

CHAPTER 8

CABLE COMMUNICATIONS REGULATIONS

ARTICLE I - FRANCHISE CODE

8-1-1 **TITLE.** This Chapter shall be known and may be cited as the Cable Communications Franchise Code.

8-1-2 **DEFINITIONS.**

(A) **Specific Terms.** For the purpose of this Chapter, the following words, terms, phrases, and their derivations shall have the meanings given herein. When not inconsistent with the content, words used in the present tense include the future tense, words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Additional Service: Any service not included in "basic service" or "institutional service".

Administrative Officer: The Village Manager or his designee.

Attachment Point: The point at which grantee's drop attaches to subscriber-owned equipment.

Basic Equipment: The lowest service tier which includes the retransmission of local television broadcast signals.

Broadcast Signal: A signal transmitted over the air to a side public geographic audience and received by a cable system.

Cable Communications System or System, Cable TV System, CATV System, or Broadband Communications Network or Network: A system within the Village of Rochester of antennas, cables, amplifiers, towers, microwave links, cable-casting studios, and any other conductors, converters, terminals, equipment or facilities, designed and constructed for the primary purpose of distributing television programming to subscribers or users, and for the secondary purpose of producing, receiving amplifying, storing, processing or distributing audio, video, digital or other forms of electronic or electrical signals.

Cablecast Signal: A nonbroadcast signal that originates within the facilities of the cable communications system, whether from a live or recorded source.

Channel: A frequency band capable of carrying a standard video signal or some combination of video signals, or a frequency band assigned to carry a nonstandard video signal or some combination of such video signals.

Commercial Subscriber: A subscriber who receives a residential service in a place of business, or anyone whose service is utilized in a business, trade or profession, including but not limited to hotels, motels, bars, restaurants and other similar establishments.

Complaint: A billing dispute or service call in which a subscriber is notifying grantee of an outage and/or degradation in picture quality.

Converter or Terminal: A device which converts signals from one frequency to another.

Drop: The cable and related equipment connecting the system's plant to equipment at the subscriber's premises.

Education Channel: Any channel where nonprofit educational institutions are the primary designated programmers.

FCC: The Federal Communications Commission or its designated representative(s).

Franchise: A written legal undertaking or action of the Grantor which awards permission to a specific named person or entity to use the streets and public ways for the purpose of installing, operating and maintaining a cable communications system.

Government Channel: Any channel where local government agencies are the primary designated programmers and programming is noncommercial informational programming regarding governmental activities and programs.

Grantee: The entity to which a franchise is granted for the construction, operation, maintenance and reconstruction of a cable communications system and the lawful successors, transferees or assignees of said entity.

Grantor: The entity establishing this Chapter for territory within its present and future jurisdiction, its elected governing body and/or such representative person or entity as it may designate to act on cable communication matters in its behalf.

Gross Annual Receipts or Gross Receipts: The annual total monies or revenues actually received by the grantee related to, or stemming from, any Village of Rochester operations, programming, channel leasing, advertising, interconnection or retransmission of signals to/from other cable systems, except for taxes collected by a system grantee on behalf of taxing authorities or franchise fees if separately stated in customers' bills.

Headend: That central portion(s) of the system where signals are introduced into and received from the balance of the system.

Leased Channel: Any channel where someone other than Grantor or grantee is sold the rights to air programming.

Local Origination Channel: Any channel where the grantee is the primary designated programmer.

Monitoring or Tapping: Observing or receiving a signal, or the absence of a signal, where the observer is neither the sending nor receiving party and is not authorized by the sending and/or receiving party to observe said signal, whether the signal is observed or received by visual, electronic or any other means whatsoever.

Nonbroadcast Signal: A signal that is not involved in over-the-air broadcast for general public reception.

Open Channel: Any channel that can be received by all subscribers, without the use of special equipment not normally processed by, or available to, anyone who may become a subscriber.

Pay Cable or Pay Service, Premium Service, Pay-Per-View or Pay Television: Signals for which there is a fee or charge to users over and above the charge for basic service or other tiers of service provided, however, the sale or lease of studio facilities, equipment and/or tapes to local users shall not be deemed pay or premium services.

Peg Channel: A public, education or government channel.

Person: Any corporation, partnership, proprietorship, individual or organization authorized to do business in the State of Illinois, or any natural person.

Plant: The transmitting medium and related equipment which transmits signals between the headend and subscribers, including drops.

Private Channel: Any channel carrying material available in intelligible form only to subscribers provided with special equipment to receive such signals and render the intelligible.

Program or Programming: The information content of a signal and the act or process of creating such content, whether that content is intended to be pictures and sound, sound only or any other form of information whatsoever.

Programmer: Any person or entity who or which provides program material or information for transmission by means of a system.

Property of Grantee: All property owned or leased within the franchise area by grantee in the conduct of its system business under a franchise granted hereunder.

Public Channel, Community Service Channel or Community Channel: Any channel for which any member of the general public or any community organization may provide noncommercial, nonprofit programming on a nondiscriminatory basis.

Resident: Any person residing in the franchised area or as otherwise defined by applicable law.

Residential Subscriber: A subscriber who receives a service in a dwelling unit, and whose service is not utilized in business, trade or profession.

School: Any nonprofit educational institution, public or private.

Section: Any section, subsection or provision of this Chapter or of a franchise hereunder.

Service: Any specific kind or type of benefit or ability provided by grantee, or group of related benefits or abilities, obtained or made available to any person or entity, involving the use of a signal transmitted via a cable communications system, whether the signal and its content are the entire service or comprise only a part of a service which involves other elements of any number or kind.

Service Area: The Village of Rochester, within its present or future jurisdiction. Any franchise granted pursuant to this Chapter shall have the right to provide cable television system services to the entirety of this service area. However, any grantee shall not be obligated to serve any areas already provided service by another franchised cable operator or any other multi-channel video services provider.

