

ORDINANCE NO. 2018-01

**URGENCY ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SAN JUAN BAUTISTA REAUTHORIZING THE COLLECTION OF A FEE TO
SUPPORT PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ("PEG") CHANNEL
FACILITIES WITHIN THE CITY**

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WHEREAS, Section 5870(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 governmental access channel facilities; and,

WHEREAS, on November 24, 2009, the City Council approved the addition of Article 18, Chapter 5-20 of the San Juan Bautista City Code by adopting Ordinance 2009-05 that authorized the collection of a 3% PEG fee from video service providers with state-issued franchises that provide cable and video TV services within the City; 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 a state franchise; and

WHEREAS, the City's state-issued franchise, Charter-Spectrum, was given a term of 10 years, which expired. It has renewed its state-issued franchise with the CPUC and has given the City an immediate deadline to reauthorize its ordinance, of which the City staff was just made aware; and

WHEREAS, the City faces a potential lapse in collection of PEG fees from Charter until such time as the City Council reauthorizes the fee; and

WHEREAS, the City depends upon the PEG Fee for capital costs relating to PEG channel facilities, which are essential to providing City residents with important civic programming including emergency alerts and community and government news, therefore an Urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Reauthorization. Chapter 5-20 of the Municipal Code of San Juan Bautista and the PEG support fee established in Section 5-20-1830, shall automatically be reauthorized upon the expiration and renewal of any existing or future state video franchise certificate held by any state franchisee operating within the City of San Juan Bautista pursuant to the terms of Public Utilities Code Section 5870(n).

SECTION 2. Severability. The City Council declares that each section, subsection, paragraph, subparagraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this ordinance. If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this ordinance is held invalid, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

SECTION 3. Environmental assessment. The City Council declares that the approval of this ordinance is not subject to the California Environmental Quality Act ("CEQA") because pursuant to CEQA Guidelines Sections 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); and, 15060 (c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively the approval of this ordinance is not a "Project" under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

SECTION 4. Effective date. This ordinance shall become effective immediately.

THE FOREGOING URGENCY ORDINANCE was adopted at a regular meeting of the San Juan Bautista City Council on the 20th day of February, 2018, by the following vote:

AYES: West, Boch, Freeman, DeVries, Martorana

NOES: None

ABSENT: None

ABSTAIN: None



Jim West, Mayor

ATTEST:



Trish Paetz, Deputy City Clerk

APPROVED AS TO FORM:



Deborah Mall, City Attorney