notice or response to be served upon the

Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service.

The notice or responses to the Franchising Authority shall be addressed as follows:  
City of Oberlin  
#1 Morgan Drive  
Oberlin, Kansas 67749

The notices or responses to the Grantee shall be addressed as follows:  
Eagle Communications, Inc.  
2703 Hall Street, Suite 15  
Hays, Kansas 67601

Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other.

9.5 Descriptive Headings. The captions to Sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

9.6 Severability. If any Section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise, or any renewal or renewals thereof.

Passed and adopted this 6th day of October 2011, subject to applicable federal, state and local law.

City of Oberlin

By  
Karen Larson, City Clerk  
Bill Riedel, Title: Mayor

Accepted this 6th day of October, 2011, subject to applicable federal, state and local law.

Eagle Communications Inc.  
By: Travis Kohlrus  
Title: Director of Community Relations

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Managing Editor (Name and complete mailing address) KIMBERLY DAVIS 178 S PENN OBERLIN KS 67749			
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Full Name		Complete Mailing Address	
FIRST NATIONAL BANK		PO BOX 576 GOODLAND KS 67735	
12. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one) The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes: <input type="checkbox"/> Has Not Changed During Preceding 12 Months <input checked="" type="checkbox"/> Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)			
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(1)		830	830
c. Mailed In-County Paid Subscriptions Stated on PS Form 3541 (includes paid distribution above nominal rate, advertiser's proof copies, and exchange copies)			
(2)		438	443
d. Paid Distribution Outside the Mails Including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS®			
(3)		389	486
e. Paid Distribution by Other Classes of Mail Through the USPS (e.g. First-Class Mail®)			
(4)		0	0
f. Total Paid Distribution (Sum of 15b (1), (2), (3), and (4))			
		1657	1679
g. Free or Nominal Rate Outside-County Copies included on PS Form 3541			
(1)		25	25
h. Free or Nominal Rate In-County Copies included on PS Form 3541			
(2)		6	6
i. Free or Nominal Rate Copies Mailed to Other Classes Through the USPS (e.g. First-Class Mail®)			
(3)		0	0
j. Free or Nominal Rate Distribution Outside the Mail (Carriers or other means)			
(4)		0	0
k. Total Free or Nominal Rate Distribution (Sum of 15d (1), (2), (3), and (4))			
		31	31