

STUDY SESSION MEETING NOTICE
TOWN COUNCIL OF DEWEY-HUMBOLDT
Tuesday, February 11, 2014, 2:00 P.M.

COUNCIL STUDY SESSION MEETING
2735 S. HWY 69

COUNCIL CHAMBERS, TOWN HALL
DEWEY-HUMBOLDT, ARIZONA

AGENDA

The issues that come before the Town Council are often challenging and potentially divisive. In order to make sure we benefit from the diverse views to be presented, the Council believes that the meeting be a safe place for people to speak. With this in mind, the Council asks that everyone refrain from clapping, heckling and any other expressions of approval or disapproval. Council may vote to go into Executive Session for legal advice regarding any matter on the open agenda pursuant to A.R.S. 38-431.03 (A) (3), which will be held immediately after the vote and will not be open to the public. Upon completion of Executive Session, the Council may resume the meeting, open to the public, to address the remaining items on the agenda. Agenda items may be taken out of order. Please turn off all cell phones. The Council meeting may be broadcast via live streaming video on the internet in both audio and visual formats. One or more members of the Council may attend either in person or by telephone, video or internet conferencing. **NOTICE TO PARENTS:** Parents and legal guardians have the right to consent before the Town of Dewey-Humboldt makes a video or voice recording of a minor child. A.R.S. § 1-602.A.9. Dewey-Humboldt Council Meetings are recorded and may be viewed on the Dewey-Humboldt website. If you permit your child to participate in the Council Meeting, a recording will be made. You may exercise your right not to consent by not permitting your child to participate or by submitting your request to the Town Clerk that your child not be recorded.

1. Call To Order.

2. Roll Call.

2.1. Town Council. Town Council Members Jack Hamilton, Mark McBrady, Dennis Repan, Sonya Williams-Rowe, Nancy Wright; Vice Mayor Arlene Alen; and Mayor Terry Nolan.

3. Study Agenda. No legal action to be taken.

3.1. Transient Merchant Draft Ordinance.

3.2. Cable One Franchise Agreement Renewal.

3.3. What is town policy for collecting money owed to the Town? [CAARF requested by CM Hamilton]

3.4. Continued Discussion on In-House Building Safety Inspection.

3.5. NAU faculty facilitated visioning session location, recording and broadcast options, time, and dates. To update where and when to hold the sessions and whether to use Granicus system.

4. Special Session. Legal Action can be taken.

4.1. Whether to hold additional special session(s) this month. This is an established agenda item for Council's discussion on whether to add an additional special study session and if so, to set the date.

5. Comments from the Public. The Council wishes to hear from Citizens at each meeting. Those wishing to address the Council need not request permission or give notice in advance. For the official record, individuals are asked to state their name. Public comments may appear on any video or audio record of this meeting. Please direct your comments to the Council. Individuals may address the Council on any issue within its jurisdiction. At the conclusion of Comments from the Public, Council members may respond to criticism made by those who have addressed the public

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body, may ask Town staff to review a matter, or may ask that a matter be put on a future agenda; however, Council members are forbidden by law from discussing or taking legal action on matters raised during the Comments from the Public unless the matters are properly noticed for discussion and legal action. The total time for Public Comment is **3** minutes per person. The audience is asked to please be courteous and silent while others are speaking.

6. Adjourn.

For Your Information:

Next Town Council Meeting: Tuesday, February 18, 2014, at 6:30 p.m.

Next Planning & Zoning Commission Meeting: Thursday, March 6, 2014, at 6:00 p.m.

Next Town Council Work Session: Tuesday, March 11, 2014, at 2:00 p.m.

If you would like to receive Town Council agendas via email, please sign up at AgendaList@dhaz.gov and type Subscribe in the subject line, or call 928-632-7362 and speak with Judy Morgan, Town Clerk.

Certification of Posting

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Dewey-Humboldt Town Hall, 2735 South Highway 69, Humboldt, Arizona, Chevron Station, 2735 South Highway 69, Humboldt, Arizona, Blue Ridge Market, Highway 69 and Kachina Drive, Dewey, Arizona, on the ____ day of _____, 2014, at ____ p.m. in accordance with the statement filed by the Town of Dewey-Humboldt with the Town Clerk, Town of Dewey-Humboldt.

By: _____, Town Clerk's Office.

Persons with a disability may request reasonable accommodations by contacting the Town Hall at 632-7362 at least 24 hours in advance of the meeting.



TOWN OF DEWEY-HUMBOLDT
P.O. BOX 69
HUMBOLDT, AZ 86329
Phone 928-632-8562 ▪ Fax 928-632-7365

TOWN COUNCIL STUDY SESSION
February 11, 2014, 2:00 p.m. Town Council Meeting Chambers

Agenda Item # 3.1. Transient Merchant Draft Ordinance

To: Mayor and Town Council Members
From: Yvonne Kimball, Town Manager

Date submitted: February 10, 2014

Recommendation: Review the draft

Summary:

A few months ago, the Town Council listed Transient Merchant regulation as a priority for the Planning and Zoning Commission to tackle. The Town Attorney has prepared a draft ordinance which has been reviewed by P&Z. P&Z did not have objection to this proposal. The intent of the Ordinance is to protect the residents through licensing of the Transient Merchants by the Town.

Please note that the draft suggests a "Transient Merchant Licensing System" which would be new to the Town. Staff is exploring options of implementing the system.

The draft also refers to "the law enforcement agency" as the enforcement source. Since the Town does not have an in-house police department, the enforcement duty would fall under the Community Development Department, i.e. the Community Development Coordinator and the Town Manager. The added responsibility for the Department needs to be noted when considering staffing needs.

The purpose of the discussion is for the Council to review the draft and provide input from a policy standpoint. I also suggest a "residents education" period prior to official implementation or even adoption of the Ordinance to assist with a smooth implementation of the ordinance.

The Town Attorney will also be in attendance to answer your questions about the draft.

ORDINANCE N^o __-__

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, COUNTY OF YAVAPAI, ARIZONA, AMENDING THE TOWN CODE, TITLE XI BUSINESS REGULATIONS, BY ADDING NEW CHAPTER 111 TRANSIENT MERCHANTS, RELATED TO LICENSING REQUIREMENTS AND REGULATIONS FOR TRANSIENT MERCHANTS IN THE TOWN; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING PENALTIES.

Whereas, the Town of Dewey-Humboldt is becoming a popular venue for transient merchants to sell goods, wares, merchandise, and edible foods to the public; and

Whereas, the Mayor and Council desire to establish certain licensing requirements and regulations for transient merchant to protect, enhance and promote the health, safety, and welfare of Town residents and businesses.

Now, therefore, be it ordained by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, as follows:

Section I. In General

The Code of Dewey-Humboldt, Arizona, Title XI Business Regulations, is hereby amended by adding new Chapter 111 Transient Merchants to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~): [WE WILL PLACE TEXT IN ALL CAPS LATER]

CHAPTER 111 TRANSIENT MERCHANTS

§ 111.01 DEFINITIONS.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

LICENSE means a transient merchant license required by section 111.03 of this chapter, including a renewed license.

MORAL TURPITUDE means an act of baseness, vileness, or depravity in the duties that a person owes to society, contrary to the accepted and customary rules of right and duty. Moral turpitude includes, but is not limited to, gross indecency, indecent exposure, lewdness, solicitation of prostitution, perjury, forgery, tax evasion, theft, misappropriation of funds, and any other specific offenses that have been determined by federal or state courts in Arizona as being crimes of moral turpitude.

SEASONAL SALES means the sale of merchandise related to a recognized state holiday or seasonal event, including but not limited to, Christmas tree sales, pumpkin sales, and sales of permissible consumer fireworks when offered for sale in conjunction with a state holiday or seasonal event.

SPECIAL EVENTS VENDOR means a vendor selling or offering for sale merchandise as part of an event, such as a festival, seasonal agricultural event, farmers market, parade, carnival, and similar activities.

TRANSIENT MERCHANT means any person, corporation, or firm, who travels, or whose agents travel, either by foot, cart, wagon, automobile, food truck, van, or any other type of conveyance, from place-to-place, house-to-house, street-to-street, or business-to-business, for the purpose of (1) taking or attempting to take orders for the sale of goods, wares, merchandise, edible foods, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether collecting advance payments on such sales or not; or (2) carrying, conveying, or transporting goods, wares, merchandise, edible foods or provisions and offering the same for sale or making sales and delivering articles to purchasers or who, without traveling from place-to-place, shall sell or offer the same for sale from a cart, wagon, automobile, food truck, van or any other type of conveyance and who do not remain or intend to remain in any one fixed location. Special event vendors and persons who conduct seasonal sales are transient merchants.

§ 111.02 EXEMPTIONS.

