

May 10, 2006

City Council Meeting  
May 23, 2006

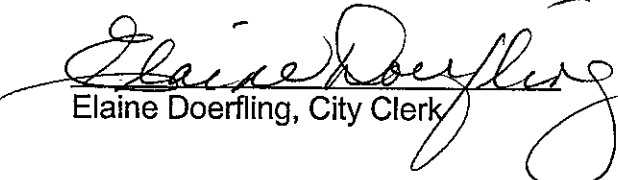
Mayor and Members  
of the City Council

**ORDINANCE NO. 06-1266 - "AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA, AMENDING CHAPTER 5.16 OF THE HERMOSA BEACH MUNICIPAL CODE REGARDING INTERCONNECTION OF PUBLIC, EDUCATIONAL, AND GOVERNMENT BROADCASTS ON CABLE AND OPEN VIDEO SYSTEMS."**

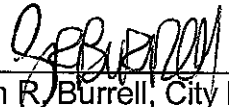
Submitted for **waiver of full reading** and **adoption** is Ordinance No. 06-1266, relating to the above subject.

At the meeting of May 9, 2006, the ordinance was presented to the City Council for consideration and was introduced by the following vote:

AYES: Edgerton, Keegan, Reviczky, Mayor Tucker  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
Elaine Doerfling, City Clerk

Noted:

  
Stephen R. Burrell, City Manager

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**ORDINANCE NO. 06-1266**

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA,  
AMENDING CHAPTER 5.16 OF THE HERMOSA BEACH MUNICIPAL CODE  
REGARDING INTERCONNECTION OF PUBLIC, EDUCATIONAL, AND  
GOVERNMENT BROADCASTS ON CABLE AND OPEN VIDEO SYSTEMS.**

**THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA,  
DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Findings.

A. The City has historically been served by a single cable television franchisee; due to changes in technology, telecommunications companies are entering the field and competing directly with traditional cable television providers.

B. It is of important public interest that the public, educational, and government programming created by the City and other local agencies be carried to all subscribers of all video franchisees of the City, regardless of the franchisee chosen by individual customers to provide the customer with video service;

C. The heavy competition in the provision of video services may make franchisee reluctant to cooperate with each other in ensuring all subscribers receive the public, educational, and government programming of the City, and the public interest in distributing such programming should not be impaired by the competitive goals of various franchisees.

**SECTION 2.** Chapter 5.16 of Title 5 of the Hermosa Beach Municipal Code is amended by adding thereto a new Section 5.16.075 to read as follows:

**"5.16.075 Interconnection**

A. To properly serve the City's interest in public, educational, and governmental programming and to serve each Franchisee's requirement to provide such programming in accordance with its Franchise, any new or renewed Franchisee must interconnect its cable system with any other cable system serving the Franchise Service Area ("Other System"). Such interconnection may be accomplished by direct cable, microwave link, satellite or other reasonable method of connection. The interconnected systems must enable the City's public, education, and government programming to reach all subscribers in the City of all Franchisees by allowing the City to broadcast or feed its signals into a single point designated by the City.

1           1. Failure to negotiate for and provide an interconnection as required by this section is  
2 a material breach of a Franchise, and any Franchisee that fails to negotiate or provide an  
3 interconnection will be subject to fines, penalties, liquidated damages, suspension, revocation, and  
4 termination in accord with this Chapter.

5           B. Interconnection Procedure. Within 30 days of a grant of Franchise (including a  
6 Franchise renewal), or within 30 days of receiving written notice from the City that another  
7 franchisee has received a Franchise from the City, a Franchisee must begin negotiations with the  
8 owner(s) and operator(s) of the Other System(s) to determine their equitable share of costs for  
9 both construction and operation of the interconnection link. Franchisee shall negotiate in good  
10 faith with Other System operator(s) respecting reasonable, mutually convenient, cost-effective,  
11 and technically viable interconnection points, methods, terms and conditions. The construction  
12 costs and ongoing expenses of interconnection shall be fairly shared between all Franchisees. All  
13 Franchisees must negotiate the precise terms and conditions of an interconnection agreement. All  
14 interconnections must be operational within 180 days of the start of the negotiations required by  
15 this section, unless extended by the City Council in its sole discretion.

16           C. Relief. If the Franchisees are unable to reach agreement on the terms of  
17 interconnection, including, but not limited to, compensation and timing, the dispute shall be  
18 submitted to the City Council or its designee for resolution. Franchisees may be granted  
19 reasonable extensions of time to interconnect, within the sole discretion of the City Council or its  
20 designee. If the City Council determines in its sole discretion that the cost of interconnection  
21 would be unreasonable, interconnection is not technically feasible or would cause an unacceptable  
22 increase in Subscriber rates, or determines an Other System operator will not agree to reasonable  
23 terms and conditions of interconnection, the interconnection requirement of this Section may be  
24 waived and a separate, direct access to a Franchisee's system for broadcast or transmission of  
25 public, education, and government programming may be substituted in place of the  
26 interconnection."

27           **SECTION 3.** Section 5.16.120.B.4.b. of Chapter 5.16 of the Hermosa Beach Municipal  
28 Code is amended to read as follows:

1 "B. The open video system operator must comply with Section 5.16.075 of this Code and  
2 ensure that all subscribers receive all public, educational, and governmental access channels  
3 within the franchise service area in which the City's subscribers are located. An open video  
4 system operator is considered a Franchisee for the purposes of compliance with Section 5.16.075."

5 **SECTION 4.** Notice of Adoption. The City Clerk of the City of Hermosa Beach shall  
6 certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general  
7 circulation and published and circulated in the City in a manner permitted under Section 36033 of  
8 the California Government Code.

9 **SECTION 5.** This ordinance shall become effective and be in full force and effect from  
10 and after thirty (30) days of its final passage and adoption.

11 **SECTION 6.** Prior to the expiration of fifteen (15) days after the date of its adoption, the  
12 City Clerk shall cause this ordinance to be published in the Easy Reader, a weekly newspaper of  
13 general circulation published and circulated, in the City of Hermosa Beach in the manner provided  
14 by law.

15 **SECTION 7.** The City Clerk shall certify to the passage and adoption of this ordinance,  
16 shall enter the same in the book of original ordinances of said city, and shall make minutes of the  
17 passage and adoption thereof in the records of the proceedings of the City Council at which the  
18 same is passed and adopted.

19 **PASSED, APPROVED and ADOPTED** this 23rd of May 2006 by the following vote:

20 AYES:  
21 NOES:  
22 ABSENT:  
23 ABSTAIN:

24  
25 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

26 ATTEST:

APPROVED AS TO FORM:

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28 \_\_\_\_\_  
City Clerk

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City Attorney