Service Outage: A complete disruption in cable service.

Streets and Public Ways: The surface and the space above and below any public street, sidewalk, alley, or other public way or right-of-way of any type whatsoever.

Subscriber: Any person or other entity electing to subscribe to, for any purpose, a service provided by Grantee by means of or in connection with its cable system.

Tier: A channel or combination of signals and/or channels for which a specific identifiable price is charged.

Unit: A discrete place where system services are used, such as a residence, apartment, office, store, etc.

User(s): Any person or entity who either receives services from a cable system or who accomplishes any purpose by, in part or in whole, transmitting or receiving information via a cable system, or who creates programming for that purpose, or who receives and uses programming.

Year: A specific year or part of a year referred to, or a full calendar year.

(B) **Terms Not Defined.** Words, terms or phrases not defined herein shall first mean their special meaning or connotations in any industry, business, trade or profession where they commonly carry such special meanings. In the event such special meanings are not common, they shall mean their standard definitions as set forth in commonly used and accepted dictionaries of the English language.

8-1-3 GRANT OF FRANCHISE.

(A) **Authority to Grant Franchise.** The Grantor may grant a franchise to any person who offers to provide a system under and pursuant to this Chapter.

(B) **Form.** A franchise may, at Grantor's sole option, take the form of an ordinance, license, permit, contract, agreement, resolution or any other form elected by Grantor.

(C) **Grants Not Required.** Consistent with applicable State and Federal law, no provision of this Chapter shall require the granting of a franchise when, in the opinion of the Grantor, it is in the public interest not to do so.

(D) **Purpose.** The purpose of a franchise shall be to identify and authorize its specific grantee and to identify and specify those terms, conditions, definitions, itemizations, specifications and other particulars of the agreement between the Grantor and grantee which it represents. In so doing a franchise may clarify, extend and interpret the provisions of this Chapter. Where a franchise and this Chapter conflict both shall be liberally interpreted to achieve a common meaning or requirement. In the event this is not possible within reasonable limits, the franchise shall prevail.

(E) **Mutual Consideration.** The award of a franchise authorizing the use of public property or public rights for private purposes shall be deemed consideration by the grantee in the form of agreement to provide the system and services offered in accordance with the provisions hereof and of the franchise.

(F) **Compliance with Law.** Neither this Chapter nor a franchise granted under it relieves grantee of any requirement of Grantor or of any ordinance, rule, regulation or specification of Grantor now or hereafter in effect, including but not

limited to the payment of all normal permit and inspection fees so long as said ordinance, rules, regulations or specifications do not materially conflict with or alter the express terms of this Chapter and the franchise.

(G) **Franchise Nonexclusive.** Grantor may, at its option, grant one or more franchises to construct, operate, maintain and reconstruct a cable communications system. Said franchises shall constitute both a privilege and an obligation to provide the system and services required by this Chapter and the franchise.

(H) **Limitation.** No privilege shall be granted or conferred by a franchise except those specifically prescribed herein or in the franchise agreement.

(I) **Duration.** The term of any franchise, and all rights, privileges, obligations and restrictions pertaining thereto shall be specified in the franchise agreement. The effective date of any franchise shall be as specified in the franchise.

(J) **Status.** Any franchise granted shall be nonexclusive. The Grantor specifically reserves the right to grant, at any time, such additional franchises, as it deems appropriate.

(K) **Use of Public Streets and Ways.** For the purposes of operating and maintaining a cable communications system in the franchised area, a grantee may place and maintain within the public rights of way such property and equipment as are necessary and appurtenant to the operation of the cable communications system. Prior to construction or alteration of plant in public rights of way, the grantee shall apply for and receive all necessary permits.

(L) **Use of Other Utilities.** Any person or entity who provides a system or services as defined herein shall be deemed a grantee and shall not do so except in accordance with a franchise granted hereunder. If such grantee uses distribution channels furnished by a telephone company or other public utility, said grantee shall be required to comply with all of the provisions hereof as a "licensee", and the term "grantee" herein shall include "licensee" in its meaning.

(M) **Nontransferable.** Except for transfers between and among wholly-owned subsidiaries of grantee, or affiliates of grantee which are wholly-owned by the same parent, the franchise shall not be sublet or assigned, nor shall any of the rights or privileges therein granted or authorized be leased, assigned, sold or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person except the grantee, either by act of the grantee or by operation of law, without the prior written consent of the Grantor, which consent shall not be unreasonably withheld. The granting of such consent shall not render unnecessary, disapprove or conditionally approve said request within a reasonable period of time upon the receipt of all reasonably necessary requested information.

(N) **Change in Control.**

(1) The grantee shall promptly notify Grantor of any proposed change in control of the grantee. Such change in control shall make the franchise null and void unless the Grantor shall have consented thereto, which consent shall not be

unreasonably withheld. The Grantor may condition said transfer upon reasonable terms and conditions.

- (2) Except for transfers between and among wholly-owned subsidiaries of grantee, or affiliates of grantee which are wholly-owned by the same parent, for the purpose of this Section, a change in control will exist upon sale or transfer of **thirty percent (30%)** or more of the grantee's stock ownership or other control even if there is no change in the management entity.

(O) **Sales Notice.** The grantee, at least **ninety (90) days** prior to any franchise transfer or change in control as heretofore described, shall file with the Grantor a notice of intent to enter into said transfer and then file a certified copy attesting to said sale within **ninety (90) days** of approval of said transfer.

(P) **Sales Approval.** Every such transfer or change in control as heretofore described, whether voluntary or involuntary, shall be deemed void and of no effect unless grantee shall have filed said certified copy as is required and Grantor has given written approval by resolution of the Board of Trustees.

