

**ORDINANCE NO. 09-340**

**AN URGENCY ORDINANCE OF THE CITY OF LOS ALTOS  
AMENDING THE LOS ALTOS MUNICIPAL CODE CHAPTER 4.44,  
ENTITLED "STATE VIDEO SERVICE FRANCHISES"**

WHEREAS, on July 24, 2007, the City Council adopted Ordinance No. 07-313, which added a new Chapter 44.4. to Title 4 of the Los Altos Municipal Code ("LAMC"); and

WHEREAS, Chapter 44.4. adopted local regulations applicable to holders of state video franchises issued by the California Public Utilities Commission pursuant to the Digital Infrastructure and Video Competition Act of 2006, codified in California Public Utilities Code section 5800 *et seq.*, which the City is required administer and enforce; and

WHEREAS, LAMC Section 4.44.060 adopted a fee to support public, education and government ("PEG") channel facilities in the amount of two percent (2%) of gross revenues, applicable to all state franchise holders operating within the City; and

WHEREAS, the City Council pursuant to the terms and conditions of the Settlement Agreement dated October 27, 2009, shall amend the LAMC to reduce the PEG fee required to be paid by the holder of a state franchise from two percent (2%) of gross revenues to one and one-quarter percent (1.25%) of gross revenues, retroactive to January 2008; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the Guidelines implementing the California Environmental Quality Act of 1970, as amended.

The City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** Title 4 of the LAMC entitled "STATE VIDEO SERVICE FRANCHISES" Section 44.4.060 is hereby amended to read as follows:

**4.44.060 PEG fees.**

Any state franchise holder operating within the city shall pay to the city a PEG fee equal to one and one-quarter percent (1.25%) of the state franchise holder's gross revenues.

**SECTION 2. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this urgency Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Los Alto hereby declares that it would have passed and adopted this Ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 3. PUBLICATION.** This Ordinance shall be published as provided in Government Code section 36933.

**SECTION 4. EFFECTIVE DATE:** This Ordinance, pursuant to Government Code section 36937, is hereby declared to be necessary as an urgency measure for the preservation of the public peace, health, safety and property in the City, and as such shall take effect immediately and be in full force and effect upon its adoption for the following reasons:

To avoid the time and expense of unnecessary litigation, on October 27, 2009, the City entered into a Settlement Agreement with Comcast, a state franchise holder, to resolve the ongoing dispute concerning Comcast's franchise fees, known as "true-up fees" and PEG fees.

The City Council finds that this Ordinance is necessary to avoid confusion and to assure the public the amount of franchise fees and PEG fees that apply to cable service video subscribers within the City.

In order to accomplish these goals, LAMC Title 4, Chapter 44.4, Section 4.44.060 must adopted by means of this urgency Ordinance.

PASSED AND ADOPTED this 27<sup>th</sup> day of October 2009, by the following vote:

AYES: *Dackord, Carpenter, Casas, Becker, Satterlee*  
NOES: *None*  
ABSENT: *None*

*Megan H Satterlee*  
Megan Satterlee, MAYOR

Attest:

*Susan Kitchens*  
Susan Kitchens, CITY CLERK

Date: *October 27, 2009*