

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 37 OF THE MOUNTAIN VIEW CITY CODE, REAUTHORIZING AND READOPTING THE CITY'S PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS SUPPORT FEE

WHEREAS, Section 5870(n) of the Public Utilities Code, which was enacted as part of the Digital Infrastructure and Video Competition Act of 2006, which enacted Public Utilities Code Sections 5800-5970 (DIVCA), authorized the City adopt an ordinance establishing a fee on State-franchised video service providers to support public, educational, and governmental (PEG) access channel facilities; and

WHEREAS, in 2008, the City Council adopted Ordinance 4.08 establishing such a fee, which is codified in Chapter 37 of the City Code; and

WHEREAS, Public Utilities Code Section 5870(n) provides that if, on December 31, 2006, a local entity is imposing a separate fee to support PEG channel facilities that is in excess of 1 percent, that entity may, by ordinance, establish a fee no greater than that separate fee, and in no event greater than 3 percent, to support PEG activities. This Section further provides that the ordinance shall expire, and may be reauthorized, upon the expiration of the State franchise; and

WHEREAS, the first State franchises that include the City will expire in March 2017;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES ORDAIN AS FOLLOWS:

Section 1. Section 37.13 is hereby added to the Mountain View City Code, to read as follows:

“The City Council hereby reauthorizes and readopts the fee on state-franchised video service providers to support public, educational, and governmental (PEG) channel facilities codified in Chapter 37 of the Mountain View City Code, the rate and details of which shall remain unchanged and in continuous full effect as to all state-franchised video service providers.

To the extent reauthorization is required by law upon the expiration of any and all State video franchises, Ordinance No. 4.08, and with it Section 37.13, is hereby reauthorized as to that affected State video franchisee. Any and all reauthorizations

under this Section shall be effective for so long as such reauthorization is required by law.”

Section 2. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 4. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

Section 5. This ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) (the activity will not result in a direct or reasonable 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 because it has no potential for resulting in physical change to the environment, directly or indirectly).

KC/7/ORD
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