(Q) **Violation.** If the grantee shall violate this Section, this franchise shall terminate subject to all applicable due process safeguards.

8-1-4 RIGHTS RESERVED TO THE GRANTOR.

(A) **Reservation.** There is hereby reserved to Grantor every right it may have in relation to its power to eminent domain over grantee's franchise and property.

(B) **Nonwaiver or Bar.** Neither the granting of any franchise, nor any provisions hereof, shall constitute a waiver or bar to the exercise of any governmental right or power by Grantor.

(C) **Delegation of Powers.** Any right or power in, or duty retained by or imposed upon Grantor, or any commission, officer, employee, department or board of Grantor, may be assigned or transferred by Grantor to any officer, employee, department or board of Grantor.

(D) **Right of Inspection of Construction.** The Grantor shall have the right to inspect all construction or installation or other physical work performed by grantee in connection with the franchise, and to make such tests as it shall find necessary to ensure compliance with the terms of the franchise and other pertinent provisions of law, so long as said inspection and testing does not unreasonably interfere with grantee's operations.

(E) **Right to Require Removal of Property.** Consistent with applicable law, at the expiration of the term or any renewal term or extension for which the franchise is granted, or upon its lawful revocation, expiration or termination, the Grantor shall have the right to require the grantee to remove, at grantee's expense, all portions of its system and any other property from all streets and public ways within the franchise area within a reasonable period of time.

(F) **Right of Intervention.** The Grantor shall have the right of intervention in any suit, proceeding or other judicial or administrative proceeding in which the Grantor has any material interest, to which the grantee is party.

(G) **Place of Inspection.** The Grantor shall have the right to inspect all relevant information that is reasonably necessary for the exercise of Grantor's regulatory authority upon reasonable notice on grantee's local premises at any time during normal business hours, and any grantee records kept at another place shall, within **ten (10) days** of Grantor's request, be made available for Grantor's inspection, so long as said inspection does not unreasonably interfere with grantee's operations.

8-1-5 RIGHTS OF SUBSCRIBERS.

(A) **Discriminatory Practices Prohibited.** The grantee shall not deny cable television service or otherwise discriminate against subscribers, or others on the basis of race, color, religion, national origin, sex, age or sexual preference. The grantee shall strictly adhere to the equal employment opportunity requirements of Federal, State or local governments and shall comply with all applicable laws and executive and administrative orders relating to nondiscrimination.

(B) **Tapping and Monitoring.** The grantee shall not tap or monitor or permit any other person controlled by grantee to tap or monitor any cable, line, signal input device or subscriber outlet or receiver for any purpose whatsoever without the express written consent of the subscriber or a court order therefor; provided, however, that the grantee shall be entitled to monitor customer service calls for quality control purposes and to conduct system-wide or individually addressed "sweeps" for the purpose of verifying system integrity, controlling return path transmission or checking for unauthorized connections to the cable television system or service levels or billing for pay services.

(C) **Data Collection.** Except for its own internal use, or in connection with the provision of cable services the grantee shall not permit its system to be used for data collection purposes, nor shall it otherwise collect data which would reveal the commercial product or other preferences or opinions of individual subscribers, members of their families or their guests, licensees or employees, except for grantee's own internal uses, unless the grantee shall have received the prior consent of such subscriber.

(D) **Revealing Subscriber Preferences.**

- (1) Grantee shall not reveal individual subscriber preferences, viewing habits, beliefs, philosophy, creeds or religious beliefs to any third person, firm, agency, governmental unit or investigating agency without court authority or prior written consent of the subscriber.
- (2) Such written consent, if given, shall be limited to a period of time not to exceed **one (1) year** or a term agreed upon by grantee and subscriber.

- (3) The grantee shall not condition the delivery or receipt of cable services to any subscriber on any such consent.
- (4) Such a subscriber may revoke without penalty or cost any consent previously made by delivering to the grantee in writing a substantial indication of his intent to so revoke.

(E) **Other Persons Affected.** The prohibitions contained in **Section 8-1-5(E)(1)** through **(4)** inclusive of this Section shall extend and apply to all of the foregoing, as well as to the grantee.

- (1) Officers, directors, employees and agents of the grantee;
- (2) General and limited partners of the grantee;
- (3) Any person or combination of persons owning, holding or controlling **five percent (5%)** or more of any corporate stock or other ownership interest of the grantee;
- (4) Any affiliated or subsidiary entity owned or controlled by grantee, or in which any officer, director, stockholder, general or limited partner or person or group of persons owning, holding or controlling any ownership interest in the grantee, shall own, hold or control **five percent (5%)** or more of any corporate stock or other ownership interest; and,
- (5) Any person, firm or corporation acting or serving in the capacity of holding or controlling company of the grantee.

8-1-6 FINANCE AND INSURANCE.

(A) **Payments to the Grantor.**

- (1) As compensation for any franchise to be granted, and in consideration of permission to use the streets and public ways of Grantor for the construction, operation, maintenance, and reconstruction of a cable communications system, the grantee shall pay to the Grantor such amounts as specified in the franchise.
- (2) Payments due the Grantor under this provision shall be computed annually for the preceding year, and shall be paid within **forty-five (45) days** of the close of each calendar year. The payment shall be accompanied by a report showing the basis for the computation and such other relevant facts as may be required by the Grantor to determine the accuracy of a said payment.

(B) **Failure to Make Required Payment.** In the event that any franchise payment or recomputed amount is not made on or before the dates specified herein, grantee shall pay as additional compensation an interest charge, computed from such due date, at the annual rate equal to the prevailing commercial prime interest rate in effect upon the due date.

8-1-7 SERVICES.