The following activities shall be exempt from the provisions of this chapter:

- (A) Sales pursuant to A.R.S. § 3-563.
- (B) Sales by persons invited by the owner or occupant to a private residence for the purpose of making sales, soliciting orders, or delivering goods.
- (C) Members of a charitable or religious non-profit organization soliciting donations or selling goods to benefit the charitable non-profit organization.

§ 111.03 TRANSIENT MERCHANT LICENSE.

(A) *Required.* It is unlawful for any transient merchant to conduct business in the town without first obtaining and maintaining in effect a license pursuant to this chapter.

(B) *Application.* Applicants for a license shall file with the town clerk the following information:

- (1) A description of the goods to be sold or collected.
- (2) If the applicant is an employee or agent of the business for which the license will be issued, the name and address of the employee or agent, if different from the business address, together with credentials establishing the exact relationships.
- (3) The length of time for which the right to do business is desired.
- (4) If a vehicle is to be used, a description and a picture of the vehicle, together with the license number or other means of identification.

(5) A statement as to whether or not the applicant has been convicted of any felony, misdemeanor, or violation of any town ordinance, the nature of the offense and the punishment or penalty addressed therefor.

(6) The location from which the applicant intends to conduct business and a permanent address to which notifications may be sent.

(7) The full name of the person and any other names used during the previous five years.

(8) The applicant's state sales tax number.

(9) Proof of the person's age, such as a driver's license, passport or birth certificate coupled with a governmental photo identification document.

(10) If the transient merchant proposes to sell edible foods, evidence of compliance with applicable laws and regulations of the Arizona Department of Health Services or the county health department.

(C) *Fee.* At the time of filing the application, a fee of _____ dollars shall be paid to the town clerk to cover the costs of processing the application.

(D) *Vehicle Insurance.* In addition to the other requirements of this section, a transient merchant who conducts business from a vehicle shall provide proof of vehicle liability insurance which shall be maintained during the term of the license and shall be in at least the minimum amount required by law.

(E) *Procedure.* Upon receipt of the application and payment of the application fee, the town clerk shall, within fifteen days, issue the license unless grounds exist for denying the license under subsection (F) of this section. If the town clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial, and the applicant's right to appeal the denial pursuant to section 111.10. The notice shall be mailed by first class mail postage prepaid to such person's last known address.

(F) *Grounds for Denial.* An application may be denied for any of the following reasons:

(1) The applicant has been convicted of any crime or misdemeanor involving moral turpitude.

(2) The applicant has engaged in fraudulent dealing or is associated with a company that has engaged in fraudulent dealings.

(3) The proposed sales proposition includes some element of trickery, fraud, or deceit.

(4) The applicant is conducting a business in violation of any federal, state, county, or local law.

(5) The applicant has failed to provide all the information required by this section.

(6) The applicant has violated any provision of this chapter or failed to meet any licensing requirements, including timely payment of fees.

(G) *Duration.* All licenses shall be valid from the date of issuance until the one year anniversary of such issuance, when they may be renewed; provided, that no license shall be renewed unless the licensee conforms with the provisions of this chapter.

(H) *Posting.* The license shall be posted in a conspicuous place if such licensees are using a cart, wagon, automobile, food truck, van, or any other type of conveyance. Licenses shall be shown upon request.

(I) *Non-Transferability.* No license issued under this section shall be transferable, but corporate or firm licensees may change, substitute, or alter the list of their agents or representatives furnished to the town clerk at any time; provided, however, that for each newly named agent or representative on such list, the information and material required in subsection B of this section shall be furnished to the town clerk.

§ 111.04 EMPLOYER SANCTIONS ACT COMPLIANCE.

(A) A.R.S. § 41-1080 requires specific documentation to issue a license if the business ownership type is identified as an individual, sole proprietorship or husband and wife business. Unless the applicant is exempt as described in subsection B below, the town may not issue a business license to an individual, sole proprietorship or husband and wife business, unless one of the following documents is presented:

(1) Arizona driver license issued after 1996 or an Arizona non-operating identification license.

(2) Driver license issued by any state that verifies lawful presence in the United States.

(3) Birth certificate or delayed birth certificate issued in any state, territory, or possession of the United States.

(4) United States certificate of birth abroad.

(5) United States passport.

(6) Foreign passport with a United States visa.

(7) Form I-95 with a photograph.

- (8) United States citizenship and immigration services employment authorization document or refugee travel document.
- (9) United States certificate of naturalization.
- (10) United States certificate of citizenship.
- (11) Tribal certificate of Indian blood.
- (12) Tribal or Bureau of Indian Affairs affidavit of birth.

(B) If both of the following apply, an individual is exempt from the requirement that he or she present one of the documents listed in subsection A above prior to being issued a business license:

- (1) The individual is a citizen of a foreign country or, if at the time of application, the individual resides in a foreign country.
- (2) The benefits that are related to the license do not require the individual to be present in the United States in order to receive those benefits.

(C) The application shall be denied if the applicant cannot provide satisfactory proof that he or she is authorized to hold a business license pursuant to A.R.S. § 41-1080.

§ 111.05 PROHIBITED LOCATIONS.

It is unlawful for any licensee under this chapter to conduct business:

- (A) In the traveled portions of a public right-of-way or have any exclusive right to any location in a public right-of-way.
- (B) Adjacent to a public street in one location for more than two consecutive days.
- (C) Within 300 feet of a public school ground.
- (D) Within a public park or other public property
- (E) In any congested area where the business might impede or inconvenience the public and, for the purposes of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
- (F) Without written permission of the property owner for use of the property, which written permission shall be carried when conducting such business.

§ 111.06 UNLAWFUL NOISE.

No licensee nor any person in their behalf shall shout, make any outcry, blow a horn, ring a bell, or use any sound device, including any loud-speaking radio or

sound-amplifying system, upon any of the streets, alleys, parks, or other public places of the town or upon any private premises in the town, where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the public thoroughfares for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell.

§ 111.07 SIGNS PROHIBITING PEDDLING.

It is unlawful for a transient merchant, in the course of his or her business, to ring the doorbell or knock at any building whereon any of the following signs is exposed to public view: No peddlers, no solicitors or canvassers, no transient merchants, or no trespassing.

§ 111.08 ENFORCEMENT OF CHAPTER; RECORD OF LICENSES ISSUED AND VIOLATIONS REPORTED.

It shall be the duty of the law enforcement agency of the town to enforce this chapter. The law enforcement agent shall report to the town clerk all convictions for violation of this chapter, and the town clerk shall maintain a record for each license issued and record the reports of violations therein.

§ 111.09 REVOCATION OF LICENSE.

(A) *Revocation Procedures.* Licenses issued under the provisions of this chapter may be revoked by the town clerk after notice and a hearing before the town manager. The town clerk shall provide the licensee with notice of the time and place for the revocation hearing and the reasons for revocation. The notice shall be mailed by first class mail postage prepaid to such person's last known address at least five days prior to the date set for the hearing.

(B) *Reasons for Revocation.* Licenses may be revoked for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for license.
- (2) Fraud, misrepresentation or false statement made in the course of carrying on their business.
- (3) Any violation of this chapter.
- (4) Conviction of any crime or misdemeanor involving moral turpitude.
- (5) Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or constitute a menace to the health, safety, or general welfare of the public.

(C) The town manager shall notify the licensee within ten days of the revocation hearing of the town manager's decision in writing. If the license is

revoked, the town manager shall also notify the licensee of his or her right to appeal the revocation pursuant to section 111.10. The notice shall be mailed by first class mail postage prepaid to such person's last known address.

§ 111.10 APPEAL FROM DENIAL OR REVOCATION OF LICENSE.

(A) *Appeal to Council.* An appeal from denial or revocation shall be taken by filing with the town council, within fourteen days after notice of the denial or revocation has been mailed to such person's last known address, a written statement setting forth the grounds for the appeal.

(B) *Hearing.* The town clerk shall provide the applicant or licensee with the time and place of the hearing before the town council. Such notice shall be mailed by first class mail postage prepaid to the applicant or licensee at his or her last known address at least five days prior to the date set for the hearing.

(C) *Final Decision.* The decision and order of the town council on such appeal shall be final.

§ 111.11 RE-APPLICATION FOR LICENSE.

No person may apply for a license under this chapter within one year from the denial or revocation of any such license.

§ 111.99 PENALTY.

Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

Section II. Savings Clause

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance as amended is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance.

Section III. Repeal of Conflicting Ordinance

All other code provisions, ordinances, or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the effective date hereof.

Section IV. Providing for Civil Sanctions

Any person found responsible for violating this section shall be subject to the civil sanctions and habitual offender provisions set forth in section 10.99 of the Dewey-Humboldt Code.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of

Dewey-Humboldt, Arizona, this ____ day of _____, 20__, by the following vote:

AYES: _____

NAYES: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

APPROVED this ____ day of _____, 20__.

