



CITY OF PALO ALTO OFFICE OF THE CITY CLERK

January 22, 2018

The Honorable City Council
Palo Alto, California

SECOND READING: Adoption of an Ordinance Amending Chapter 2.11 of Title 2 of the Palo Alto Municipal Code to Reauthorize Public, Education, and Government (PEG) Access Fees That Will Apply to Comcast as it Provides Service Under its State Video Franchise (FIRST READING: December 11, 2017 PASSED: 8-0 Fine absent)

This Ordinance was first heard by the City Council on December 11, 2017 and was passed 8-0 with Council Member Fine absent. It is now before you for the second reading.

ATTACHMENTS:

- Attachment A: PEG Fees Ordinance (PDF)

Department Head: Beth Minor, City Clerk

NOT YET APPROVED

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Chapter 2.11 of Title 2 of the Palo Alto Municipal Code to Amend Section 2.11.070 (Public, Education and Government Access Channel Capacity and Support) to Reauthorize Comcast’s PEG Support Fee on Renewal of Its State Franchise

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

Palo Alto requires holders of State Video Franchises to pay a fee of \$0.88 per residential subscriber per month to support Public, Education, and Government (PEG) Access.

The City is required to reauthorize this fee by ordinance at expiration and renewal of each state video franchise.

Comcast has notified the City that its state-issued franchise expires on January 2, 2018 and will be renewed thereafter. Accordingly, the City reauthorizes the support fee for PEG access according to the existing terms.

SECTION 2. Section 2.11.070 (Public, education and government access channel capacity and support) of Chapter 2.11 (Video Service Providers- Applicable Requirements) of the Palo Alto Municipal Code is hereby amended to read as follows:

2.11.070 Public, education and government access channel capacity and support.

(a) PEG Channel Capacity.

(1) A state franchisee shall designate and activate seven PEG channels on its network. The state franchisee shall designate and activate the seven PEG channels within three months from the date that the state franchisee receives a state franchise to provide video service in an area including the city, provided, however, that this three-month period shall be tolled for such a period, and only for such a period, during which the state franchisee's ability to designate or provide such PEG capacity is technically infeasible, as provided in Section 5870(a) of the California Public Utilities Code.

(2) A state franchisee shall provide an additional PEG channel when the standards set forth in Section 5870(d) of the California Public Utilities Code are satisfied by the city or any entity designated by the city to be responsible for PEG access channel capacity and support.

(b) PEG Support.

(1) Amount of PEG Support Fee.

(A) Except as provided in subparagraphs (B) and (C), every state franchisee operating within the jurisdictional boundaries of the city shall pay a PEG support fee to the city in the amount of eighty-eight cents (\$0.88) per month per subscriber within the jurisdictional boundaries of the city.

(B) Upon the expiration of the Comcast Franchise or its earlier termination pursuant to Section 5840(o)(3) of the California Public Utility Code, every state franchisee operating within the jurisdictional boundaries of the city shall pay a new PEG support fee to the city in the amount of eighty-eight cents (\$.88) per month per subscriber in the city.

(C) The PEG support fee established by the city pursuant to paragraph (b)(1)(B) shall expire with respect to a particular state franchisee upon the expiration of that state franchisee's state franchise, and the city shall, by ordinance, reauthorize the PEG support fee for that state franchisee upon such expiration.

(2) The PEG support fee shall be used by the city for PEG purposes consistent with state and federal law.

(3) A state franchisee shall remit the PEG support fee to the city quarterly, within forty-five days after the end of each calendar quarter. Each payment shall be accompanied by a summary explaining the basis for the calculation of the PEG support fee.

(4) If a state franchisee fails to pay the PEG support fee when due, or underpays the proper amount due, the state franchisee shall pay a late payment charge at an annual interest rate equal to the highest prime lending rate during the period of delinquency, plus one percent or the highest rate allowed by California law, whichever is lower.

(c) PEG Carriage and Interconnection.

(1) State franchisees shall ensure that all PEG channels are receivable by all subscribers, whether they receive digital or analog service, or a combination thereof, without the need for any equipment other than that needed to receive the lowest cost tier of service. PEG access capacity provided by a state franchisee shall be of similar quality and functionality to that offered by commercial channels on the state franchisee's lowest cost tier of service unless the PEG signal is provided to the state franchisee at a lower quality or with less functionality.

(2) If a state franchisee and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement for PEG carriage, the city shall require the

incumbent cable operator to allow the state franchisee to interconnect its network with the incumbent cable operator's network at a technically feasible point on the state franchisee's network as identified by the state franchisee. If no technically feasible point of interconnection is available, the state franchisee shall make interconnection available to the PEG channel originator and shall provide the facilities necessary for the interconnection. The cost of any interconnection shall be borne by the state franchisee requesting the interconnection unless otherwise agreed to by the parties.

(d) Institutional Network and Other In-Kind PEG Facilities and Cable Service Support Obligations. The incumbent cable operator's obligation to provide and support PEG channel facilities and institutional networks and to provide free cable service to schools and other public buildings as provided in the Comcast Franchise shall continue until July 25, 2010.

(e) PEG support fee reauthorizations.

(1) On expiration and renewal of AT&T's state franchise on March 30, 2017, the city hereby reauthorizes the PEG support fee.

(2) On expiration and renewal of Comcast's state franchise on January 2, 2018, the city hereby reauthorizes the PEG support fee.

SECTION 3. Severability. If any provision, clause, sentence or paragraph of this ordinance, or the application to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 4. Effective Date. This ordinance shall be effective on the thirty-first date after the date of its adoption.

SECTION 5. CEQA. The City Council finds and determines that this Ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it

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can be seen with certainty to have no possibility of a significant effect on the environment in that this Ordinance simply clarifies existing local regulations.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

City Manager

City Attorney

Director of Information Technology

Director of Administrative Services