(A) **Nondiscrimination.** Grantee shall not discriminate between individual, nondelinquent subscribers within one type or class in the availability of services at either standard or differential rates according to published rate schedules. No charges may be made for individual services except as listed in published schedules which are available to inspection by anyone at grantee's office quoted by grantee on the telephone, and displayed or communicated to all potential subscribers. Grantee may provide discounts to groups of customers at rates determined by grantee.

(B) **Prepayment.** Grantee may, at its option, charge subscribers for services not more than **two (2) months** in advance unless an individual subscriber requests a longer period.

(C) **Disconnect for Cause.** Grantee may disconnect a subscriber only for cause, which shall include, without limitation, the following:

- (1) Payment delinquency in excess of **forty-five (45) days.**
- (2) Willful or negligent damage to or misappropriation of grantee property.
- (3) Monitoring, tapping or tampering with grantee's system, signals, or service.
- (4) Threats of violence to grantee's employees or property.

(D) **Reconnection.** Grantee shall, upon subscriber's written request, reconnect service which has been disconnected for payment delinquency when payment has removed the delinquency. A published standard charge may be made for reconnection. Grantee shall not be required to make more than **three (3) reconnections** for the same subscriber if the disconnections involved were caused by payment delinquency within the past **twenty-four (24) months.** Reconnection for disconnects covered by subsections (B), (C) or (D) shall be at grantee's sole discretion.

(E) **Installations.**

- (1) Grantee shall promptly provide and maintain service to the residential, commercial, and industrial structures as provided in the franchise agreement, in the service area as defined in the franchise agreement, upon request of the lawful occupant or owner.
- (2) In the case of a new drop, grantee shall advise each subscriber that he/she has the right to require his/her installation be done over any route on his property, and in any manner he/she may elect which is technically and economically feasible if he/she so elects, require that any such request be made in writing. If the subscriber requests installation other than a standard installation, then the subscriber may be required to pay a reasonable fee for the time and materials occasioned by the installation and to sign an agreement releasing the grantee from liability for poor service or damage to person or property resulting from the nonstandard installation.

- (3) For purposes of this Section, a standard installation shall include installation of drop cable with fittings up to **one hundred fifty (150) feet** from the CATV distribution system measured along the cable from the center line of the street or utility easement through the house wall or at the customer's option through the floor from a house vent or crawl space directly to the customer's entry to the TV set. Also included as part of a standard installation is the grounding cable, fine tuning of the television set and the provisions of the appropriate literature.

(F) **Converters/Terminals.** At such time as a converter or terminal becomes necessary for subscribers to have access to services on its system, grantee shall make them available to subscribers. Grantee may require each subscriber who elects to take a converter or terminal to furnish a security deposit therefor and/or pay a monthly fee.

- (1) Each device shall be and remain the property of the grantee unless Grantor approves its sale to the subscriber. Grantee shall be responsible for maintenance and repair of all equipment owned by grantee and may replace it as he/she may from time to time elect, except that subscriber shall be responsible for loss of or damage to any such device while in his/her possession.
- (2) Upon termination or cancellation of subscriber's service, subscriber shall promptly return grantee's property to grantee in the same condition as received, reasonable wear and tear excepted.
- (3) Grantee may apply the security deposit against any sum due from subscriber loss of or damage to such converter exceeding reasonable wear and tear. In the event that no security deposit has been required, the grantee may charge the subscriber for any such damage exceeding reasonable wear and tear.
- (4) If grantee has no claim against the deposit, grantee shall return it, or the balance, to the subscriber.

(G) **Nonstandard Installations.** For each nonstandard drop installed, the grantee may charge the subscriber for the cost of material and labor in excess of that for a standard drop. Grantee shall provide each subscriber an estimate of all charges prior to installation and obtain subscriber's authorization in advance for all nonstandard drop charges.

8-1-8 DESIGN AND CONSTRUCTION.

(A) **System Construction.** The system shall be constructed in accordance with the provisions of the franchise agreement.

(B) **Construction Components and Techniques.** Construction components and techniques shall be in accordance with the franchise and all applicable law.

(C) **Technical and Performance Standards.** Consistent with applicable law, system technical and performance standards shall be in accordance with the franchise.

(D) **Construction Codes.** The grantee shall strictly adhere to all Building and Zoning Codes currently or hereafter in force¹ and obtain all necessary permits. The grantee shall arrange its lines, cables or other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of said property by any person. In the event of such interference, the Grantor may require the removal of the grantee's lines, cables and appurtenances from the property in question. Except for service drops, grantee shall give at least **forty-eight (48) hours** advance notice to all property owners and the Grantor prior to installing any aboveground and underground structures upon easements located on private property. Grantor shall not modify its construction requirements subsequent to the completion of construction so as to require reconstruction or retrofit unless the public health and safety so requires.

(E) **System Construction Schedule.**

- (1) The grantee shall begin to offer cable television service no later than the schedule contained in the franchise.
- (2) The grantee shall provide a detailed construction plan indicating progress schedule, area construction or reconstruction maps, test plan and projected dates for offering service.

(F) **Geographical Coverage.** The grantee shall have the right to design and construct the system to have the capability to service every residential structure within the service area of the franchise and any annexations thereto, as defined and provided by the franchise agreement, with any exceptions requiring specific Grantor approval. Service shall be provided to subscribers in accordance with the schedules and line extension policies specified in the franchise. The route of separate cables serving institutional subscribers shall be as approved by Grantor and specified in the franchise.

(G) **Provision of Service.** After service has been established for any area, the grantee shall provide service to any requesting subscriber within that area within times and terms set forth in the franchise.

