

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
POMONA, CALIFORNIA, REAUTHORIZING AND AMENDING
SECTION 54-102 OF THE CITY CODE PERTAINING TO THE
ESTABLISHMENT AND COLLECTION OF PUBLIC,
EDUCATION AND GOVERNMENT (PEG) FEES**

WHEREAS, on December 15, 2008, the City Council adopted Ordinance No. 4111 establishing certain provisions of the California Digital Infrastructure & Competition Act (DIVCA) of 2006;

WHEREAS, Section 58709(n) of the Public Utilities Code, which was enacted as part of the Digital Infrastructure and Video Competition Act of 2006, authorized the City to adopt an ordinance establishing a fee on State-franchised video service providers to support public, educational and government access channel facilities; and,

WHEREAS, Section 5870(n) of the Public Utilities Code states that such an ordinance shall expire, and may be reauthorized, upon the expiration of the State franchise; and,

WHEREAS, DIVCA provides that a local entity may, by ordinance, establish a fee to support Public, Education and Government access support fees (PEG Fees) payable by State video franchise holders. The City currently collects PEG Fees from Charter Communications, Inc. (Charter);

WHEREAS, the City of Pomona adopted Ordinance No. 4111 impose a PEG Fee on state franchise holders to support PEG channel facilities. Section 54-102 of the Pomona City Code provides that a PEG Fee equal to one percent (1%) of gross revenues of state video franchise holders would be payable to the City;

WHEREAS, Charter's state franchise expired and was renewed as of January 2, 2018;

WHEREAS, DIVCA provides that an ordinance establishing a PEG Fee shall expire, and may be reauthorized, upon the expiration of a state franchise, and that a fee may be established at any time; and

WHEREAS, the City Council deems it to be in the best interest of the City to expressly reauthorize Ordinance No 4111 to provide the fee shall remain unchanged and in full effect as to all state franchised video service providers operating within the City, and to further provide for the automatic reauthorization of the PEG Fee upon the expiration of future video franchises held by state-franchised video service providers operating within the City.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the city of Pomona, as follows:

SECTION 1. Reauthorization. The City's Ordinance No. 4111 is reauthorized to the extent required by California Public Utilities Code section 5870(n). All state-franchised video service providers operating within the City, including but not limited to those operating pursuant to Charter, shall continue to be subject to the PEG Fee required by Ordinance No. 4111, which Fee shall remain unchanged and in full effect as to all state-franchised video service providers operating within the City.

SECTION 2. That Chapter 54, Telecommunications, Division 2, State Issued Video Franchises, of the Pomona City Code is hereby amended by adding Section 54-102(d) as follows:

(d) Commencing from, and after, the effective date of this Ordinance, the City's PEG Fee set forth in Ordinance No. 4111 shall continue to apply to any new or existing State Franchisee operating in the City and shall automatically be reauthorized upon the expiration of any existing or future state video franchise(s) held by any state-franchised video service provider operating within the City. This Ordinance shall so renew until such time that the City Council takes formal affirmative action to cease the renewals.

SECTION 3. The City Clerk shall attest to the passage and adoption of this Ordinance, and shall cause same to be posted as required by law, and this Ordinance shall take effect thirty (30) days after its adoption.

PASSED, APPROVED AND ADOPTED THIS 5th day of March, 2018.

ATTEST:

CITY OF POMONA:

Eva Buice, City Clerk

Tim Sandoval, Mayor

APPROVED AS TO FORM

Arnold M. Alvarez-Glasman, City Attorney

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STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, EVA BUICE, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on February 26, 2018, and was adopted at second reading at a regular meeting of the City Council of the City of Pomona held on _____, 2018, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Eva Buice, City Clerk