

PRELIMINARY ANALYSIS OF CHANGES TO CABLE SERVICES LICENSING

City staff is still reviewing the new law and determining what city code updates may be appropriate.

May 22, 2019

CABLE LAW – EXISTING – NOT REPEALED	VIDEO SERVICES LAW – NEW
<p>Licensing: A.R.S. §§ 9-505 – 9-510; City Code Chapter 3-09.</p> <p>Supplemental provisions: A.R.S. § 9-581 et seq. (telecom) A.R.S. § 9-584 (wi-fi aerial strand mounts) A.R.S. § 9-591 et seq (small wireless facilities)</p> <p>Federal Cable Act and regulations</p>	<p>Licensing: A.R.S. §§ 9-1401 - 9-1403, 9-1411 -9-1421, 9-1431 -9-1433; 9-1441 -9-1445, 9-1451 - 9-1452, 41-1092.019-14</p> <p>Supplemental provisions: SAME</p> <p>Federal Cable Act and regulations: SAME</p>
<p>License form: Negotiated.</p> <p>(Examples of terms not contained in new form: penalties, insurance, price bundling, letter of credit, reports, etc.)</p>	<p>License form: Form per state law, is skeletal.</p>
<p>Review period: Up to 6 months for a renewal license under federal law.</p>	<p>Review period: 30 days from receipt of application.</p>
<p>License to provide cable services: “Cable Service” means the transmission to subscribers of video programming or other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service. § 9-505(3)</p>	<p>License to provide video services: “Video Service”: (a) Means the provision of multichannel video programming generally considered comparable to video programming delivered by a television broadcast station, video service or other digital television service, whether provided as part of a tier, on demand or on a per-channel basis, without regard to the technology used to deliver the video service, including internet protocol technology or any successor technology. (b) Includes cable service. (c) Does not include any of the following: (i) Video programming provided solely as part of, and through, a service that enables users to access content, information, e-mail, messaging or other services that are offered via the public internet. (ii) Direct broadcast satellite service. (iii) Wireless multichannel video programming that is provided by a commercial mobile service provider.</p>

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Term: Up to 25 years	Term: 10 years
License area: All right-of-way (ROW) and public utility easements.	License area: SAME
Other services offered over same network: Telecom, internet	Other services offered over same network: SAME
City able to regulate telecom, internet? No. (ACC regulates telecom. FCC regulates internet.)	City able to regulate telecom, internet? SAME
Service area: Negotiated. (Suddenlink must serve per line extension policy.)	Service area: Only required to provide video service to 1 subscriber within 24 months from when license is issued.
Line-extension requirement: Yes. (Suddenlink provides a 250' standard drop under existing license. This means customer will be connected at no additional cost if certain density requirements are met. This line extension provision is more generous than most cities.)	Line-extension requirement: No.
Facilities: Mostly underground, but also aerial strand mounts and small wireless facilities.	Facilities: SAME.
Permits to work in ROW required, but fee waived in light of license fee: Yes	Permits to work in ROW, but fee waived in light of license fee: SAME
Subject to uniform, nondiscriminatory regulations for work in ROW: Yes, but cable also regulated separately.	Subject to uniform, nondiscriminatory regulations for work in ROW: Yes.
Use of city poles and ducts: Per city code. State law requires city to allow small wireless facilities on poles, pay fee of \$50/year.	Use of city poles and ducts: City may not require video services provider to pay to locate on city poles and ducts, if city requires installation. SAME.
License fee: Up to 5% of "gross revenues" from cable services, transaction privilege tax offset. No license fee from internet or telecom.	License fee: Up to 5% of "gross revenues" from video services, transaction privilege tax offset. SAME.