(H) **Construction Default.** Upon the failure, refusal or neglect of grantee to cause any construction, repair or other necessary work to comply with the terms of the franchise agreement to be properly completed in, on, over or under any right of way within a time prescribed in the franchise agreement or the construction permit, Grantor may (but shall not be required to) cause such work to be completed in whole or in part, and upon so doing shall submit to grantee itemized statement of costs thereof. Grantee shall be given reasonable notice of Grantor's intent to exercise this power and **fifteen (15) days** to cure thereafter. Grantee shall, within **thirty (30) days** of billing, pay to Grantor the actual costs thereof.

¹See Titles 4 and 10, respectively, of this Code.

(I) **Vacation or Abandonment.** In the event any street, alley, public highway or portion thereof used by the grantee shall be vacated by the Grantor, or the use thereof discontinued by the grantee, upon reasonable notice, the grantee shall forthwith remove its facilities therefrom unless specifically permitted to continue the same, and on the removal thereof restore, repair or reconstruct the area where such removal has occurred, to such condition as may be required by the Grantor not in excess of the original condition. In the event of failure, neglect or refusal of the grantee, after **thirty (30) days'** notice by the Grantor to do such work, Grantor may cause it to be done, and the cost thereof shall be paid by the grantee within **thirty (30) days'** notice by a Grantor to do such work, Grantor may cause within **thirty (30) days** and collection may be made by Grantor.

(J) **Abandonment in Place.** Grantor may, upon written application by Grantee, approve the abandonment of any property in place by Grantee, under such terms and conditions as Grantor may approve. Upon Grantor-approved abandonment of any property in place, Grantee shall cause to be executed, acknowledged, and delivered to Grantor such instruments as Grantor shall prescribe and approve, transferring and conveying the ownership of such property to Grantor.

(K) **Removal of System Facilities.** In the event that grantee's plant is deactivated for a continuous period of **thirty (30) days** except for reasons outside grantee's control, without prior written notice to and approval by Grantor, then grantee shall, at Grantor's option and at the expense of grantee and at no expense to Grantor, and upon demand by Grantor, promptly remove from any streets or other area all property of grantee, and grantee shall promptly restore the street or any other area from which such property has been removed to its condition prior to grantee's use thereof; provided, that grantee shall not be required to remove conduit from underground, where Grantor may determine no damage to the surface of any structures may result from such nonremoval.

(L) **Movement of Facilities.** In the event it is necessary to temporarily move or remove any of the grantee's property at Grantor's direction for a public purpose in order lawfully to remove a large object, vehicle, building or other structure, grantee, upon reasonable notice, at least **seven (7) business days**, shall move, at the expense of grantee, its property as may be required to facilitate such movements. No such movement shall be deemed a taking of grantee's property. Nothing herein shall limit the right of grantee to seek reimbursement from any party.

(M) **Undergrounding of Cable.** Cables shall be installed underground at grantee's cost where all existing utilities are already underground. Previously installed aerial cable shall be installed underground at grantee's pro rata cost in concert with other utilities when all such other utilities may convert from aerial to underground construction. If Grantor reimburses all or a portion of the monetary expenses for similar easement users, Grantor shall reimburse grantee in like manner.

(N) **Facility Agreements.** No franchise shall relieve grantee of any obligations involved in obtaining pole or conduit space from any department of Grantor, utility company or from others maintaining utilities in streets.

(O) **Extension of Franchise Area.** If Grantor elects to grant **one (1)** or more franchises hereunder, and if thereafter **one (1)** or more of the franchises expires or is otherwise ended, Grantor may, if it so elects, require a remaining grantee, or more than **one (1)**, to extend its system to provide service to the area served by the ended franchise; provided, that it is financially reasonable and grantee shall not be required to overbuild any existing system. The terms and requirements of such extension shall not exceed those contained herein or in grantee's franchise.

(P) **Repair of Streets and Public Ways.** Any and all streets and public ways disturbed or damaged by the grantee or its contractors, during the construction, operation, maintenance or reconstruction of the system, shall be restored within the time frame and limits specified by Grantor or agent of Grantor, at grantee's expense, to their original condition unless otherwise authorized in writing by Grantor.

(Q) **Trimming of Trees.** Grantee may cut or trim any trees in any street, alley or public way, and grantee may cut or trim trees pursuant to a prior agreement with the owner of property on which they stand, or as otherwise authorized in writing by Grantor.

(R) **Reservations of Street Rights.** Nothing in franchise shall prevent the Grantor from constructing, repairing and/or altering any public work. All such work shall be done, insofar as practicable, in such manner as not to unnecessarily obstruct, injure or prevent the free use and operation of any property of grantee. However, if any such property of grantee shall interfere with the construction, maintenance or repair of any public improvement, all such property shall be removed or replaced in such manner as directed by Grantor so that the same shall not interfere with the said public work, such removal or replacement shall be at the expense of the grantee if other affected utilities also remove or replace their property at their expenses.

8-1-9 OPERATIONS AND MAINTENANCE.

(A) **Maintenance and Complaints.**

(1) **Business Hours.** The grantee shall maintain an office open during all usual business hours, but in no case less than **forty (40) hours** per week. Grantor shall have a publicly listed non-toll-charge telephone number, and operated as to receive subscriber complaints and requests on a **twenty-four (24) hour** basis.

(2) **Preventative Maintenance Crew.** The grantee shall maintain a preventative maintenance crew plus a force of technicians capable of responding within **eight (8) hours** after receipt of request for repairs relating to a service outage and **forty-eight (48) hours** excluding Sundays for all other complaints and requests for repair. A service outage is a minimum of **ten (10) customers** losing total cable service.

(3) **Telephone Service.** The grantee shall provide a telephone system to receive all construction and service complaints. The telephone number of the local office shall be listed in at least **one (1) telephone directory** serving the Village. The telephone service shall be operable to accept complaints **twenty-four (24) hours** a day, **seven (7) days** a week.

