

CHAPTER 8

CABLE TELEVISION

ARTICLE I - CABLE TELEVISION FRANCHISE

8-1-1 **TITLE.** This Article shall be known and may be cited as Comcast of Illinois VI, LLC Franchise Code.

8-1-2 **FRANCHISE.** This Article was passed and approved after a full, open and public hearing upon prior notice and opportunity of all interested parties to be heard and upon careful consideration of Comcast of Illinois VI, LLC qualifications, including its legal, character, financial and technical qualifications.

8-1-3 **DEFINITIONS.** For the purpose of this Article, and when not inconsistent with the context, words used herein in the present tense include the future; words in plural include the singular, and visa versa. The word "shall" is always mandatory. The captions supplied herein for each section are for convenience only. Said captions have no force of law, are not part of the section, and are not to be used in construing the language of the section. The following terms and phrases, as used herein, shall be given the meaning set forth below:

(A) **"Additional Cable Service"** shall mean tier channels, pay channels and pay per view events offered by Grantee to Subscribers above the charge for Basic Cable Service.

(B) **"Basic Service"** shall mean the programming service provided by Grantee which includes any over-the-air television signals which the Grantee may carry and is providing to Subscribers in the County for payment of the applicable monthly charge.

(C) **"Cable Television System"** shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming to multiple subscribers, excluding however, those facilities excluded from such definition of cable system in the Cable Act.

(D) **"Cable Act"** shall mean the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection Act and Competition Act of 1992, and as further amended by the Telecommunications Competition and Deregulation Act of 1996.

(E) **"City"** shall mean the City of DuQuoin.

(F) **"City Council"** shall mean the governing council of the City of DuQuoin or its designated representative.

(G) **"Federal Communications Commission" or "FCC"** is the present Federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.

(H) **"Franchise"** shall mean the non-exclusive right, privilege and authority by this Article to construct, maintain and operate a Cable Television System in the City, and shall permit, in addition to the privilege to operate within City, the Grantee to construct, maintain and operate a Cable Television System with whatever wires or components are necessary over, under or within all the City rights-of-way and the streets located in the City.

(I) **"Franchise Fee"** shall mean the monies required to be paid to the City by the Grantee for the right to operate in the City, which are allowable by any Federal statute or regulation or State statute or regulation.

(J) **"Grantee"** is Comcast of Illinois VI, LLC, a corporation organized and existing under the laws of the State of Illinois and it is the grantee of rights under this franchise.

(K) **"Gross Subscriber Revenues"** shall include any and all revenues received by Grantee and derived from periodic service charges in connection with the Basic Service, Additional Cable Services, and installation charges, but shall not include any refunds or credits made to subscribers or any taxes or fees imposed on the services furnished by Grantee. Gross subscriber revenues shall also not include revenue from leased channels, advertising, internet access by cable modem, data transmission and telephone or any other revenue derived from the cable system.

(L) **"Person"** is any individual, firm, partnership, association, corporation, company or organization of any kind.

(M) **"State"** shall mean the State of Illinois.

(N) **"Street" and "Right-of-Way"** shall mean the surface of, as well as the space above and below all streets, roadways, highways, freeways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks, easements, rights-of-way or other public ways in the City which have been or may hereafter be dedicated and opened to public use or such other public property so designated by law which shall, within their proper use and meaning, entitle City and Grantee to access thereon for the purpose of installing or transmitting cable transmissions over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, broadcasters, receivers, attachments and any other property as may be necessary and pertinent to operation of the business within the City.

(O) **"Subscriber"** shall mean any person, firm, company, corporation or association paying for Basic Service from the Grantee.

