

Article IX. Cable Television Systems.¹

Division 1. Franchise Provisions Generally.

Sec. 21-90. State video service fees for Educational and Governmental (EG) Access.

- (a) As required by Section 5870(n) of the CPUC, the City establishes a fee of one percent (1%) of gross revenues to support PEG channel facilities capital support to be paid by any State video franchise holder operating in the City.
- (b) The fee shall be payable quarterly no later than forty five (45) calendar days after the end of the quarter for that calendar quarter for which the payment is due.
- (c) The fee shall be payable quarterly no later than June 1, September 1, December 1 and March 1 for the preceding calendar quarter for which the payment is due.
- (d) As permitted by Section 5870(o) of the CPUC, any State video franchise holder operating in the City may recover the PEG channel facilities capital support required herein as a separate line item on the regular bill of each subscriber.
- (e) The City may reduce the fee upon not less than ninety (90) day's prior written notice from the City Manager to the State video franchise holder. If the fee has been reduced to less than one percent (1%) of gross revenues, subsequent increases, to the maximum fee of one percent (1%) of gross revenues, shall be upon not less than ninety (90) day's prior written notice from the City Manager to the State video franchise holder.
- (f) Notices shall be transmitted by United States Postal Service certified or registered mail, return receipt requested and postage prepaid, or by private commercial delivery or courier service for same day or next business day delivery with delivery and receipt signature required.

(Ord. Nos. 888, 1006)

Sec. 21-91. Customer service penalties.

- (a) Any holder of a State video service franchise shall comply with all applicable state and federal customer service and protection standards pertaining to the provision of video service.
- (b) The City will provide any holder of a State video franchise written notice of any material breach of applicable customer service and protection standards, and will allow the franchise holder at least thirty (30) calendar days from the receipt of the notice to remedy the specified material breach. A material breach that is not remedied by the State video franchise holder within the remedy period shall subject the State video franchise holder to the following penalties to be imposed by the City.
 - (1) For the first occurrence of a material breach, a penalty of not more than five hundred dollars (\$500) for each day of each material breach, not to exceed one thousand five hundred dollars (\$1,500) for each occurrence of a material breach.

¹For state law as to the authority of cities to grant community antenna television system franchise, See Gov. C., Sec. 53066.

- (2) For the second violation of the same nature within twelve (12) months, a penalty of one thousand dollars (\$1,000) for each day of each material breach, not to exceed three thousand dollars (\$3,000) for each occurrence of the material breach.
- (3) For a third or further violation of the same nature within twelve (12) months, a penalty of two thousand five hundred dollars (\$2,500) for each day of each material breach, not to exceed seven thousand five hundred dollars (\$7,500) for each occurrence of the material breach.
- (c) Any notice and any penalty may be issued or imposed by the City Manager, or the City Manager's designee. Any notice shall be in writing. Notices shall be transmitted by United States Postal Service certified or registered mail, return receipt requested and postage prepaid, or by private commercial delivery or courier service for same day or next business day delivery with delivery and receipt signature required.
- (d) The State video service franchise holder may appeal any finding of material breach or imposition of penalties to the City Council. Any appeal must be made within thirty (30) calendar days of receipt by the State video service franchise holder of the finding of material breach or the imposition of penalties, and must be submitted in writing to the City Clerk and the City Manager in order to be placed on a City Council agenda for consideration. Any appeal must contain a detailed explanation of why the applicant believes that the finding of material breach or the imposition of penalties was inconsistent with statutory requirements.
- (e) The City and any State video service franchise holder may mutually agree to extend the time periods specified herein. Any such agreement shall be in writing and executed by the City Manager, or the City Manager's designee, and an authorized representative of the State video franchise holder.
- (f) Any penalty imposed on the State video franchise holder shall be paid to the City. As provided for in Section 5900(g) of the CPUC the City shall submit one-half of all penalties received from a State video franchise holder to the Digital Divide Account established in Section 280.5 of the CPUC.

(Ord. Nos. 888, 1006)

Sec. 21-92. Procedures for appeal of denial of an encroachment permit.

- (a) As provided for in Section 5885 of the CPUC, the City shall either approve or deny an application from a State video service franchise holder for an encroachment permit within sixty (60) days of receiving a completed application.
- (b) An "encroachment permit" means any permit issued by the City relating to placement, construction or operation of facilities relating to the provision of video service under a State video service franchise.
- (c) An application for an encroachment permit is considered complete when the applicant has complied with all statutory requirements, including the California Environmental Quality Act (CEQA) of the Public Resources Code.
- (d) Any City denial of an application for an encroachment permit shall be in writing and shall contain a detailed explanation of the reason for the denial.

VERSION 05/2016

Sec. 21-92

Sec. 21-120

- (e) In reviewing the application for an encroachment permit, City shall consider the proposed location, placement, size, bulk, and visual appearance of the proposed equipment and facilities and may impose conditions to mitigate adverse impacts caused by any or all of these factors.

- (f) An applicant whose application for an encroachment permit has been denied may appeal the denial to the City Council. Any appeal must be made within thirty (30) calendar days of receipt by the State video service franchise holder of the denial, and must be submitted in writing to the City Clerk and the City Manager in order to be placed on the City Council agenda for consideration. Any appeal must contain a detailed explanation of why the applicant believes that the denial was inconsistent with statutory requirements.

(Ord. Nos. 888, 1006)

Secs. 21-93 to 21-107. Repealed by Ordinance No. 1006.

Secs. 21-108 to 21-120. Repealed by Ordinance No. 888, Sec. 1.

(Ord. Nos. 487, 505, 716, 888, 1006)

(This page left blank intentionally)