(B) **Procedures for Handling Complaints.** Grantee's complaint handling procedures shall be designed to accomplish the following:

- (1) Receipt and acknowledgement of any complaint made in person or by telephone within **twelve (12) business hours**.
- (2) Acknowledgement of any complaint received by mail at grantee's office within **five (5) business days** of the date such complaint is received.
- (3) Maintain information, available to Grantor upon Grantor's request, of all complaints, including the complainant's name, address and telephone number, the date of its acknowledgement, and information given as to how the complaint would be resolved, and the action taken.
- (4) Grantee shall respond within **five (5) business days** to complaints made or referred by Grantor.

(C) **System Technical Data.** Grantee shall maintain in its office a complete and up-to-date set of as-built system maps and drawings upon completion of construction or reconstruction, equipment specification and maintenance publications and signal level diagrams for each active electronic piece of equipment in the system. As-built drawings show all lines and installed equipment, and tap values and spigots. The scale of maps and drawings shall be sufficient to show the required details as easily readable form and size. Technical data at the office shall also include approved pole applications, details and documentation of satellite and microwave equipment normally used in the operation of the system. If Grantor requires use of technical data in its own offices it may make copies of any items at Grantor's expense.

(D) **Availability of Technical Data.** All technical data shall be available to Grantor's inspection during normal business hours, upon reasonable notice, and, in the event of system failure or other operating emergency, at any time, so long as the provision of said data does not unreasonably interfere with grantee's operations.

(E) **Emergency Repair Capability.** It shall be grantee's responsibility to assure that its personnel qualified to make repairs are available at all reasonable times and that they are supplied with keys, equipment location instructions and technical information necessary to begin repairs upon notification of need to maintain or restore continuous service to the system.

(F) **Customer Service Standards and Procedures.**

- (1) **Information to Customers.** The grantee shall, at the time service is initiated, provide each new customer

information covering the time allowed to pay outstanding bills and grounds for termination of service.

(2)

Billing.

(a) Except as provided in **Section 8-1-7**, bills for service shall be rendered monthly, unless otherwise authorized by the customer and the grantee or unless service is rendered for a period less than **one (1) month**. Bills shall be rendered as promptly as possible. All bills shall contain a telephone number and a mailing address for billing inquiries or disputes.

(b) **Disputed Bills.**

(i) In the event of a dispute between the customer and the grantee regarding the bill, the grantee shall promptly make such investigation as is required by the particular case and report the results to the customer.

(ii) The customer shall not be required to pay the disputed portion of the bill until the earlier of the following:

a. Resolution of the dispute.

b. Expiration of the **forty-five (45) day** period beginning on the date of issuance; provided, that the procedures established in **Section 8-1-9(F)(2)(b)(i)** above have been followed.

(iii) Pending resolution of the bill dispute, grantee shall attempt to ensure that no termination notices are issued for the disputed portions of the bill, or any other collection procedures initiated for said amount.

(3)

Referral of Amounts to Collection Agencies.

Uncollected accounts may be referred to private collection agencies for appropriate action if the bill has not been paid by the earlier of:

(a) **fifteen (15) days** following date of involuntary termination or

(b) the **forty-five (45) days** following the date of issuance of the original uncollected amount, provided no notification of billing dispute has been made, or if procedures for resolution of billing disputes have not been followed as required above.

(G) **Refund.** When a subscriber voluntarily discontinues service grantee shall refund the unused portion of any advance payments after deducting any charges currently due through the end of the present billing period within **sixty (60) days** of discontinuance of service. Unused payment portions shall be the percentage of time for which subscriber has paid for service and will not receive it because of his discontinuation of service.

8-1-10 VIOLATIONS.

(A) **Use of Public Street.** From and after the effective date hereof, it shall be unlawful for any person to construct, install or maintain in any public place within Grantor's territory, or upon any easement owned or controlled by a public utility, or within any other public property of Grantor, or within any privately-owned area within Grantor's jurisdiction which is not yet, but is designated as, a proposed public place on a tentative subdivision map approved by Grantor, any equipment, facilities or system for distributing signals or services through a cable television system, unless a franchise has first been obtained hereunder, and is in full force and effect.

(B) **Unauthorized Connections.** It shall be unlawful for any person to make or use any unauthorized connection to, or to monitor, tap, receive or send any signal or service via a franchised system, or to enable anyone to receive or use any service, television or radio signal, picture, program, or sound or any other signal without payment to the owner of said system.

(C) **Tampering with Facilities.** It shall be unlawful, without the consent of the owner, to willfully attach to, tamper with, modify, remove or injure any physical part of a franchised cable television system.

8-1-11 TERMINATION AND RECEIVERSHIP.

(A) **Revocation.** Consistent with applicable law, in addition to any rights set out elsewhere in this document, the Grantor reserves the right to revoke a franchise, subject to notice to grantee and the provision of a hearing consistent with due process requirements, in the event that:

- (1) The grantee willfully, grossly or negligently violates any material provision of its franchise.
- (2) The grantee's construction schedule is materially delayed as set forth in the franchise and such delays were within the control of grantee.

(B) **Forfeiture.** Consistent with applicable law, upon failure of the grantee to comply with the material terms of its franchise, the Grantor may by resolution after a full hearing affording grantee due process, declare a forfeiture, and the grantee may be required to forthwith remove its structures or property from the streets and restore the streets to their prior condition within a reasonable period of time and upon failure to do so the grantor may perform the work and collect all actual costs,

including all direct and indirect costs, thereof from the grantee. The cost thereof shall be a lien upon all plant, property, or other assets of the grantee, within the Village limits.

8-1-12 FRANCHISE APPLICATIONS. Applicants for a franchise, or renewal thereof, may submit to the Grantor, or a designated agency, written application in a format provided by the Grantor, at the time and place designated by the Grantor for accepting applications, and including the designated application fee. This provision is deemed procedural and shall not constitute the grant of any right to the applicant.

