

ORDINANCE NO. 1471

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING THE ARCATA MUNICIPAL CODE TO ADJUST THE REQUIRED PEG ACCESS FUNDING LEVEL

TITLE VI—BUSINESS, PROFESSIONS AND TRADES CHAPTER 4—CABLE SYSTEMS AND OPEN VIDEO SYSTEMS ARTICLE 5—STATE VIDEO SERVICE FRANCHISES SECTION 6566

The City Council of the City of Arcata does ordain as follows:

Section 1: Title VI—Business, Professions and Trades; Chapter 4—Cable Systems and Open Video Systems; Article 5—State Video Services; Section 6566 of the Arcata Municipal Code is hereby amended as shown by the following with deletions shown as strike-through and additions as underscore:

SEC. 6566. Public, Educational, and Government Access Channel Capacity, Support, Interconnection, and Signal Carriage.

A. PEG channel capacity.

1. A state franchise holder shall designate a sufficient amount of capacity on its network to allow the provision of four (4) PEG channels to satisfy the requirement of Section 5870 of the California Public Utilities Code, within the time limits specified therein.
2. A state franchise holder shall provide an additional PEG channel when the City satisfies the standards set forth in Section 5870(d) of the California Public Utilities Code or any entity designated by the City to manage one (1) or more of the PEG channels.

B. PEG support.

1. Amount of PEG support fee. Any state franchise holder shall pay to the City—or if directed by the City, to the City's designated PEG provider—a PEG fee equal to three one and four hundred one thousandths percent (3 1.401%) of gross revenues, an amount equivalent to the level of PEG funding remitted by the incumbent cable operator to the City's designated PEG provider during the period of January 1, 2006, to December 30, 2006.

2. The PEG support fee shall be used for PEG activities, in a manner that is consistent with the terms of the incumbent cable operator's franchise during the period of January 1, 2006, to December 30, 2006, and settlements.

3. A state franchise holder shall remit the PEG support fee quarterly, within forty-five (45) days after the end of each calendar quarter. Each payment made shall be accompanied by a summary, detailing how the PEG support fee was calculated.

4. In the event that a state franchise holder fails to pay the PEG support fee when due, or underpays the proper amount due, the state franchise holder shall pay interest at the rate per year equal to the highest prime lending rate during the period of delinquency, plus one percent (1%), or the maximum rate specified by state law.

C. *PEG Carriage and Interconnection.*

1. As set forth in Sections 5870(b) and 5870(g)(3) of the California Public Utilities Code, state franchise holders 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 franchise holder shall be of similar quality and functionality to that offered by commercial channels (unless the PEG signal is provided to the state franchise holder at a lower quality or with less functionality), shall be capable of carrying a National Television System Committee (NTSC) television signal, and shall be carried on the state franchise holder's lowest-cost tier of service. To the extent feasible, the PEG channels shall not be separated numerically from other channels carried on the lowest-cost tier of service and the channel numbers for the PEG channels shall be the same channel numbers used by any incumbent cable operator, unless prohibited by federal law. After the initial designation of the PEG channel numbers, the channel numbers shall not be changed without the agreement of the City unless federal law requires the change.

2. Where technically feasible, each state franchise holder and each incumbent cable operator shall negotiate in good faith to interconnect their networks for the purpose of providing PEG programming. Interconnection may be accomplished by any means authorized under Public Utilities Code § 5870(h). Each state franchise holder and incumbent cable operator shall provide interconnection of PEG channels on reasonable terms and conditions and may not withhold the interconnection. If a state franchise holder and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement for PEG carriage, the City may require the incumbent cable operator to allow each state franchise holder to interconnect its network with the incumbent cable operator's network at a technically feasible point on the state franchise holder's network as identified by the state franchise holder. If no technically feasible point of interconnection is available, each state franchise holder shall make interconnection available to each PEG channel originator programming a channel in the City and shall provide the facilities necessary for the interconnection. The cost of any interconnection shall be borne by each state franchise holder requesting the interconnection unless otherwise agreed to by the parties.

Section 2. Severability. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 3. Limitation of Actions. Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within thirty (30) days of the date of adoption of this ordinance.

Section 4. CEQA. This ordinance is exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Section 5. Effective Date. This ordinance shall take effect thirty (30) days after its adoption.

DATE: December 16, 2015

ATTEST:

/s/ Bridget Dory
City Clerk, City of Arcata

APPROVED:

/s/ Paul Pitino
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of **Ordinance No. 1471**, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 16th day of December, 2015, by the following vote:

AYES: PITINO, ORNELAS, PEREIRA, WHEETLEY, WINKLER

NOES: NONE

ABSENT: NONE

ABSTENTIONS: NONE

/s/ Bridget Dory
City Clerk, City of Arcata