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<p>"Gross revenues" means all cash, credits, property of any kind or nature, or other consideration, less related bad debt not to exceed one and one-half per cent annually, that is received directly or indirectly by the cable operator, its affiliates, subsidiaries or parent or any person, firm or corporation in which the cable operator has a financial interest or that has a financial interest in the cable operator and that is derived from the cable operator's operation of its cable system to provide cable service in the area of jurisdiction. Gross revenues include all revenue from charges for cable service to subscribers and all charges for installation, removal, connection or reinstatement of equipment necessary for a subscriber to receive cable service, and any other receipts from subscribers derived from operating the cable system to provide cable service, including receipts from forfeited deposits, sale or rental of equipment to provide cable service, late charges, interest and sale of program guides. Gross revenues also include all income the cable operator receives from the lease of its facilities located in the public streets, roads and alleys, unless services that the lessee provides over the leased facilities are subject to a transaction privilege tax of the licensing authority. Gross revenues do not include revenues from commercial advertising on the cable system, the use or lease of studio facilities of the cable system, the use or lease of leased access channels or bandwidth, the production of video programming by the cable operator, the sale, exchange, use or cablecast of any programming by the cable operator in the area of jurisdiction, sales to the cable operator's subscribers by programmers of home shopping services, reimbursements paid by programmers for launch fees or marketing expense, license fees, taxes or other fees or charges that the cable operator collects and pays to any governmental authority, any increase in the value of any stock, security or asset, or any dividends or other distributions made in respect of any stock or securities.</p>	<p>"Gross Revenue":</p> <p>(a) means all cash, credits, property of any kind or nature or other consideration that is received directly or indirectly by a video service provider, its affiliates, or any person, firm or corporation in which the video service provider has a financial interest or that has a financial interest in the video service provider and that is derived from the video service provider's operation of its video service network to provide video service in the service area.</p> <p>(b) Includes all revenue from charges for video service to subscribers and all charges for installation, removal, connection or reinstatement of equipment necessary for a subscriber to receive video service and any other receipts from subscribers derived from the video service provider's operation of the video service network to provide video service, including receipts from forfeited deposits, sale or rental of equipment to provide video service, late charges, interest and sale of program guides.</p> <p>(c) Does not include:</p> <p>(i) Any revenue not received, even if billed, such as bad debt net of any recoveries of bad debt or any refunds, credits, allowances or discounts to subscribers to the extent that the refund, rebate, credit, allowance or discount is attributed to video service.</p> <p>(ii) Revenue from commercial advertising on the video service network, the use or lease of studio facilities of the video service network, internet access service, the use or lease of leased access channels or bandwidth, the use or lease of towers, the production of video programming by the video service provider, the sale, exchange, use or cablecast of any programming by the video service provider in the service area, sales to the video service provider's subscribers by programmers of home shopping services, reimbursements paid by programmers for launch fees or marketing expenses, license fees, taxes or other fees or charges that the video service provider collects and pays to any governmental authority, any increase in the value of any stock, security or asset, or any dividends or other distributions made from any stock or securities.</p>

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Price bundling of cable services with telecom, internet restrictions: Negotiated specific restrictions to prevent evasion of payment of license fee.	Price bundling of cable services with telecom, internet restrictions: Law says “video service provider may not use bundled offerings as a means to evade paying license fees.” Provider given discretion to select methods, and only must justify as reasonable.
Revenue generated by license fee: \$500,000/year	Revenue generated by license fee: Less. (Suddenlink has been asked to review.)
Public, educational, or governmental access channels for City: 3 channels, negotiate whether in basic service tier. (NAU educational channel in basic service tier.)	Public, educational, or governmental access channels for City: Maximum 2 in basic service tier, 2 in digital programming tier.
Institutional network (for city): Yes, but cost must be offset against license fee. (Suddenlink renewal license has no I-net.)	Institutional network (for city): No.
Basic service tier: Negotiated, free for certain city and public school buildings.	Basic service tier: Negotiated, free for certain city buildings if located within 200’ from network.
Cable services network maps: Treated as confidential, but subject to public records laws.	Videos services network maps: Exempted from public records laws. General information will be given to city.
Customer service standards: Federal standards, plus city may negotiate stricter standards. (City does not require stricter.)	Customer service standards: Federal standards.
Customer complaints: City or FCC.	Customer complaints: Complaints may be filed with City, FCC, or Attorney General’s Office.
Local customer service office: Negotiated.	Local customer service office: May not require.
Audits: Negotiated.	Audits: Once every 3 years.
License violations: License establishes penalties for violations, subject to City Council review.	License violations: Office of Administrative Hearings review process.