8-1-13 RECORDS.

(A) **Records.** There shall be kept in the Grantor's office a separate record for the franchise, which record shall show the things hereafter set forth in subsection (B) below. The grantee shall provide such information in such form as may be required by the Grantor for said records, so long as the provision of said documents does not unreasonably interfere with grantee's operations and said information is reasonably necessary for Grantor to carry out its regulatory functions. Grantee shall keep true and accurate books and records in conformity with generally accepted accounting principles consistently applied, showing all income, expenses and expense transfers, borrowing, payments, investments of capital and all other transactions relating to the system. Grantor shall, upon reasonable notice, have the right to inspect said records and receive copies thereof to the extent said information is reasonably necessary for Grantor to carry out its regulatory functions.

(B) **Reports of Financial and Operating Activity.**

- (1) No later than **ninety (90) days** after the close of grantee's fiscal years, grantee shall present a written report to the Grantor which shall include:
 - (a) A financial report verified by the chief financial officer of grantee, of his/her designee, for the previous fiscal year including gross receipts from all sources.
 - (b) If requested by Grantor, a summary of complaints received and remedial action taken.
- (2) **Performance Tests and Compliance Reports.** If requested by Grantor, the grantee shall provide a written report of any FCC or other performance tests required or conducted.
- (3) **Additional Reports.** The grantee shall prepare and furnish to the Grantor in writing at the times and in the form prescribed by Grantor, such additional reports with respect to its operation, affairs, transactions or property as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the Grantor, as

specified by Grantor, and for good cause so long as the provision of said reports does not unreasonably interfere with grantee's operations and said information is reasonably necessary for Grantor to carry out its regulatory functions.

(C) **Communications with Regulatory Agencies.** Upon Grantor's request, copies of all communications between the grantee and the Federal Communications Commission or any other agency having jurisdiction in respect to any matters affecting cable communications operations authorized pursuant to a franchise within Village shall be submitted promptly to the Grantor upon receipt or mailing by grantee.

8-1-14 ENFORCEMENT MECHANISM; NOTICE OF FRANCHISE DEFAULT. Except as provided in the franchise agreement prior to formal consideration by Grantor of termination of grantee's franchise because of willful, or gross or negligent failure to correct a default attributed to grantee, Grantor shall make written demand on grantee to correct the default alleged. Grantor and grantee shall expeditiously meet to discuss the alleged problem, at which time grantee shall indicate, in writing, the amount of time necessary to resolve the alleged problem. During this time period, but in no event fewer than **ten (10) days** before the final date for correction, grantee may request additional time to correct the problem and Grantor shall grant said request if it determines, in the exercise of its discretion, that such time is necessary due to delays beyond grantee's control. If the default continues for a period of **thirty (30) days** following such deadline for corrections, plus any extension thereof, franchise termination may be placed on the next available regular Grantor's meeting agenda. The grantee shall be served a written notice of such termination at least **ten (10) days** in advance giving the time and place of the Grantor's meeting. At its meeting Grantor shall hear grantee and any person interested in the matter and shall determine, at that or subsequent meetings, an appropriate course of action for enforcement or termination of grantee's franchise.

8-1-15 MISCELLANEOUS PROVISIONS.

(A) **Captions.** The Section and subsection numbers and captions throughout this Chapter are intended to facilitate reading and reference. Such numbers and captions shall not affect the meaning or interpretation of any part of this Chapter.

(B) **Franchise References.** A franchise which cites refers to or otherwise incorporates this entire Chapter or portions thereof shall be deemed to be a franchise issued under, and subject to this Chapter. Such a franchise may employ, as sufficient for citation, reference or incorporation the section or subsection number and caption hereof, followed by a statement of the detail specification or requirement of the franchise pursuant to such reference.

(C) **Filing.** When not otherwise prescribed herein, all matter herein required to be filed with Grantor shall be filed with the Grantor's official or agency as designated by Grantor.

(D) **Nonenforcement by the Grantor.** A grantee shall not be relieved of its obligation to comply with any of the provisions of this Chapter or of its franchise or any law or regulation, by reason of any failure of the Grantor to force prompt compliance.

(E) **Continuity of Service.** It shall be the right of all subscribers to receive all available services within the obligations of the franchise insofar as their financial and other obligations to the grantee are honored. In the event that the grantee elects to rebuild, modify or sell the system, the grantee shall use its reasonable efforts to ensure that all subscribers receive continuous, uninterrupted service to the extent reasonably possible. In the event of purchase by the Grantor, or a change of grantee, the current grantee shall cooperate with the Grantor or new grantee to operate the system for a temporary period, to maintain continuity of service to all subscribers.

(F) **Notices.** All notices and other communications to grantee shall be addressed to it at the address at which grantee conducts its business. All notices and other communications to Grantor shall be addressed to it at its published address for receipt of public communications.

(G) **Force Majeure; Grantee's Inability to Perform.** In the event grantee's performance of any of the terms, conditions, obligations or requirements of this Chapter or any franchise granted hereunder, is prevented or impaired due to any cause beyond its reasonable control and not reasonably foreseeable, such inability to perform shall be deemed to be excused, and no penalties or sanctions shall be imposed as a result thereof. Such causes beyond grantee's reasonable control and not reasonably foreseeable shall include, but not be limited to, any acts of God, civil emergencies, labor unrest, strikes, inability to obtain gratis access to an individual's property, and any inability of the Grantor to secure all necessary permissions or permits to utilize necessary poles or conduits so long as grantee utilizes due diligence to timely obtain said permissions or permits.

(H) **Application.** All of the provisions of this Chapter shall be applicable only to those "franchises", as defined in **Section 8-1-2** herein, granted or renewed subsequent to the enactment of this Chapter.