Terry Nolan, Mayor

ATTEST:

APPROVED AS TO FORM:

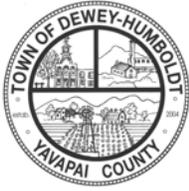
Judy Morgan, Town Clerk

Susan Goodwin, Town Attorney

I, JUDY MORGAN, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT ON THE ____ DAY OF _____, 20__, WAS POSTED IN THREE PLACES ON THE ____ DAY OF _____, 20__.

Judy Morgan, Town Clerk

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TOWN OF DEWEY-HUMBOLDT
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TOWN COUNCIL STUDY SESSION

February 11, 2014, 2:00 p.m. Town Council Meeting Chambers

Agenda Item # 3.2. Cable One Television franchise agreement Renewal

To: Mayor and Town Council Members

From: Yvonne Kimball, Town Manager

Date submitted: February 10, 2014

Recommendation: Review the draft agreement and acknowledge the next steps.

Summary:

The Town entered into a “franchise agreement”/license agreement with Cable One Inc. for cable television service in 2005. Through the Agreement, the Town grants a license to Cable One Inc. to operate and maintain a cable TV service in, over, under, across and along any public street, public way and public place in Dewey-Humboldt. The Town receives a 5% franchise fee, which is passed on to the customers. The Town receives about \$1,000 a month in franchise fees from Cable One Inc.

The current agreement is due to renew in July 2015. Cable One Inc. has notified the Town of its desire to renew the agreement for an additional 10 years.

Staff is not aware of any complaints about Cable One’s television service made to the office. Cable One Inc. notifies the town office regularly of any changes to the TV services.

The Town Attorney and I have been working on the renewal matters for a few months. Ms. Goodwin is an expert in the area of utility licensing. She has been instrumental on the project. Enclosed is the draft renewal agreement. I also enclosed the current agreement. Attorney Goodwin will be attending the meeting to give you details of the renewal process and requirement.

Upon Council review and comment on the draft agreement, the next steps are:

- Sending the draft for Cable One Inc. for review and comment and possible negotiation of the terms.
- Proceed with (two) public hearings and Council adoption of the final renewal agreement.

CABLE SYSTEM LICENSE
FOR
TOWN OF DEWEY-HUMBOLDT, ARIZONA
AND
CABLE ONE, INC.

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CABLE SYSTEM LICENSE

THIS CABLE SYSTEM LICENSE (hereinafter the “License”) is made and entered into this ___ day of _____, 20___, by and between the Town of Dewey-Humboldt, Arizona, a municipal corporation of the State of Arizona (hereinafter the “Licensor” or “Town”) and Cable One, Inc. (hereinafter the “Licensee”).

PREAMBLE

Pursuant to Arizona Revised Statutes Title 9, Chapter 5 Article 1.1, the Licensor is authorized to grant one (1) or more non-exclusive licenses to operate, construct, maintain, and reconstruct a Cable System within the corporate limits of Licensor.

Licensor approves this License with Licensee to comply with Arizona Revised Statutes Title 9 Chapter 5 Article 1.1 and 47 U.S.C. §§ 521, *et seq.* (“Applicable Law”) and based on a request received on or about June 11, 2013, from Licensee for a renewal of its License.

STATEMENT OF INTENT AND PURPOSE

Licensor intends, by the approval of this License, to bring about the further expansion, improvement and upgrade of Licensee’s Cable System and the continued operation of it to keep current with the changes in technology, services and delivery in the cable industry. Such development can contribute significantly to the communication needs and desires of the residents and citizens of the Licensor and the public generally. Further, Licensor may achieve better utilization and improvement of public services and enhanced economic development with the continued development and operation of Licensee’s Cable System. It is Licensor’s intent to regularly work together with Licensee to insure that its services accomplish this purpose.

Approval of this License is, in the judgment of the Licensor, in the best interests of the Town of Dewey-Humboldt and its residents.

FINDINGS

In the review of the request for renewal by Licensee and information gathered by Licensor and negotiations related thereto, the Licensor makes the following findings:

1. Licensee’s technical ability, financial condition, and legal qualifications were considered and approved.
2. Licensee’s compliance with the material terms, conditions and requirements by Licensee of its current License, Licensee’s plans for constructing, upgrading, and continued operating a Cable System throughout the community of Licensor were considered and found adequate and feasible.
3. The License granted to Licensee by approval by Licensor of this License complies with the existing applicable State statutes, federal laws and regulations.

SECTION 2. GRANT OF LICENSE

2.1 This License is executed in accordance with the provisions of 47 U.S.C. §§ 521, *et seq.* and Arizona Revised Statutes Title 9, Chapter 5 and supersedes and extinguishes any other License or other authorization held by Licensee to operate a Cable System or provide Cable Service within the corporate limits of Licensor after the Effective Date. This License provides Licensee with the authority, right, and privilege to construct, reconstruct, operate, and maintain a Cable System within the Streets of Licensor in accordance with the terms and provisions of this License and Applicable Law.

2.2 Licensee acknowledges and accepts the right of the Licensor to issue this renewed License granted pursuant to this License, and Licensee agrees that it shall not now or at any time hereafter challenge any lawful exercise of this right by Licensor in any local, State, or federal court.

SECTION 3. EFFECTIVE DATE OF RENEWAL

This License shall be effective on _____, 2015 (the "Effective Date"). The grant of this License is further contingent upon the satisfaction of the requirements of this License, including the filing by Licensee with the Town clerk of the written acceptance of the License, and insurance policies required herein, except that if such filing does not occur within twenty (20) days after the Effective Date, the Licensor may, in its sole discretion, declare this License and the License provided for herein to be null and void.

SECTION 4. TERM

The term of this License shall be for an initial period of ten (10) years commencing on the Effective Date, unless renewed or terminated prior to the expiration date in accordance with this License, and applicable State and federal law.

SECTION 5. LICENSE FEES AND PAYMENTS

5.1 Payments to Licensor: The licensee shall pay the Licensor a Licensee Fee in an amount of five percent (5%) of its Gross Revenues (as defined in A.R.S. § 9-505) or such higher rate as allowed by law for the period of its operation under this Agreement. No other taxes, rents, fees or charges shall be imposed except as provided in A.R.S. § 9-506 and in Section 5.2.

5.2 The total of any transaction privilege taxes imposed and the License Fee shall not exceed five percent (5%).

5.3 The Licensee's billing statement must itemize each category of service and equipment provided to the Subscriber and state clearly the charge therefore.

5.4 The Licensee's billing statement must show specific payment due dates. Licensee shall be allowed to charge delinquency fees and collection fees as per Arizona Revised Statutes Section 44-1366.

5.5 The Licensee must notify the Subscriber that he or she may remit payment in person at the Licensee's office in the Prescott area and inform the Subscriber of the address of that office.

5.6 Subscribers shall not be charged a late fee or otherwise penalized for any failure by the Licensee, including failure to timely or correctly bill the Subscriber, or failure to properly credit the Subscriber for a payment timely made.

SECTION 6. CONDITIONS OF STREET OCCUPANCY AND WORK

6.1 All construction, installation or other work performed in or on any Street shall be performed in conformance with applicable provisions of Town of Dewey-Humboldt Code concerning improvements in or upon Town rights-of-way. In the event that Licensee is required by the Town to relocate any of its system located within Town right-of-way due to a realignment or expansion of a Town roadway, the costs of said relocation shall be borne by Licensee.

6.2 Licensee shall notify the public in advance on a regular basis regarding which phase of reconstruction and/or upgrade work on the system is happening, any expected interruption of existing service that may occur and the anticipated time when conversion to the new system services will begin. Licensee shall provide the Town Manager with a plan for notifying the public.

SECTION 7. SYSTEM DESIGN

Licensee shall have completed all necessary steps to construct, upgrade, and thereafter operate and maintain the Cable System, subject to all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. §76. To the extent those standards are altered, modified, or amended during the term of this License, the Licensee shall comply with such altered, modified or amended standards within a reasonable period after such standards become effective. The Licensor shall have, upon written request, the right to obtain a copy of tests and records required to be performed pursuant to the FCC's rules and the License.

Licensee reserves the right to alter, adjust, modify, rebuild, upgrade, redesign, or otherwise reconfigure the Cable System at any time during the term of the License. Notwithstanding the above, Licensee agrees that no alteration, adjustment, modification, rebuild, upgrade, redesign, or other reconfiguration of the Cable System shall have the effect of reducing the technical capabilities of the Cable System from those that exist on the Effective Date of this License.

SECTION 8. GENERAL OPERATING PROVISIONS

8.1 In order to assist Licensor in its oversight responsibilities and promote the sharing of information between Licensor and Licensee, Licensor or Licensee may schedule periodic meetings every three (3) years or more frequently if requested.

