

AGENDA ITEM #: _____

DATE: December 2, 2019

CAR #: 2019-6821



CITY COUNCIL ACTION REPORT

SUBJECT: Amend Chapter 17 of the Goodyear City Code relating to Cable Communications

STAFF PRESENTER(S): Linda Beals, Real Estate Coordinator

OTHER PRESENTER(S): Lisa Maxie-Mullins, Assistant City Attorney

Summary: Amend various articles of Chapter 17 of Goodyear City Code related to Cable Communications to modify and include provisions consistent with changes to both state and federal law.

Recommendation:

1. ADOPT RESOLUTION NO. 2019-2012 DECLARING AS PUBLIC RECORDS THAT CERTAIN DOCUMENT ENTITLED "AMENDMENT TO GOODYEAR CITY CODE, CHAPTER 17-CABLE COMMUNICATIONS," FILED WITH THE CITY CLERK.
2. ADOPT ORDINANCE NO. 2019-1458 AMENDING GOODYEAR CITY CODE CHAPTER 17, CABLE COMMUNICATIONS; PROVIDING FOR REPEAL; PROVIDING FOR APPLICABILITY; PROVIDING FOR CORRECTIONS, SEVERABILITY AND AN EFFECTIVE DATE.

Fiscal Impact: These changes in law may affect the amount of revenue received from each cable provider. Pursuant to the law, the provider's overall license fee and the transaction privilege tax may not exceed 5% of the provider's gross revenue received from local subscribers. Additionally, any additional fees, assessed by the city, must be deducted from the provider's total license fee. The law also prohibits the city from requiring in-kind services from providers.

Background and Previous Actions

On May 16, 2018, the Arizona State Legislature enacted SB1140 (Laws 2018, 2nd Reg. Sess. Ch. 331 section 1), Fifty-Third legislature. The primary concern addressed by the new state law is the need to provide for a streamlined video services licensing process and to create uniform terms and conditions for video service providers that use city right-of-ways and highways for equipment.

The new state law required local governments to adopt a statewide uniform licensing application, affidavit and agreement by July 1, 2019. On June 10, 2019, City Council reviewed and approved the City's Uniform Licensing Application, Affidavit, and Agreement.

The new state law also required the City to modify any City provisions which are in conflict with the new law which provides for the following:

- Provides specific timeframes for application review and denial.
- Requires compliance with the City's engineering and safety codes applicable to construction practices.
- Limits the city's ability to assess cable licensing fees. The fee cannot exceed 5% of the provider's gross revenues received from subscribers located within city boundaries.
- In-kind services may be negotiated by the city but cannot be required as a condition of the license.
- Limits local government channel capacity.
- Requires provider to provide basic video service to one outlet and one receiving device at each government building.
- Provides that the provider provides services to at least one subscriber within twenty-four months of license issuance and prohibits a licensing term which requires the subscriber to build out its network.
- Provides for a 10-year license term for each license.
- Requires compliance with customer service standards as set forth in federal law.
- Authorizes the finalization of the license agreement without council approval

Subsequently in August 2019, the Federal Communications Commission also implemented changes to the video services agreements which are similar to the state law changes with some additional requirements including the limits on fees. The federal law further limits the amount of fees and requires that the total fees imposed by the municipality must be offset by transaction privilege taxes and in-kind contributions. Both the state and federal law provisions preempt the current City code provisions. This modification to the City code will assist staff in implementing the statutory requirements.

Staff Analysis

The proposed state and federal law changes are mandatory and were enacted to ensure that the video service providers are subject to similar requirements when obtaining a licensing agreements throughout the state and the United States. The modifications to the City's current code ensures compliance with the changes in both the state and federal law.

Attachments

1. Resolution 2019-2012 w/Exhibit A
2. Ordinance 2019-1458
3. Strikethrough copy of Amendment to Chapter 17 – Cable Communications