



Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Upon motion of Supervisor Phillips, seconded by Supervisor Parker and carried by those members present, the Board of Supervisors hereby:

Adopt Resolution No. 17-111 adopting Ordinance 5285 amending Section 7.13.070 of the Monterey County code to reauthorize the Public, Educational, and Government Access (PEG) Support Fee on cable operators and video service providers that hold state franchises and operate within unincorporated Monterey County.

PASSED AND ADOPTED on this 18th day of April 2017, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Salinas, Parker and Adams

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 80 for the meeting April 18, 2017.

Dated: April 18, 2017
File ID: RES 17-044

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By *Dennis Hancock*
Deputy

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. 17-111

Adopt an ordinance amending Section 7.13.070)
of the Monterey County code to reauthorize the)
Public, Educational, and Government Access)
(PEG) Support Fee on cable operators and video)
service providers that hold state franchises and)
operate within unincorporated Monterey County.....)

WHEREAS, Ordinance No. 5128 was adopted on March 17, 2009 imposing a "PEG Support Fee" of 2.59% of gross revenues on state franchise holders operating within the unincorporated County, as codified in section 7.13.070.C.1 of the Monterey County Code to support local public, educational, and government access (PEG) programming.

WHEREAS, the California Digital Infrastructure and Video Competition Act (DIVCA) provides that ordinances imposing the PEG Support Fee expire upon expiration of state franchises but may be reauthorized.

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors does hereby adopt the ordinance attached as Exhibit A, reauthorizing the PEG Support Fee and providing for automatic reauthorization of the PEG Support fee as additional state franchises expire.

PASSED AND ADOPTED upon motion of Supervisor Phillips, seconded by Supervisor Parker and carried this 18th day of April 2017, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Salinas, Parker and Adams
NOES: None
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 80 for the meeting on April 18, 2017.

Dated: April 19, 2017
File Number: RES 17-044

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Donise Hancock
Deputy

ORDINANCE 5285

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING CHAPTER 7.13 OF THE MONTEREY COUNTY CODE TO REAUTHORIZE AND READOPT THE PUBLIC, EDUCATIONAL, AND GOVERNMENT ACCESS (PEG) SUPPORT FEE

County Counsel Summary

This ordinance provides for continuation of the County's existing public, educational, and government access (PEG) Support Fee, as authorized by the state Digital Infrastructure and Video Competition Act. The PEG Support Fee is currently imposed upon cable operators or video service providers that hold state franchises and operate within unincorporated Monterey County. This ordinance reauthorizes and readopts the PEG Support Fee at the same rate and on the same terms for a state franchise that has expired. This ordinance also reauthorizes and readopts the fee at the same rate and on the same terms for all affected state franchise holders upon any future expiration of each such state franchise.

The Board of Supervisors of the County of Monterey, State of California, ordains as follows:

SECTION 1. FINDINGS. The Board of Supervisors finds as follows:

- A. State statute, the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), authorizes the County to adopt an ordinance establishing a fee on cable operators and video service providers to support public, educational and government access (PEG) channels;
- B. On March 17, 2009, the Board of Supervisors adopted Ordinance No. 5128, imposing a PEG Support Fee upon state franchise holders operating in unincorporated Monterey County, which is codified in Monterey County Code section 7.13.070.C.1;
- C. DIVCA provides, in section 5870(n) of the California Public Utilities Code, that such ordinances shall expire, and may be reauthorized, upon the expiration of the state franchise;
- D. The first state franchise that is held by a holder operating in unincorporated Monterey County will expire in March 2017; and
- E. The purpose of this ordinance is to reauthorize the PEG support fee in accordance with DIVCA (California Public Utilities Code section 5870(n)) for the state franchise that expired in March 2017 and to reauthorize the PEG support fee for all affected state franchise holders upon any future expiration of each such state franchise.

SECTION 2. Subsection F of Section 7.13.070 is added to the Monterey County Code to read as follows:

F. The PEG Support Fee on state franchise holders to support public, educational, and government access channels, authorized by section 7.13.070.C.1 of this Chapter, is hereby reauthorized and readopted for the state franchise which expired in March 2017. The PEG Support Fee, including the rate and all details, shall remain unchanged and in continuous full effect as to all state franchise holders operating in unincorporated Monterey County.

SECTION 3. Subsection G of Section 7.13.070 is added to the Monterey County Code to read as follows:

G. To the extent reauthorization is required by law upon the expiration of any state franchise, as to and upon each expiration, the PEG Support Fee authorized by section 7.13.070.C.1 of this Chapter is reauthorized as to all affected state franchise holders at the same rate and on the same terms. Reauthorizations under this section shall be effective for so long as reauthorization is required by law and until such time as this reauthorization is revoked by amendment to this Chapter.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 5. This Ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this 18th day of April, 2017, by the following vote:

AYES: Supervisors Alejo, Phillips, Salinas, Parker and Adams

NOES: None

ABSENT: None

ABSTAIN: None

/s/ Mary Adams

Mary Adams, Chair

Monterey County Board of Supervisors

A T T E S T

GAIL T. BORKOWSKI

Clerk of the Board of Supervisors

By: /s/ Gail T. Borkowski

Deputy

APPROVED AS TO FORM:

/s/ Wendy S. Strimling

WENDY S. STRIMLING
Senior Deputy County Counsel