8.2 Licensee shall retain the power to select programming to offer to Subscribers. However, Licensee shall, at a minimum, use good faith efforts to select programming that falls within the following broad categories of programming: educational; news and information; sports; entertainment (including movies); family- or children-oriented; art, culture, and performing arts; science/documentary; weather information; and public affairs.

8.3 Licensee shall comply with the FCC's Emergency Alert System (EAS) rules and regulations, including any state approved plans by the FCC.

8.4 In the performance of this License, Licensee shall not discriminate unfairly against any person on the ground of or because of race, creed, color, national origin or ancestry, gender, religion or political opinion or affiliation, income of residents in any area of the Licensor, or age. Licensee shall comply at all times with all other valid applicable federal, State and local laws, and all federal and State executive and administrative orders relating to non-discrimination.

SECTION 9. ACCESS CHANNELS, ACCESS COSTS, EQUIPMENT AND FACILITIES

9.1 Licensor shall have the full responsibility for the production and development of programming and shall also have the responsibility of purchasing and maintaining equipment and facilities used for the production of programming. However, the Licensee agrees that it shall use its best efforts to provide full cooperation and assistance, training or other such services as may be needed and requested by Licensor. In any event in which Licensee believes that its services are in the form of operating costs, it will inform Licensor of any such costs that may be deducted by it from the license fee or subscriber pass-through fees to be paid to Licensor.

9.2 The Licensee assures Licensor by its agreement that its equipment, facilities and services as well as personnel will accept the programming provided by Licensor for playback on the cable system on the appropriate and designated access channels without degradation and quality. The Licensee also agrees it will work together with Licensor to make available, to the greatest extent possible, relevant information on its programming menus and identification of programming.

9.3 Licensee shall provide channel capacity for a minimum of one government access channel (dedicated for Licensor use). Licensee shall provide the channel capacity for one educational access channels for use by schools in the Town of Dewey-Humboldt.

SECTION 10. SERVICES TO PUBLIC BUILDINGS

Licensee shall provide free cable television connections and cable television service to buildings owned by or leased by the Town, not to exceed five (5) where there is a feeder line within one hundred fifty feet (150') of said building, provided that each such connection shall be limited to one (1) free connection per building upon the request of the Town for use of the Town only, and said free cable television shall only include Expanded Basic Cable service and RES2 High Speed internet Service. RES2 currently has a speed of 3000/300 Kbps. Any additional High Speed Internet capacity will include a monthly price point of the difference between services offered in this agreement and the additional services requested by the Town. The Town will be responsible for providing, at their own expense, the interconnection equipment, including any routers, interface units, cabling internal to Town buildings, and any other services, such as domain hosting, required to interconnect with and transmit or receive data communications via the Internet Service provided. The Town will also be responsible for providing, at its own expense, all computers, terminals and other data processing hardware for use with the Internet Service provided.

SECTION 11. RATES AND CHARGES

Licensee shall comply at all times with the provisions of the Cable Act and FCC rules and regulations applicable to rates and charges for any Cable Service and the associated terms and conditions for the provision of any Cable Service.

SECTION 12. CUSTOMER SERVICE AND PRIVACY PROTECTION

12.1 Licensee shall comply with the Subscriber service and privacy protection provisions in 47 C.F.R. § 76.309 of the Federal Communications Commission's Rules and Regulations, as such may be amended from time to time.

12.2 Licensee shall comply at all times with the provisions of the Cable Act and FCC rules and regulations applicable to Subscriber bills.

12.3 Licensee shall comply at all times with the Subscriber privacy provisions of the FCC Rules and Regulations, the Cable Act or other Applicable Law. Licensee shall cooperate with the Licensor so as to ensure the Licensor's ability to enforce the terms and conditions of this provision to the extent consistent with Applicable Law.

12.4 Parental Control Option: The Licensee shall provide parental control devices to all Subscribers who wish to be able to block the video or audio portion of any objectionable channel or channels of programming from the Cable Service entering the Subscriber's home. This control equipment shall be provided at no charge except as federal law otherwise provides.

12.5 Licensee shall designate an employee by name, address and phone/fax number, to respond to complaints from consumers within the Town or from officials of the Town, and shall update that information to the Town as that information may change from time to time.

SECTION 13 SUBSCRIBER'S RIGHT UPON FAILURE OF SERVICE

13.1 Each Subscriber who experiences any total loss of service for a continuous twenty-four hour period shall upon request by the affected Subscriber be provided a prorated refund. Each period of service loss shall commence upon Licensee's oral or written receipt of notice of such loss of service.

13.2 Licensee shall maintain Service Call records on the time of call, nature of Service Call, and any corrective action taken. These Service Call records shall be made available to the Town Manager, or a designee, subject to Subscriber privacy limitations, upon request. A summary of Service Calls shall be prepared by the Licensee and submitted to the Town Manager, or a designee, upon request.

13.3 The Licensee shall notify Subscribers at the time of initial subscription to the Cable System of the procedure for reporting and resolving inquiries.

SECTION 14 SUBSCRIBER SOLICITATION PROCEDURE

14.1 All personnel, agents and representatives of the Licensee including subcontractors, shall wear a cable uniform or clearly display a photo-identification badge when acting on behalf of the Licensee in the Town.

14.2 Licensee shall provide all prospective Subscribers with complete, clear and concise written information, prior to or at the time of installation of Cable Service, concerning all services and rates by Licensee. Such information shall include but not be limited to the following:

(a) All service rates, deposits if applicable, installation costs, additional television set charges, service upgrade or downgrade charges, relocation of cable outlet charges and any other charges for ancillary Cable Service.

(b) Complete information concerning billing and collection procedures, procedures for ordering changes in or termination of services, and all refund policies.

(c) Complete information concerning the utilization of videocassette recorders (hereinafter called "VCR's") with Cable Service(s), if requested.

(d) Complete written information concerning Licensee's privacy policies, pursuant to Federal law.

14.3 The Licensee shall, on a regular basis, provide Subscribers of the Cable System with a complete list of service offerings, options, prices and credit policies associated with the System.

SECTION 15 INSURANCE, INDEMNIFICATION AND DEFENSE OF LITIGATION

15.1 The Licensee shall, concurrently with the filing of this license, furnish to the Town and file with the Town Clerk and at all time during existence of this license, maintain in full force and effect, a general comprehensive liability insurance policy, in an amount no less than ONE MILLION DOLLARS (\$1,000,000), in protection of the Town, its officers, boards, commissions, agents and employees, through an insurance company approved by the Town Manager in a form satisfactory to the Town Attorney protecting the Town and all persons against liability for loss or damage from personal injury, death and property damage, occasioned by the negligent operations of the Licensee under this license.

15.2 The policies mentioned in the foregoing paragraph shall name the Town, its officers, boards, commissions, agents and employees, as additional insured and shall contain a provision that a written notice of cancellation or reduction in coverage of said policy shall be delivered to the Town fifteen (15) days in advance of the effective date thereof. If such insurance is provided by a policy which also covers Licensee or any other entity or person other than those above named, then such policy shall contain the standard cross-liability endorsement.

15.3 Licensee shall at the sole risk and expense of Licensee, upon demand of the Town, made by and through the Town Attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, administrative, legislative, or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the Town or its officers, boards, commissions, agents or employees, and arising out of or pertaining to the exercise or the enjoyment of such license, or the granting thereof by the Town; provided, however, that nothing herein contained shall be deemed a waiver by Licensee of any rights it may have against Town under its license for indemnification based on the Town being the full or partial cause of any such injury.

15.4 Licensee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive, or demand rendered, make or issued against Licensee, the Town, its officers, boards, commissions, agents or employees in any of these premises; and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, or otherwise; provided, however, that such payments or satisfactions shall not be deemed a waiver of any rights of Licensee against Town under its license for indemnification based on the Town being the full or partial cause of any such injury.

SECTION 16 RECORDS AND REPORTS

16.1 The Licensee shall maintain on file with the Town full and complete plans and records showing the exact location of all CATV trunk or main system lines installed or in use in streets or other public places in the Town, and update those plans and records as extensions, additions or modifications are made thereto. Such updates shall be provided within 90 days of the end of the Licensee's fiscal year.

16.2 The Town shall have the right to inspect the Licensee's records showing the gross receipts from which its license payments are computed and the right of audit and recomputation

of any and all amounts paid under this license. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the Town may have for further or additional sums payable under this license or the performance of any other obligation hereunder for a period of two years.

