

**TOWN OF MIAMI, ARIZONA
PUBLIC NOTICE**

**NOTICE OF INTENT TO ESTABLISH NEW LICENSE FEE
FOR VIDEO SERVICE PROVIDERS
PURSUANT TO A.R.S. § 9-499.15**

The Town of Miami intends to establish a new license fee related to Video Service Providers and provides this written notice of the proposed new fee pursuant to A.R.S § 9-499.15.

The following fee is proposed:

Type of Fees	Current Fee	Proposed Fee Amount
Video Service Provider License Fee pursuant to Town Code Section 7.04.010	None	Five Percent (5%) of gross revenues

The proposed fee is intended to recoup costs associated with managing the public right-of-way and is the maximum permitted by A.R.S § 9-1442 and 47 United States Code section 542(g).

The Miami Town Council will consider approving these proposed fees at its regular council meeting to be held January 13, 2020 at 6:30 p.m. in the Council Chambers, 500 W. Sullivan, Miami, Arizona 85539. Information about the proposed fee is available at the Town Clerk's office during normal office hours, Monday through Friday, 8:00 am – 5:00 pm.

THE ABOVE FEES WILL BECOME EFFECTIVE THIRTY (30) DAYS AFTER APPROVAL BY THE TOWN COUNCIL.

Dated this 29 day of October, 2019.

TOWN OF MIAMI


Karen Norris, Town Clerk

SUMMARY OF VIDEO SERVICES REGULATORY ORDINANCE

In 2018 legislation was passed that preempted most local regulation of cable services even though cable companies use the public right-of-way to provide services to their customers. Historically, cities and towns negotiated license agreements with cable companies. Under the new legislation, cable companies are referred to as “video services providers” and cable service is called “video service”. In June 2019 the Town adopted a Uniform Video Services License Agreement and a Uniform application/affidavit, as required by the legislation. During the period from January 1, 2020 through June 30, 2020, cable companies with existing licenses may elect to obtain a Uniform License and terminate an existing cable license. If the cable company does not terminate its existing license, it will continue operating under its existing license until it expires. After that, the new statute will apply that that cable company.

Under the new statute, applications for a cable license are submitted to the Town Clerk and the license must be approved within 30 days of submittal (unless the application is incomplete). No council approvals are permitted or required. There are no grounds for denial.

No in kind services may be required. Fees for applications, construction permits and inspections may be charged but must be offset by license fees. The Town may require that a video service provider bear reasonable costs associated with repair and restoration of streets.

The Town may still charge a license fee of up to 5% of gross revenues. However, under a new rule issued by the Federal Commissions Commission on August 1, 2019, the total of the license fee, the transaction privilege taxes imposed and in-kind contributions may not exceed 5% of gross revenues (unless agreed to in a separate agreement). There is an exception for the contribution of PEG capacity.

The term of licenses is ten years, which must be extended if the video services provider files a notice with the Town Clerk. Video services providers must comply with engineering and safety codes applicable to its construction practices, technical standards required by federal law, and other federal laws. Video services providers must comply with these standards, but there is no enforcement mechanism. The Town may not require a local office. There is no buildout requirement. The only requirement is that video services providers must provide service to at least one subscriber within twenty-four months of issuance of Uniform License. Complaints must be filed (by or against) a video services provider through the State Office of Administrative Hearings.

Other than a requirement that the Town adopt an ordinance that the license fee be imposed equally and uniformly on video service providers and holdover cable operators, there is no requirement that the Town adopt a regulatory ordinance. However, the State statute and the FCC rule are complicated and somewhat difficult to understand. The Town Attorney’s office therefore prepared this ordinance, which complies with both the State statute and the new FCC rule. This ordinance, if adopted, will serve as guidance to Town staff in carrying out their responsibilities under the statute.

Highlights of the proposed ordinance are:

- Applications are filed with the Town Clerk, who forwards it to the _____. It must be approved within 30 days unless the application is incomplete. No Council approval.
- The term of a license is 10 years, which may be extended by the video services provider.
- Undergrounding of facilities is required.
- The video services provider must obtain a permit to work in the right-of-way and comply with mapping, insurance, performance bonds, security fund, indemnification or similar requirements that apply to the use and occupation of any highway.
- The license fee is established by resolution of the Council. The total of the license fee, transaction privilege taxes and in-kind contributions (unless a separate agreement is entered into) may not exceed 5% of gross revenues.
- Public, educational and government access programming (PEG) is required. The channel capacity shall include 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, in the digital programming tier of the video service network
- The Town must notify the video services provider of annexations.