(I) **Severability.** If any provision of this Chapter is determined to be void or invalid by any administrative or judicial tribunal, said provision shall be deemed severable and such invalidation shall not invalidate the entirety of this Chapter or any other provision thereof.

(J) **Level Playing Field.** Grantor shall grant and administer all cable television franchises it grants such that no individual grantee has a material advantage or disadvantage in its franchise obligations than any other grantee.

(Ord. No. 93-5; 04-11-93)

**ARTICLE II - CABLE/VIDEO SERVICE PROVIDER FEE
AND PEG ACCESS FEE**

[ED. NOTE: PEG stands for Public, Education or Government access to cable.]

8-2-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A) **"Cable Service"** means that term as defined in 47 U.S.C. § 522(6).

(B) **"Commission"** means the Illinois Commerce Commission.

(C) **"Gross Revenues"** means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the Village.

(1) Gross revenues shall include the following:

(a) Recurring charges for cable or video service.

(b) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.

(c) Rental of set top boxes and other cable service or video service equipment.

(d) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.

(e) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.

(f) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.

(g) A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the Village. The allocation shall be based on the number of subscribers in the Village divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

(h) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to

commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (i).

- (i) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
 - (j) The service provider fee permitted by 220 ILCS 5/21-801(b).
- (2) Gross revenues do not include any of the following:
- (a) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
 - (b) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
 - (c) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
 - (d) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the Village and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.

- (e) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
 - (f) Security deposits collected from subscribers.
 - (g) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.
- (3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.

(D) **"Holder"** means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(E) **"Service"** means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(F) **"Service Provider Fee"** means the amount paid under this Article and 220 ILCS 5/21-801 by the holder to a Village for the service areas within its territorial jurisdiction.

(G) **"Video Service"** means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

8-2-2 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED.

(A) **Fee Imposed.** A fee is hereby imposed on any holder providing cable service or video service in the Village.

(B) **Amount of Fee.** The amount of the fee imposed hereby shall be **three percent (3%)** of the holder's gross revenues.

(C) **Notice to the Village.** The holder shall notify the Village at least **ten (10) days** prior to the date on which the holder begins to offer cable service or video service in the Village.

(D) **Holder's Liability.** The holder shall be liable for and pay the service provider fee to the Village. The holder's liability for the fee shall commence on the first day of the calendar month following **thirty (30) days** after receipt of the ordinance adopting this Article by the holder. The ordinance adopting this Article shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the Village.

(E) **Payment Date.** The payment of the service provider fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(F) **Exemption.** The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the Village in which a fee is paid.

(G) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit to prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under Section 116.02(b).

8-2-3 PEG ACCESS SUPPORT FEE IMPOSED.

(A) **PEG Fee Imposed.** A PEG access support fee is hereby imposed on any holder providing cable service or video service in the Village in addition to the fee imposed pursuant to **Section 8-2-2(B)**.

(B) **Amount of Fee.** The amount of the PEG access support fee imposed hereby shall be **one percent (1%)** of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the Village or its designee for PEG access support in the Village.

(C) **Payment.** The holder shall pay the PEG access support fee to the Village or to the entity designated by the Village to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in **Section 8-2-2(D)**.

(D) **Payment Due.** The payment of the PEG access support fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(E) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to **220 ILCS 5/21-301(c)** shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that the operator owed under **Section 8-2-3(B)**.

8-2-4 APPLICABLE PRINCIPLES. All determinations and calculations under this Article shall be made pursuant to generally accepted accounting principles.

8-2-5 **NO IMPACT ON OTHER TAXES DUE FROM HOLDER.** Nothing contained in this Article shall be construed to exempt a holder from any tax that is or may later be imposed by the Village, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the Village's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

8-2-6 **AUDITS OF CABLE/VIDEO SERVICE PROVIDER.**

(A) **Audit Requirement.** The Village will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the Village imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recomputed any amounts determined to be payable under the requirements of the Village. If all local franchises between the Village and cable operator terminate, the audit requirements shall be those adopted by the Village pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* found in Chapter 36. No acceptance of amounts remitted should be construed as an accord that the amounts are correct. **(See Chapter 36 - Taxation)**

(B) **Additional Payments.** Any additional amount due after an audit shall be paid within **thirty (30) days** after the municipality's submission of an invoice for the sum.

8-2-7 **LATE FEES/PAYMENTS.** All fees due and payments which are past due shall be governed by ordinances adopted by this municipality pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

(Ord. No. 08-04; 05-12-08)

(See 220 ILCS 5/21-801)

ARTICLE III - CABLE AND VIDEO CUSTOMER PROTECTION LAW

8-3-1 CUSTOMER SERVICE AND PRIVACY PROTECTION LAW.

(A) **Adoption.** The regulations of 220 ILCS 5/70-501 are hereby adopted by reference and may be applicable to the cable or video providers offering services within the Village's boundaries.

(B) **Amendments.** Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Article shall be incorporated into this Article by reference and shall be applicable to cable or video providers offering services within the municipality's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Article by reference without formal action by the corporate authorities of the Village.

8-3-2 ENFORCEMENT. The Village does hereby pursuant to law declare its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the Village.

8-3-3 CUSTOMER CREDITS. The Village hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of 220 ILCS 5/70-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.

8-3-4 PENALTIES. The Village, pursuant to 220 ILCS 5/70-501(r)(1), does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed **Seven Hundred Fifty Dollars (\$750.00)** for each day of the material breach, and shall not exceed **Twenty-Five Thousand Dollars (\$25,000.00)** for each occurrence of a material breach per customer.

(A) Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

(B) The Village shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least **thirty (30) days** from the receipt of the notice to remedy the specified material breach.

(C) A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in (B).

(Ord. No. 08-05; 05-12-08)

[September 26, 2008]