16.3 The Licensee shall file the following with the Town:

(i) Upon request, all reports required by the FCC, including, but not limited to, any proof of performance tests and results, Equal Employment Opportunity reports, and all petitions, applications, and communications of all types regarding the Cable System, submitted or received by the Licensee, an Affiliate, or any other Person on behalf of the Licensee, to the FCC. Licensee shall also file all materials submitted to the Security and Exchange Commission, or any other federal, state, or local regulatory commission or agency having jurisdiction over any matter affecting operation of the Licensee's System in whole or in part. This material shall be submitted to the Town within five (5) working days from the time it is filed.

(ii) Upon request, Licensee shall provide the Town with material filed with any federal, state, or local regulatory commission, or received from such commission regarding the Cable System.

(iii) Any notice of deficiency, forfeiture, or other document issued by any state or federal agency instituting any investigation or civil or criminal proceeding regarding the Cable System, the Licensee, or any Affiliate of the Licensee, to the extent the same may affect or bear on operations in the Town. This material shall be submitted to the Town within five (5) days from the time it is filed.

16.4 Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by the Licensee or by any partnership or corporation that owns or controls the Licensee directly or indirectly. This material shall be submitted to the Town within five (5) days from the time it is filed.

16.5 Upon request, a report in a form acceptable to the Town submitted within thirty (30) days of the end of each calendar quarter showing the number of service calls received by type during the prior quarter, and the percentage of service calls compared to the Subscriber base by type of complaint.

16.6 Upon request, a report in a form acceptable to the Town, submitted within thirty (30) days of the end of each calendar quarter showing the number of outages and service degradations for the prior quarter affecting 5 or more subscribers in the same area, for at least thirty minutes, and identifying separately each planned outage, the time it occurred, its duration, and the estimated area and number of Subscribers affected; and each unplanned outage or service degradation, the time it occurred, its estimated duration and the estimated area and the number of Subscribers affected; and the total hours of outages and service degradations as a percentage of total hours of Cable System operation.

16.7 The following financial reports for the License Area shall be submitted annually to the Town ninety-days (90) after the end of the Licensee's fiscal year:

a. An annual financial report for the License area served from the previous fiscal year, including year-end balance sheet; income statement showing Subscriber revenue from each category of service and every source of non-Subscriber revenue, depreciation expense, interest expense, and taxes paid; statement of sources and applications of funds; and depreciation schedule certified by a senior financial officer of the Licensee or his designee. For each year the Town may require the Licensee to include line item operating expenses in the annual report if such request is made no more than thirty (30) days after the close of the Licensee's fiscal year for which the information is requested.

b. A current annual statement in a form acceptable to the Town of all capital expenditures, including the cost of construction and of equipment. The Town will not unreasonably reject the form of the annual statement.

c. In the first year a list of officers and members of the Board of Directors of the Licensee and in succeeding years if the persons changed and the change was not previously reported to the Town.

d. In the first year an organization chart showing all corporations or partnerships with more than a five percent (5%) interest ownership in the Licensee, and the nature of that ownership interest (limited partner, general partner, preferred shareholder, etc.); and showing the same information for each corporation or partnership that holds such an interest in the corporations or partnerships so identified, and in succeeding years if the ownership changed and the change was not previously reported to the Town.

e. An annual report of each entity identified in Section 16____ which issues an annual report.

16.8 Upon request, the following System and operational reports shall be submitted annually in a form acceptable to the Town:

(a) An annual summary of the previous year's activities including, but not limited to, Subscriber totals for each category of service offered, including number of pay units sold, new services offered, and the amount collected annually from other Users of the System and the character and extent of the service rendered thereto.

(b) An annual summary of complaints received and handled and actions taken.

16.9 The Town may require additional information, records, and documents from time to time in order to monitor compliance with this Agreement. During any review of the Licensee's performance conducted pursuant to the License the Licensee shall fully cooperate with the Town and shall provide such information and documents as the Town may need to reasonably perform its review.

SECTION 17. LICENSE NOT EXCLUSIVE

This License shall not be construed as limiting the right of Licensor, through its proper offices, and in accordance with Applicable Law, to grant other Licenses similar to or containing rights, privileges or authority different from the rights, privileges and authority herein set forth; provided, however, that such additional Licenses shall not be on terms and conditions more favorable or less burdensome to such new operator than those applied to Licensee, nor operate to materially modify, revoke or terminate any rights granted to Licensee herein. Should any change in State or federal law have the lawful effect of materially altering the terms and conditions of this License making it commercially impracticable for Licensee to continue the provision of Cable Services in the Licensor, then the parties shall modify this License to the mutual satisfaction of both parties to ameliorate the negative effects on Licensee of the material alteration. Any modification to this License shall be in writing and signed by both parties. If the parties cannot reach agreement on the above-referenced modification to the License, then Licensee may terminate this License without further obligation to the Licensor or, the parties may agree to submit the matter to binding arbitration or mediation.

SECTION 18. TERMINATION OF LICENSE

The license granted herein may be terminated prior to its date of expiration by the Council in the event that the Council, after full public hearing, shall have found that:

18.1 The Licensee has, after actual notification and the passage of reasonable time necessary to accomplish correction, failed to comply with any material provision of the License or has, by act or omission, violated any material term or condition of this License unless caused by circumstances beyond Licensee's control.

18.2 The Licensee has, after actual notification and the passage of reasonable time necessary to accomplish correction, been found to be in non-compliance with then current Federal Communications Commission (FCC) Rules and Regulations that significantly impacts the Town of Dewey-Humboldt.

SECTION 19. FRANCHISE RENEWAL

Any renewal shall be in accordance with the renewal provisions of Section 626 of the Cable Act. To the extent Section 626 of the Cable Act is no longer applicable to renewals, Licensor and Licensee shall conduct the renewal process pursuant to the terms and provisions of Section 626 of the Cable Act as it existed on the Effective Date of this License.

SECTION 20. GOVERNING LAW

This License shall be deemed to be executed in the State of Arizona, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Arizona as applicable to contracts entered into and

performed entirely within the State. This License shall also be subject to and complied with the federal Cable Act and rules of the Federal Communications Commission.

SECTION 21. MISCELLANEOUS

12.1 This License is made with the understanding that its provisions are controlled by Applicable Law.

21.2 This License shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted transferees and assigns. All of the provisions of this License apply to Licensee, its successors, and assigns.

21.3 No failure on the part of Licensor to exercise, and no delay in exercising, any right or remedy hereunder including, without limitation, the rights and remedies set forth in this License, shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other right or remedy, all subject to the conditions and limitations established in this License. The rights and remedies provided herein including, without limitation, the rights and remedies set forth in this License, are cumulative and not exclusive of any remedies provided by law, and nothing contained in this License shall impair any of the rights or remedies of Licensor under Applicable Law, subject in each case to the terms and conditions of this License.

21.4 If any section, subsection, sentence, clause, phrase, or other portion of the this License is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

21.5 This License is made between Licensee and Licensor and is not intended to and does not create any rights or interests for any other party including without limitation any rights as a third party beneficiary of this License.

21.6 This License embodies the entire understanding and agreement of Licensor and Licensee, with respect to the matters covered by this License and supersedes all prior agreements and understandings between Licensor and Licensee, with respect to such matters. It may be amended only by a writing signed by both parties.

21.7 Notwithstanding any other provisions of this License, Licensee shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this License due to strike, unavailability of materials, or equipment, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, civil disturbance, sabotage or vandalism, customer tampering or interference, act of public enemy, accident, fire, flood, storm or other events, to the extent that such causes or other events are beyond the control of Licensee.

21.8 The Town agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or state law, to the extent Licensee makes

the Town aware of such confidentiality. Licensee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information and shall provide a brief written explanation as to why such information is confidential under federal or State law. If the Town believes it must release any such confidential books and records in the course of enforcing this License, or for any other reason, it shall advise Licensee in advance so that Licensee may take appropriate steps to protect its interests. If the Town receives a demand from any person for disclosure of any information designated by licensee as confidential, the Town shall, so far as consistent with applicable law, advise Licensee and provide Licensee with a copy of any written request by the party demanding access to such information within a reasonable period of time. Until otherwise ordered by a court or agency of competent jurisdiction, the Town agrees that, to the extent permitted by federal and State law, it shall deny access to any of Licensee's books and records marked confidential as set forth above to any person. Licensee shall pay upon demand all attorneys fees, costs and other expenses incurred by Licensor as a result of a request by Licensee that the confidential document not be disclosed.

21.9 This License shall not be sold, assigned or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, without prior written consent of the Town, which consent shall not be unreasonably withheld.

21.10 Pursuant to A.R.S. § 38-511, the Town of Dewey-Humboldt may cancel this contract, without penalty or further obligation, if the Town was unaware that any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Town of Dewey-Humboldt is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

SECTION 22. MODIFICATION

No provisions of this License shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by Licensor and Licensee, which amendment shall be authorized on behalf of Licensor through the adoption of an appropriate resolution or order by Licensor, as required by law.

