



City Council Report

Date: December 2, 2019
To: City Council
Through: Kari Kent, Assistant City Manager
From: Elizabeth Huning, City Engineer
Marc Ahlstrom, Assistant City Engineer
Subject: Repeal and Replace Title 9, Chapter 7 of the Mesa City Code, titled Community Antenna Television Systems
(Council Districts: Citywide)

Purpose and Recommendation

The purpose of this report is to request that Council repeal and replace Chapter 7 of Title 9 of the Mesa City Code, titled Community Antenna Television Systems, to comply with recent changes to Arizona Revised Statutes (A.R.S.) Title 9, Chapter 13 relating to video service.

Background

In May 2018, the Arizona State Legislature adopted Chapter 331, codified in A.R.S. Title 9, Chapter 13. The new statute declares the regulation of video service is a matter of state-wide concern and requires local governments adopt uniform licensing language and change any applicable code to comply with State law concerning the licensing and regulation of video services.

In June 2019, City Council approved Resolution No. 11358, which adopted the Uniform Video Service License Agreement and Application.

Discussion

The proposed ordinance will bring City Code into compliance with State law, while establishing standards in those areas where State law continues to leave some discretion to local governments; including topics such as indemnification, right-of-way management, and undergrounding of facilities. Additionally, the new statute allows local governments to charge a franchise fee of up to 5% of gross revenues. The City currently charges a 5% franchise fee, and the proposed ordinance will codify the existing fee.

Key points include:

- Local governments may require not more than two channels of public, educational or governmental access programming in the basic service tier of the video service network and not more than two channels of noncommercial governmental programming, at least one of which may be programmed by the Federal Government.

- Cable license enforcement is now handled at the State level by the Office of Administrative Hearings.
- Local governments no longer have the authority to resolve subscriber and service complaints. A subscriber may submit complaints about video service to the Attorney General or Federal Communications Commission (FCC).
- Local governments may only audit the three years prior to the date the notice of audit is received.
- Local governments may not levy a tax, rent, fee, or charge for use of the City's rights-of-way to provide video service.

Alternatives

City Council could choose not to repeal and replace Chapter 7 of Title 9 of the Mesa City Code. This is not recommended because the City of Mesa would not be in compliance with State law.

Fiscal Impact

There is no fiscal impact to the repeal and replacement of Chapter 7 of Title 9 of the Mesa City Code.

Coordinated With

The proposed changes to City Code was coordinated with the City Attorney's Office and Public Information and Communication's Office.