

ORDINANCE NO. 825

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY REPEALING AND REPLACING CHAPTERS 5.16 ("CABLE TELEVISION FRANCHISE"), 5.18 ("CABLE SYSTEMS AND OPEN VIDEO SYSTEMS"), AND 5.19 ("STATE VIDEO FRANCHISES") OF THE GRASS VALLEY MUNICIPAL CODE REGULATING CABLE FRANCHISES AND VIDEO SERVICE PROVIDERS

WHEREAS, the Legislature of the State of California (the State) has adopted the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) (Public Utilities Code section 5800, *et seq.*); and

WHEREAS, DIVCA became effective on January 1, 2007; and

WHEREAS, DIVCA establishes a regulatory structure for the State to issue franchises to video service providers; and

WHEREAS, DIVCA makes the California Public Utilities Commission the sole franchising authority for cable television video service providers and preemptively converts local cable franchises to State franchises upon expiration of existing local franchises; and

WHEREAS, DIVCA establishes that local entities, such as the City of Grass Valley, are responsible for administration and implementation of certain provisions of DIVCA; and

WHEREAS, DIVCA permits the City to establish, by ordinance, financial support provisions for Public, Educational, and Governmental Access (PEG) channel facilities; and

WHEREAS, DIVCA requires that the City adopt, by ordinance or resolution, a schedule of penalties for any material breach by a State video franchise holder for violation of customer service and protection standards that the City is permitted to enforce; and

WHEREAS, the City Council of the City of Grass Valley now finds it necessary and desirable to update its Municipal Code to conform with state law.

Be it ordained by the council of the City of Grass Valley as follows:

SECTION 1. CODE ADOPTION. Chapters 5.16 ("Cable Television Franchise"), 5.18 ("Cable Systems and Open Video Systems"), and 5.19 ("State Video Franchises") of the Grass Valley Municipal Code are hereby amended and restated as set forth in Exhibit "A" attached to this Ordinance and incorporated by reference.

SECTION 2: CEQA FINDINGS. This Ordinance maintains a fee supporting public, educational, and government (PEG) programming and certain regulations on state video service franchises. As a purely administrative and regulatory action, it will not affect the physical environment. This Ordinance is not a project within the meaning of California Environmental Quality Act (CEQA) Guidelines, California Code of Regulations, title 14, section 15378 because it has no potential to result in physical change in the environment, directly or indirectly. It is also exempt from CEQA review under CEQA Guidelines, California Code of Regulations, title 14, 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 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance 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 or its application to other persons and circumstances. The City Council of the City of Grass Valley 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 and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 4. INCONSISTENT PROVISIONS. Any provision of the Grass Valley Municipal Code inconsistent with this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to give effect to this Ordinance.

SECTION 5. EFFECT OF ADOPTION. It is the intent of the City Council of the City of Grass Valley that the Grass Valley Municipal Code sections affected by this Ordinance shall not be considered repealed and reenacted in their amended