SECTION 23. EFFECTIVE DATE

This License shall be effective upon satisfaction of the requirements of and Section 3 of this License and shall supersede any existing License between Licensor and Licensee.

ACCEPTANCE OF LICENSE

Licensee agrees to be bound by and to comply with and to do everything required of the Licensee by the provisions of this License and Applicable Law.

IN WITNESS WHEREOF, the Licensor and Licensee have executed this License on the date and year first below written.

TOWN OF DEWEY-HUMBOLDT, ARIZONA

By: Terry Nolan, Mayor

Date: _____

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

The foregoing instrument was acknowledged before me on _____, 20__, by Terry Nolan, the Mayor of Dewey-Humboldt, Arizona on behalf of the Town of Dewey-Humboldt, Arizona.

Notary Public

ATTEST:

Judy Morgan, Town Clerk

APPROVED AS TO FORM:

By: _____
Curtis, Goodwin, Sullivan, Udall & Schwab, PLC
Town Attorney
By: Susan D. Goodwin

LICENSEE

By: _____
Print: _____
Title: _____
Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 20__, by
_____, the _____ of _____ on behalf of the Licensee.

Notary Public

LICENSE AGREEMENT

THIS AGREEMENT is made and entered into this 1st day of July 2005, between the Town of Dewey-Humboldt, a municipal corporation of the State of Arizona (hereinafter referred to as "Town"), and CABLE ONE, INC., a corporation and which is authorized to do business in the State of Arizona (hereinafter referred to as "Licensee").

WHEREAS, Licensee is a cable television operator currently conducting business within the Town pursuant to a License Agreement currently held with Yavapai County dated March 1, 1999, and subsequent amendments thereto, and desires to continue to conduct its cable television operations within the Town; and

WHEREAS, Town and Licensee have agreed to be bound by the terms and provisions of this new License; and

WHEREAS, the parties wish to provide for continued service to the Town of Dewey-Humboldt and to have a new agreement, which supersedes any and all agreements heretofore executed by the parties.

NOW, THEREFORE, the parties agree as follows:

I. LICENSE:

The Town grants a license to Licensee to operate and maintain a cable television system subject to the provisions and conditions of this license, and Licensee's valid acceptance of the same. The parties specifically acknowledge that the Town reserves the right to exercise any additional powers which may be granted to a municipality in the event that there are any future changes in federal legislation or regulations regarding cable television systems.

II. DEFINITIONS:

- A. "Cable Television System" or "CATV System" shall mean a facility which receives and amplifies or otherwise modifies the signals broadcast by one or more television or radio stations and redistributes such signals, together with any other signal, as authorized by the Federal Communications Commission, to subscribing members of the public for a fixed or periodic fee employing wires or cables or other devices passing along, over, under, across and upon streets, ways, lanes, alleys, parkways, bridges, highways, and other public places, including, but not limited to, property over which a city or town has an easement or right-of-way, and including, but not limited to, facilities which in addition to providing such reception, amplification and redistribution, are also used to originate and distribute program or other material to such subscribers.
- B. "Gross monthly subscriber receipts" shall mean any and all compensation received directly or indirectly, in payments or lump sum, by the Licensee from subscribers in the

Town Limits of Dewey-Humboldt in payment for any level of cable television service, excluding Internet services, of the cable television system.

- C. "License shall mean and include any authorization granted hereunder in terms of a privilege, permit, and license or otherwise to construct, operate and maintain a CATV System in the Town. Any such authorization, in whatever term granted, shall not mean nor include any license or permit required for the privilege of transacting and carrying on a business within the Town in accordance with other applicable Town Code provisions.
- D. "Licensee" shall mean CABLE ONE, INC. a corporation, and the lawful successor, transferee or assignee of said corporation.
- E. "License Payments": The Licensee shall pay to the Town, in the manner provided herein, an amount equal to a percent of the gross monthly subscriber receipts, as set forth in Paragraph VII. This payment shall be in addition to any other valid fees or payments made to the Town by the Licensee. In addition to the "license payments" described herein, the Licensee shall be subject to any local tax now imposed or hereafter imposed by the Town of Dewey-Humboldt, which is generally applicable and not unique to CATV operations.
- F. "Street" shall mean the surface of and space along, above and below any public street, way, lane, alley, parkway, bridge, highway, and other public places including but not limited to property over which the city has an easement or right-of-way now or hereafter existing as such within the Town.
- G. "Subscriber" shall mean any person or entity legally paying for and receiving for any purpose any service of the CATV System of the Licensee.

III. GRANT OF AUTHORITY UNDER LICENSE:

WHEREAS the Town has approved the legal, character, financial, technical and other qualifications of the Licensee, the license hereby granted by the Town to the Licensee includes the right and privilege to engage in the business of operating a CATV System in the Town for the purpose of providing CATV service of whatever nature as the Licensee may from time to time deem advisable. There is, therefore, hereby granted to the Licensee the right and privilege to erect, install, construct, repair, replace, reconstruct, maintain and retain in, over, under, across and along any public street, public way and public place, now laid out or dedicated, and all extensions thereof and additions thereto, in the Licensee's area such poles, wires, cable conductors, ducts, conduit vaults, manholes, amplifiers, attachments, and other property as may be necessary and appurtenant to the CATV Systems; and in addition, to so use, operate, and provide similar facilities or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other granted franchise or permitted to do business in the Town, provided, however, that any excavation or cuts or construction in Town right-of-way shall be subject to all rules and regulations of the Town regarding same, now imposed or hereafter imposed, which are not unique to cable television operations.

IV. NON-EXCLUSIVE LICENSE:

The right to use and occupy said Town streets and other public ways for the purpose herein set forth, shall not be exclusive, and the Town reserves the right to grant a similar use in said streets to any other person, so long as similar uses shall not interfere with Licensee's operation under the terms of this license.

V. TERM AND RENEWAL OF LICENSE:

The license and rights herein granted shall take effect and be in force on July 1, 2005 and shall continue in full force and effect until July 1, 2015 for a term of ten (10) years.

VI. CONDITIONS OF STREET OCCUPANCY AND WORK:

- A. All construction, installation or other work performed in or on any Town street, easement, right-of-way or other property shall be performed in conformance with applicable provisions of Town of Dewey-Humboldt Code concerning improvements in or upon Town rights-of-way. In the event that Licensee is required by the Town to relocate any of its system located within Town rights-of-way due to a realignment of a Town roadway, the costs of said relocation shall be borne by Licensee.
- B. Licensee shall notify the public in advance on a regular basis regarding which phase of reconstruction and/or upgrade work on the system is happening, any expected interruption of existing service that may occur and the anticipated time when conversion to the new system services will begin. Licensee shall provide the Town Manager with a plan for notifying the public.

VII. BILLINGS & PAYMENTS:

- A. Payments to Town: The licensee shall pay the Town a Licensee Fee in an amount of five percent (5%) of its Gross Monthly Subscription Receipts (as defined herein) or such higher rate as allowed by law for the period of its operation under this Agreement. The parties agree that this license fee falls within the definition of a "License Fee" as that term was defined on the effective date of this Agreement.
- B. Not a Tax or in Lieu of Any Other Tax or Fee:
 - (i) Payment of the License Fee shall not be considered in the nature of a tax.
 - (ii) The License Fee is in addition to all other taxes, fees and payments that the Licensee may be required to pay under any federal, state, or local law. The License Fee is in addition to any other fee, or assessment imposed by utilities for use of their services, facilities, or equipment.

- C. The Licensee's billing statement must itemize each category of service and equipment provided to the Subscriber and state clearly the charge therefore.
- D. The Licensee's billing statement must show specific payment due dates. Licensee shall be allowed to charge delinquency fees and collection fees as per Arizona Revised Statutes Section 44-1366.
- E. The Licensee must notify the Subscriber that he or she can remit payment in person at the Licensee's office in the Prescott area and inform the Subscriber of the address of that office.
- F. Subscribers shall not be charged a late fee or otherwise penalized for any failure by the Licensee, including failure to timely or correctly bill the Subscriber, or failure to properly credit the Subscriber for a payment timely made.

