Council Meeting
March 25, 2008

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: SECOND AND FINAL READING OF ORDINANCE 3707

RECOMMENDATION:

Second and Final Reading of **ORDINANCE NO. 3707** imposing video franchise fees and regulating customer service in accordance with the Digital Infrastructure and Video Competition Act.

BACKGROUND:

At the regular meeting of the City Council held on the 18th day of March 2008, this Ordinance was introduced and approved for its first reading by the following roll call vote:

AYES:	COUNCILMEMBERS:	Barnett, Brewer, Nowatka, Sutherland, Witkowsky, and Mayor Scotto.
NOES:	COUNCILMEMBERS:	None.
ABSTAIN:	COUNCILMEMBERS:	None.
ABSENT:	COUNCILMEMBERS:	Drevno.

Respectfully submitted,

Sue Herbers, City Clerk

NOTED:

LeRoy J. Jackson, City Manager

Attachment A: Ordinance 3707
B: Ordinance summary

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Attachment A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE IMPOSING VIDEO FRANCHISE FEES AND REGULATING CUSTOMER SERVICE IN ACCORDANCE WITH THE DIGITAL INFRASTUCTURE AND VIDEO COMPETITION ACT

The City Council of the City of Torrance does ordain as follows:

Article I. Video Franchise Fees, Customer Service and Other Video-Related Matters.

Section 1.00 Regulation of State Video Franchises and City Video Franchises.

Under State law effective January 1, 2007, the California Public Utilities Commission ("PUC") will have the authority to grant state video franchises ("State Franchises"). The City of Torrance (the "City") will acquire certain rights and responsibilities with respect to state video franchise holders. These include the receipt of a franchise fee and a fee for Public, Educational and Government ("PEG") purposes, both based on a percentage of the gross revenues of state franchise holders, as well as the establishment and enforcement of penalties for violations of customer service rules.

Section 1.01 State Video Franchise Fees.

(a) Any state video franchise holder ("State Franchisee") operating within the boundaries of the City of Torrance shall pay a fee to the City equal to five percent (5%) of the Gross Revenue of that State Franchisee.

(b) Any State Franchisee operating within the boundaries of the City of Torrance shall pay an additional fee to the City equal to one percent (1%) of the Gross Revenue of that State Franchisee, which fee shall be used by the City for PEG purposes consistent with state and federal law.

(c) Gross Revenue, for the purposes of (a) and (b) above, shall have the definition set forth in California Public Utilities Code § 5860.

Section 1.02 Audit Authority.

Not more than once annually, the City may examine and perform an audit of the business records of a State Franchisee to ensure compliance with Section 1.01.

Section 1.03 Customer Service Penalties Under State Franchises.

(a) The holder of a State Franchise shall comply with all applicable state and federal customer service and protection standards pertaining to the provision of video service.

(b) The City Manager, or his/her designee, shall monitor the compliance of State Franchisee(s) with respect to state and federal customer service and protection standards. The City Manager, or his/her designee, shall provide the State Franchisee(s) written notice of any material breaches of applicable customer service standards, and shall allow the State Franchisee(s) thirty (30) days from the receipt of the notice to remedy the specified material breach. Material breaches not remedied within the 30-day time period shall be subject to the following penalties by the City Manager, or his/her designee.

(i) For the first occurrence of a violation, a fine of $500.00 shall be imposed for each day the violation remains in effect, not to exceed $1500.00 for each violation.

(ii) For a second violation of the same nature within 12 months, a fine of $1,000.00 shall be imposed for each day the violation remains in effect, not to exceed $3,000.00 for each violation.

(c) A State Franchisee may appeal a penalty assessed to the City Council within sixty (60) days. After relevant speakers are heard, and any necessary staff reports are submitted, the City Council will vote to either uphold or vacate the penalty. The City Council's decision on the imposition of a penalty shall be final.

Section 1.04 City Response to State Franchise Applications.

(a) Applicants for State Franchises within the boundaries of the City of Torrance must concurrently provide complete copies to the City of any application or amendments to applications filed with the PUC. One complete copy must be provided to the City Clerk, and one complete copy to the City Manager.

(b) The City Manager shall provide any appropriate comments to the PUC regarding an application or an amendment to an application for a State Franchise.

This ordinance will take effect thirty days after the date of its adoption. Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED AND APPROVED the __ day of ____, 2008.

ADOPTED AND PASSED this ___ day of _____, 2008.

_____
Frank Scotto, Mayor

ATTEST:

_____
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Ronald T. Pohl, Assistant City Attorney

Attachment B

ORDINANCE NO. ____

SUMMARY

On _____, 2008, the City Council of the City of Torrance adopted Ordinance No. _____, which imposes video franchise fees and regulates customer service in accordance with the Digital Infrastructure and Video Competition Act.

*****City Clerk to add a paragraph stating that copies of the ordinance are available at the City Clerk's office and stating the names of the City Council members that voted in favor and those that voted against.*****