

**ORDINANCE #65434**  
**Board Bill No. 80**

An ordinance relating to broadband Internet access.

**BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

**SECTION ONE. Definitions**

For the purposes of this ordinance, the following terms, phrases, and words shall have the meaning given herein, unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- A. “Broadband” means having the capability of supporting, in both directions, a speed in excess of 200 kilobits per second in the last mile.
- B. “Broadband Internet user” means any residential customer who lawfully obtains broadband Internet access through facilities in the City’s public rights-of-way, or any non-residential customer who lawfully obtains a type of broadband Internet access that is generally offered by the Internet access operator to residential customers.
- C. “Content” means any information, including without limitation HTML information, audio, video, and other data.
- D. “Internet access operator” means any entity owning facilities in the City’s public rights-of-way whose facilities are used by any Person to provide broadband Internet access to Persons in the City.
- E. “Person” means any individual, firm, corporation, association, or other legally recognized entity.

**SECTION TWO. Access to content generally**

No Internet access operator shall impair, limit, or condition any broadband Internet user’s ability to lawfully access any and all lawful content generally available to the public on the Internet.

**SECTION THREE. Access to specific types of content**

- A. No Internet access operator shall impair, limit, or condition any broadband Internet user’s ability to lawfully access streaming video or audio.
- B. Internet access operators shall permit broadband Internet users to access the public Internet without being required to view proprietary content provided by the Internet access operator, or any affiliate.
- C. No Internet access operator shall require a broadband Internet user to use any particular first screen or category of first screen upon accessing the Internet. Rather, an Internet access operator shall allow a broadband Internet user to select any first screen of the user’s choice, including a first screen of any Internet Service Provider.
- D. Internet access operators shall comply with all applicable law and regulation regarding accessibility to users with disabilities. Except as otherwise provided under applicable law or regulation, Internet access operators shall not adopt a policy of prohibiting the use of specialized end-user interfaces (such as interfaces designed for use by the disabled) by broadband Internet users, and shall take reasonable steps to ensure that their systems as designed and installed do not impede any use of such interfaces that are readily available as of the time of such design and installation.
- E. Notwithstanding the foregoing subsections of this Section Three, the following shall not constitute violations of this Section Three:
  - 1. Reasonable technical restrictions on the bandwidth or data transmission rate available to any broadband Internet user needed to preserve service quality and speed of broadband Internet access.

2. Offering of different Internet access products to any and all broadband Internet users at different prices in different packages or with different capabilities.
3. Requirement that broadband Internet users pay their bills to the Internet access operator as a condition of continued service.
4. Otherwise lawful arrangements between the Internet access operator and Internet service providers.

**SECTION FOUR. Support for Internet protocols**

An Internet access operator shall maintain currency with generally accepted standards for interoperability with Internet protocol applications.

**SECTION FIVE. Nondiscriminatory offering of Internet services**

Once residential broadband Internet services are offered by an Internet access operator in the City, such services shall be made available to residences generally on a nondiscriminatory basis throughout the City, without regard to race, gender, religion or economic status; provided, however, that an Internet access operator may initially offer such service over a limited area as part of a gradual or phased construction or upgrade, so long as such initial offering is implemented on a non-discriminatory basis without regard to race, gender, religion or economic status.

**SECTION SIX. Compliance with applicable law**

In addition to the obligations otherwise set forth in this ordinance, an Internet access operator shall comply with all lawful federal and state requirements with respect to access to the Internet access operator's facilities for Internet service providers.

**SECTION SEVEN. Rules of construction**

- A. No provision of this ordinance shall be construed or applied so as to prohibit, condition or restrict the use by any cable operator of any type of subscriber equipment or any transmission technology as those terms are used in 47 U.S.C. § 544(e).
- B. No provision of this ordinance shall be construed or applied so as to regulate the content provided to any broadband Internet user.
- C. No provision of this ordinance shall be construed or applied so as to require any Internet access operator to dedicate any specific bandwidth to Internet access for the purpose of complying with this ordinance.
- D. No provision of this ordinance shall be construed or applied so as to authorize rate-of-return regulation or the regulation of an Internet access operator as a utility or common carrier to the extent such regulation would otherwise be prohibited by applicable law.
- E. No provision of this ordinance shall be construed or applied so as to regulate the rates an Internet access operator may charge its broadband Internet users for any service.
- F. No provision of this ordinance shall be construed or applied so as to prohibit otherwise lawful arrangements between the Internet access operator and Internet service providers.
- G. No provision of this Ordinance shall be construed or applied to prevent an Internet access operator from requiring a broadband Internet user to use a particular screen or specific software or software tools, which may incorporate proprietary names or logos, in order to facilitate selection among multiple Internet service providers.

**SECTION EIGHT. Modification by state or federal law**

- A. If any provision of this ordinance is held by a court of competent jurisdiction to be invalid or in conflict with any applicable City, state, or federal law, then this ordinance shall be modified or suspended in such a manner as to implement the intent of this ordinance to the fullest extent possible consistent with the requirements of any such

law, rule or regulation. If this ordinance cannot be modified or suspended in such a manner as to implement such intent, then this ordinance shall be deemed null and void.

- B. Notwithstanding the foregoing, the City recognizes that the subject matter of this ordinance is currently the subject of proceedings before the Federal Communications Commission (FCC), and also recognizes that any lawful determinations by the FCC regarding the subject matter of this ordinance that have preemptive effect pursuant to applicable law shall control.

**Approved: March 4, 2002**