VIII. INSURANCE, INDEMNIFICATION AND DEFENSE OF LITIGATION:

- A. The Licensee shall, concurrently with the filing of this license, furnish to the Town and file with the Town Clerk and at all times during existence of this license, maintain in full force and effect, a general comprehensive liability insurance policy, in an amount no less than ONE MILLION DOLLARS (\$1,000,000), in protection of the Town, its officers, boards, commissions, agents and employees, through an insurance company approved by the Town Manager in a form satisfactory to the Town Attorney protecting the Town and all persons against liability for loss or damage from personal injury, death and property damage, occasioned by the negligent operations of the Licensee under this license.
- B. The policies mentioned in the foregoing paragraph shall name the Town, its officers, boards, commissions, agents and employees, as additional insured and shall contain a provision that a written notice of cancellation or reduction in coverage of said policy shall be delivered to the Town fifteen (15) days in advance of the effective date thereof. If such insurance is provided by a policy which also covers Licensee or any other entity or person other than those above named, then such policy shall contain the standard cross-liability endorsement.
- C. Licensee shall at the sole risk and expense of Licensee, upon demand of the Town, made by and through the Town Attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, administrative, legislative, or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the Town or its officers, boards, commissions, agents or employees, and arising out of or pertaining to the exercise or the enjoyment of such license, or the granting thereof by the Town; provided, however, that nothing herein contained shall be deemed a waiver by Licensee of any rights it may have against Town under its license for indemnification based on the Town being the full or partial cause of any such injury.

- D. Licensee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive, or demand rendered, made or issued against Licensee, the Town, its officers, boards, commissions, agents or employees in any of these premises; and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, or otherwise; provided, however, that such payments or satisfactions shall not be deemed a waiver of any rights of Licensee against Town under its license for indemnification based on the Town being the full or partial cause of any such injury.

IX. RECORDS:

- A. The Licensee shall maintain on file with the Town full and complete plans and records showing the exact location of all CATV trunk or main system lines installed or in use in streets or other public places in the Town, and update those plans and records as extensions, additions or modifications are made thereto. Such updates shall be provided within 90 days of the end of the Licensee's fiscal year.
- B. The Town shall have the right to inspect the Licensee's records showing the gross receipts from which its license payments are computed and the right of audit and recomputation of any and all amounts paid under this license. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the Town may have for further or additional sums payable under this license or the performance of any other obligation hereunder for a period of two years.
- C. The Licensee shall file the following with the Town:
- (i) Upon request, all reports required by the FCC, including, but not limited to, any proof of performance tests and results, Equal Employment Opportunity reports, and all petitions, applications, and communications of all types regarding the Cable System, submitted or received by the Licensee, an Affiliate, or any other Person on behalf of the Licensee, to the FCC. Licensee shall also file all materials submitted to the Security and Exchange Commission, or any other federal, state, or local regulatory commission or agency having jurisdiction over any matter affecting operation of the Licensee's System regarding a transaction that constitutes a transfer of the Cable System in whole or in part. This material shall be submitted to the Town within five (5) days from the time it is filed.
 - (ii) Upon request, Licensee shall provide the Town with material filed with any federal, state, or local regulatory commission, or received from such commission regarding the Cable System.
 - (iii) Any notice of deficiency, forfeiture, or other document issued by any state or federal agency instituting any investigation or civil or criminal proceeding regarding the Cable System, the Licensee, or any Affiliate of the Licensee, to the extent the same may affect or bear on operations in the Town. This material shall be submitted to the Town within five (5) days from the time it is filed.

- (iv) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by the Licensee or by any partnership or corporation that owns or controls the Licensee directly or indirectly. This material shall be submitted to the Town within five (5) days from the time it is filed.
- (v) Upon request, A report in a form acceptable to the Town submitted within thirty (30) days of the end of each calendar quarter showing the number of service calls received by type during the prior quarter, and the percentage of service calls compared to the Subscriber base by type of complaint.
- (vi) Upon request, A report in a form acceptable to the Town, submitted within thirty (30) days of the end of each calendar quarter showing the number of outages and service degradations for the prior quarter affecting 5 or more subscribers in the same area, for at least thirty minutes, and identifying separately each planned outage, the time it occurred, its duration, and the estimated area and number of Subscribers affected; and each unplanned outage or service degradation, the time it occurred, its estimated duration and the estimated area and the number of Subscribers affected; and the total hours of outages and service degradations as a percentage of total hours of Cable System operation.
- (vii) The following financial reports for the License Area shall be submitted annually to the Town ninety-days (90) after the end of the Licensee's fiscal year:
 - a. An annual financial report for the License area served from the previous fiscal year, including year-end balance sheet; income statement showing Subscriber revenue from each category of service and every source of non-Subscriber revenue, depreciation expense, interest expense, and taxes paid; statement of sources and applications of funds; and depreciation schedule certified by a senior financial officer of the Licensee or his designee. For each year the Town may require the Licensee to include line item operating expenses in the annual report if such request is made no more than thirty (30) days after the close of the Licensee's fiscal year for which the information is requested.
 - b. A current annual statement in a form acceptable to the Town of all capital expenditures, including the cost of construction and of equipment. The Town will not unreasonably reject the form of the annual statement
 - c. In the first year a list of officers and members of the Board of Directors of the Licensee and in succeeding years if the persons changed and the change was not previously reported to the Town.
 - d. In the first year an organizational chart showing all corporations or partnerships with more than a five percent (5%) interest ownership in the Licensee, and the nature of that ownership interest (limited partner,

general partner, preferred shareholder, etc.); and showing the same information for each corporation or partnership that holds such an interest in the corporations or partnerships so identified, and in succeeding years if the ownership changed and the change was not previously reported to the Town.

- e. An annual report of each entity identified in Section IX(c) (viii) (e) which issues an annual report.
- (viii) Upon request, The following System and operational reports shall be submitted annually in a form acceptable to the Town:
- (a) An annual summary of the previous year's activities including, but not limited to, Subscriber totals for each category of service offered, including number of pay units sold, new services offered, and the amount collected annually from other Users of the System and the character and extent of the service rendered thereto.
 - (b) An annual summary of complaints received and handled and actions taken.
- (ix) The Town may require additional information, records, and documents from time to time in order to monitor compliance with this Agreement. During any review of the Licensee's performance conducted pursuant to the License the Licensee shall fully cooperate with the Town and shall provide such information and documents as the Town may need to reasonably perform its review.

X. LIMITATIONS OF LICENSE:

- A. The Licensee shall be subject to all laws, rules and regulations of the State of Arizona and the United States Government, and any of its agencies, including but not limited to the Federal Communications Commission, whether said rule or regulation is in force or hereinafter enacted, relating to the business of cable television systems. Any of the provisions or terms of this license shall be amended and made consistent with any new or amended rule or regulation of the Federal Communications Commission if such new or amended rule or regulation of the Federal Communications Commission renders such provisions or terms prohibited or inconsistent.
- B. The License granted herein shall not relieve the Licensee of any obligation involved in obtaining the necessary pole or conduit space from any department of the Town, utility company, or from others maintaining poles, conduits or utilities in streets.
- C. Any and all construction, operation and maintenance by the Licensee of the system within the Town of Dewey-Humboldt shall be deemed and construed in all instances and respects to be under and pursuant to this license, and not under or pursuant to any other right, privilege, power, immunity or authority whatsoever.

- D. The license granted herein shall be a privilege to be held in personal trust by the original Licensee and shall not be sold, assigned or otherwise transferred without prior consent of the Town Council, expressed by Resolution. The said consent of the Council may not be unreasonably refused; provided, however, the proposed assignee must show financial responsibility and must agree to comply with all provisions, terms and obligations of this License.

XI. MISCELLANEOUS PROVISIONS:

- A. Parental control Option: The Licensee shall provide parental control devices to all Subscribers who wish to be able to block the video or audio portion of any objectionable channel or channels of programming from the Cable Service entering the Subscriber's home. This control equipment shall be provided at no charge except as federal law otherwise provides.
- B. Licensee shall provide free cable television connections and cable television service to buildings owned by or leased by the Town, not to exceed five (5) where there is a feeder line within one hundred fifty feet (150') of said building, provided that each such connection shall be limited to one (1) free connection per building upon the request of the Town for use of the Town only, and said free cable television shall only include Expanded Basic Cable service and RES2 High Speed Internet Service. RES2 currently has a speed of 3000/300 Kbps. Any additional High Speed Internet capacity will include a monthly price point of the difference between services offered in this agreement and the additional services requested by the Town. The Town will be responsible for providing, at their own expense, the interconnection equipment, including any routers, interface units, cabling internal to Town buildings, and any other services, such as domain hosting, required to interconnect with and transmit or receive data communications via the Internet Service provided. The Town will also be responsible for providing, at its own expense, all computers, terminals and other data processing hardware for use with the Internet Service provided.
- C. When not otherwise prescribed herein, all matters herein required to be filed with the Town shall be filed with the Town Clerk.
- D. Subscriber's right upon failure of service:
- (i) Each Subscriber who experiences any total loss of service for a continuous twenty-four hour period, shall upon request by the affected Subscriber be provided a prorated refund. Each period of service loss shall commence upon Licensee's oral or written receipt of notice of such loss of service.
 - (ii) Licensee shall maintain Service Call records on the time of call, nature of Service Call, and any corrective action taken. These Service Call records shall be made available to the Town Manager, or a designee, subject to Subscriber privacy limitations, upon request. A summary of Service Calls shall be prepared by the Licensee and submitted to the Town Manager, or a designee, upon request.

