ORDINANCE NO. O-2019-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PLACENTIA, CALIFORNIA, REAUTHORIZING THE PUBLIC,
EDUCATIONAL, AND GOVERNMENTAL FEE ON STATE
VIDEO FRANCHISEEES OPERATING WITHIN THE CITY OF
PLACENTIA

City Attorney Summary

This ordinance would reauthorize the public, educational, and
governmental (PEG) fee set forth in Section 6.48.060 of the
Placentia Municipal Code to ensure the City’s ability to collect
such fee from state video franchise holders operating within the
City.

Code §§ 5800 et seq., “DIVCA”) went into effect on January 1, 2007; and

WHEREAS, Public Utilities Code section 5870(n) (“Section 5870(n)”) of DIVCA
indicates that a city may adopt an ordinance establishing a fee on state-franchised video
service providers to support public, educational, and governmental (“PEG”) channel
facilities; and

WHEREAS, in 2008, the City adopted Ordinance No. O-2008-04, establishing a one
percent (1%) fee for the support of PEG channel facilities and activities within the City (“PEG
Fee”), which is codified in Section 6.48.060 of the Placentia Municipal Code; and

WHEREAS, Ordinance No. O-2008-04 has never been repealed and did not include
any expiration date; and

WHEREAS, it is the City’s understanding and position that the Ordinance has not
expired but continues in full force and effect; and

WHEREAS, Charter Communications (“Franchisee”) has alleged that the City’s PEG
fee has expired, which is disputed by the City; and

WHEREAS, this Ordinance will expressly reauthorize the PEG Fee codified in
Section 6.48.060 of the Placentia Municipal Code, which fee shall remain unchanged and
in full effect as to all state-franchised video service providers operating within the City; and

WHEREAS, this Ordinance will further authorize future reauthorizations of the PEG
Fee, if and when necessary, be conducted by resolution; and
WHEREAS, adoption of this ordinance is not intended as an admission of fault or a waiver of any claims against the Franchisee but instead expressly declares a reservation of all rights thereto by City; and

NOW, THEREFORE, the City Council of the City of Placentia, California, does hereby find, determine, and ordain as follows:

SECTION 1. The City Council does hereby find and determine that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2. The City's PEG Fee imposed in Section 6.48.060 of the Placentia Municipal Code is reauthorized to the extent required by California Public Utilities Code Section 5870(n). All state-franchised video service providers operating within the City shall continue to be subject to the PEG Fee required by Section 6.48.060 of the Placentia Municipal Code, which fee shall remain unchanged and in full effect as to all state-franchised video service providers operating within the City.

SECTION 3. Commencing from, and after, the effective date of this Ordinance, the Ordinance set forth in Section 6.48.060 of the Placentia Municipal Code may, upon expiration of any state franchise subject hereto, be reauthorized by resolution.

SECTION 4. Adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

SECTION 5. Any provision of the Placentia Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 6. If any section, subsection, sentence, clause, phrase or portion of this Ordinance 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 remaining portions of this Ordinance. The City Council of the City of Placentia hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 7. This Ordinance shall take effect thirty (30) days after its final passage.

SECTION 8. The City Clerk is directed to certify to the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published or posted in the manner required by law.
INTRODUCED at a regular meeting of the City Council of the City of Placentia held on July 9, 2019.

PASSED, APPROVED AND ADOPTED this 23rd day of July 2019.

ATTEST:

Rhonda Shader, Mayor

Robert S. McKinnell, City Clerk

I, Robert S. McKinnell, City Clerk of the City of Placentia, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council held on the 9th day of July 2019 and was finally adopted at a regular meeting held on the 23rd day of July 2019 by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:
ABSTAIN: Councilmembers:

Robert S. McKinnell, City Clerk

APPROVED AS TO FORM:

Christian L. Bettenhausen, City Attorney