- (iii) The Licensee shall notify Subscribers at the time of initial subscription to the Cable System of the procedure for reporting and resolving inquiries.

E. Subscriber Solicitation Procedure:

- (i) All personnel, agents and representatives of the Licensee including subcontractors, shall wear a cable uniform or clearly display a photo-identification badge when acting on behalf of the Licensee in the Town.
- (ii) Licensee shall provide all prospective Subscribers with complete, clear and concise written information, prior to or at the time of installation of Cable Service, concerning all services and rates by Licensee. Such information shall include but not be limited to the following:
 - (a) All service rates, deposits if applicable, installation costs, additional television set charges, service upgrade or downgrade charges, relocation of cable outlet charges and any other charges for ancillary Cable Services;
 - (b) Complete information concerning billing and collection procedures, procedures for ordering changes in or termination of services, and all refund policies.
 - (c) Complete information concerning the utilization of videocassette recorders (hereinafter called "VCR's) with Cable Service(s), if requested.
 - (d) Complete written information concerning Licensee's privacy policies, pursuant to Federal law.
- (iii) The Licensee shall, on a regular basis, provide Subscribers of the Cable System with a complete list of service offerings, options, prices and credit policies associated with the System.

- F. Licensee shall designate an employee by name, address and phone/fax number, to respond to complaints from consumers within the Town or from officials of the Town, and shall update that information to the Town as that information may change from time to time.

XII. TERMINATION OF LICENSE:

The license granted herein may be terminated prior to its date of expiration by the Council in the event that the Council, after full public hearing, shall have found that:

- A. The Licensee has, after actual notification and the passage of reasonable time necessary to accomplish correction, failed to comply with any material provision of this License or has, by act or omission, violated any material term or condition of this License unless caused by circumstances beyond Licensee's control.
- B. The Licensee has, after actual notification and the passage of reasonable time necessary to accomplish correction, been found to be in non-compliance with then current Federal Communications Commission (FCC) Rules and Regulations that significantly impacts the Town of Dewey-Humboldt.

XIII. CONFLICT OF INTEREST:

Pursuant to A.R.S. §38-511, the Town of Dewey-Humboldt may cancel this contract, without penalty or further obligation, if the Town was unaware that any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Town of Dewey-Humboldt is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

XIV. PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS:

- A. Licensee shall designate and provide channel capacity for at least one (1) cable channel to be used for public, education and governmental (PEG) access purposes.
- B. Licensee shall provide hardware and technical assistance to any Town recognized community access channel in an annual value of not less than five thousand dollars (\$5,000).

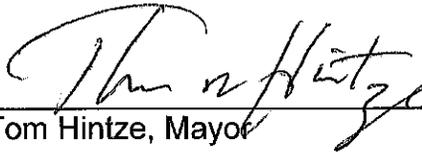
XV. SEVERABILITY:

If any section, subsection, sentence, clause or phrase of this License is for any reason held illegal, invalid or void by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

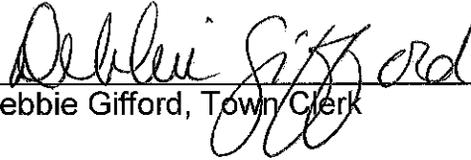
XVI. ENTIRE AGREEMENT:

This agreement represents the entire agreement by and between the parties, and shall, on the effective date as set forth in Paragraph V herein, supersede any and all previous agreements.

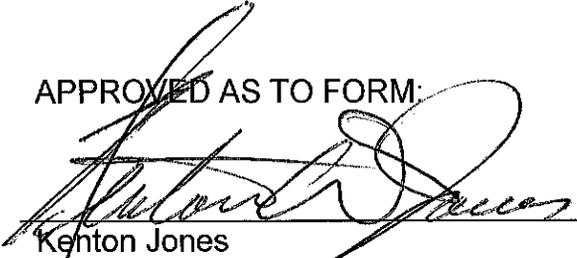
PASSED AND ADOPTED by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 21st day of June, 2005.

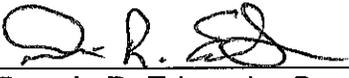

Tom Hintze, Mayor

ATTEST:


Debbie Gifford, Town Clerk

APPROVED AS TO FORM:


Kenton Jones
Town Attorney


Dennis R. Edwards, General Manager
Cable One, Inc.

6/24/15
Date

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TOWN OF DEWEY-HUMBOLDT
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HUMBOLDT, AZ 86329
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COUNCIL AGENDA ACTION REQUEST FORM

*Feb. or March
 study session*

Meeting Type: Regular Special Work Session

Meeting Date: _____

Date of Request: 12/30/2013

Requesting: Action Discussion or Report Only

Type of Action: Routine/Consent Agenda Regular

Agenda Item Text (a brief description for placement on the agenda; please be exact as this will be the wording used for the agenda):

WHAT IS TOWN POLICY FOR COLLECTING MONEY
OWED TO THE TOWN

Purpose and Background Information (Detail of requested action). _____

Staff Recommendation(s): _____

Budgeted Amount: _____

List All Attachments: _____

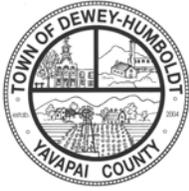
Type of Presentation: _____

Special Equipment needed: Laptop Remote Microphone
 Overhead Projector Other: _____

Contact Person: Jack Hamilton

Note: Per Town Code §30.105(D): Any new item will be placed under "New Business" for the council to determine its disposition. It can be acted upon at that meeting, sent to staff for more work, sent to the appropriate board or commission, set for a work session or tabled for a future date, etc.

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TOWN OF DEWEY-HUMBOLDT
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TOWN COUNCIL STUDY SESSION

February 11, 2014, 2:00 p.m. Town Council Meeting Chambers

Agenda Item # 3.4. Continued discussion on in-house Building Safety inspection.

To: Mayor and Town Council Members

From: Yvonne Kimball, Town Manager

Date submitted: February 10, 2014

Purpose: Update the research to date and gather Council input.

Summary:

At the January 11th Study Session, the Council discussed the options of the Building Safety services and directed that staff look into the in-house option as a priority.

In looking at the details of this option, I spoke to a few other governmental agencies about forming an IGA relationship with them for D-H's building safety services. The agencies I spoke to were not interested due to either political reasons or operational reasons. I also made inquiries to private firms. I did not receive meaningful information from the firms I contacted. However, through a RFQ process the town may be able to find a qualified firm/individual as a back-up solution and supplement in-house expertise.

In short, to provide the Building Safety services within the budget of \$30,000 a year, in-house service may be the most viable option if the Town has the right personnel. That is, in order to operate in-house Building Safety services for both residential and commercial inspections, the Town needs the Building Safety personnel (individually or in combination) to possess at least three necessary certificates - plan examiner, residential inspector, and commercial inspector. Current in-house staff expressed the desire to handle the services, however the staff needs to reinstate/obtain necessary certificates. While waiting for this to happen, finding qualified personnel is essential.

1. Staffing:

Plan review and inspection - A part-time employee who possess all or at least an inspector certificate is needed. The hiring range will be \$17 - \$20 an hour with 16 to 24 hours a week. In the event we are not able to find a qualified inspector with all desired certificates, the on-call firm will be able to assist.

Building Official (B/O) – The on-call firm can also assist with this duty. An International Code Council (ICC) certified B/O is not a legally required position and the Town rarely runs into situations where a certified B/O is absolutely needed. It may be ok for the Town to operate without a certified Building Official temporarily (such as up to 18 months) as long as certified inspectors fully function. During the absence of an in-house certified B/O, the Town Manager (by default) in adjunction with the on-call firm could take on the B/O responsibilities and duties D-H Code referred to.

2. Hardware/equipment/other miscellaneous expenses:

Designate a phone line with voicemail ability to take inspection requests.

No additional office space or computer needed as of now. If workload increases, we may need additional storage and meeting spaces.

One additional vehicle will be considered for the FY 14-15 budget. The two vehicles are working ok right now. I would foresee higher cost on fuel and maybe more wear and tear due to increased use.

Permitting software system has needed to be updated for a long time and has been budgeted for in the current fiscal year. The update of the software system will improve efficiency.

Building safety certifications require continued training credits. In the current year, \$1500 is budgeted for training of the Community Development Department. No additional training budget is needed in the coming year.

Worker's compensation and general liability insurance may go up at a minimum rate, i.e. a few more hundred dollars a year. There are also other miscellaneous costs, such as town cell phone allowances for the inspection staff (@ \$20/month), business cards and so on.

Above is where my research leads me so far. I still have some additional work to do in the next few weeks. Your input would be appreciated.