8-1-4 GRANT OF AUTHORITY. There is hereby granted to the Grantee by the City Council the privilege to construct, erect, operate and maintain for a period of **fifteen (15) years**, a Cable Television System for the distribution and sale of audio, video, digital and other forms of electronic signals in, upon, along, across, above, over or under the streets and rights-of-way in the City, all poles, wires, cable, underground conduits, manholes and other conduits and fixtures necessary for the maintenance and

operation in the City of a Cable Television System with all of the necessary and desirable appliances and appurtenances pertaining thereto. Without limiting the generality of the foregoing, this franchise and grant shall and does hereby include the right in, over, under and upon the streets and rights-of-way in the City to install, erect, operate all lines and equipment necessary to a Cable Television system and the right to make connections to subscribers and the right to repair, replace, enlarge and extend said lines, equipment and connections. The rights herein granted for the purposes herein set forth shall not be exclusive, and the city reserves the right to grant a similar use of said streets and rights-of-way to any person at any time during the period of this franchise.

Grantee shall provide service within the City in accordance with the following guidelines:

(A) In areas where aerial construction is permitted, Grantee shall construct its Cable Television System in all areas which are contiguous to the existing system and which shall have at least **thirty (30) homes** per mile.

(B) In areas where underground construction is required, the Grantee shall construct its Cable Television System in all areas which are contiguous to the existing system and have at least **forty (40) homes** per mile.

In all areas where the Grantee has constructed its Cable Television system, the Grantee shall provide service at its normal installation costs to a potential Subscriber whose home can be reached by an aerial drop line of **one hundred fifty (150)** feet or less.

The Grantee shall have the right to deny service or make additional charges, at its option, if the above mentioned conditions are not met.

Further, Grantee shall furnish free Basic Subscriber Service to the City police department, fire department, emergency services department and the City recreation room or other City buildings which may be designated for use by the City, not to exceed a total of **four (4) buildings**.

This Franchise shall take effect and be in full force from and after the final passage hereof beginning with the date of acceptance by Grantee.

8-1-5 **POLICE POWER.** Grantee shall at all times during the term of this Franchise be subject to all lawful exercise of the police power of the City. The right is hereby reserved to the City to adopt, in addition to the provisions herein contained and any other existing applicable ordinances, such additional applicable ordinances as it shall find necessary in the exercise of its police power, provided that such ordinances shall be reasonable and not in conflict with the rights herein granted, the laws of the State of Illinois, the laws of the United States of America, or the rules of the Federal Communications Commission.

8-1-6 **RENEWAL PROCEDURE.** Grantee shall have the right to seek a renewal of this Franchise for an additional period of **fifteen (15) years** and Grantee shall be entitled to a renewal of this Franchise upon a showing that it has complied with

the material terms of this Franchise. The renewal proceedings shall be governed by Section 626 of the Cable Act as in effect on the date of adoption of this Franchise, unless the parties mutually agree otherwise.

8-1-7 INDEMNIFICATION AND INSURANCE.

(A) **Insurance.** The Grantee shall carry insurance in such form as shall protect the City and Grantee from and against any and all claims for injury or damages to persons or property, both real and personal, caused by the construction, erection, operation or maintenance of any structure, equipment, appliances or products used in any activity of Grantee within the City and arising from or growing out of its operations pursuant to the authority granted in this Franchise. The amount of such insurance against liability due to damage to property shall be not less than **One Million Dollars (\$1,000,000.00)** as to any **one (1) person** and **One Million Dollars (\$1,000,000.00)** as to any one accident and against liability due to injury to or death to any persons **One Million Dollars (\$1,000,000.00)** as to any **one (1) person** and **One Million Dollars (\$1,000,000.00)** as to any one accident.

Grantee shall also carry such insurance as is required by state law to protect it from claims under any workers' compensation laws in effect that are applicable to Grantee.

At the City's request, Grantee shall provide to City certificates evidencing the insurance limits stated herein.

(B) **Indemnification of the City.** Grantee shall indemnify and hold the City harmless at all times during the term of this Franchise and thereafter from and against any and all claims, demands, actions, disputes or suits for injury, losses and damages of any kind whatsoever arising from or caused by the construction, erection, operation and maintenance of any structure, facility, equipment, appliance, system or products authorized or used pursuant to the authority of this Franchise, or in the Cable Television system, or due to the existence of this Franchise. Further, Grantee, upon receipt of due notice in writing from the City within **five (5) days** of receipt of a claim or legal complaint by the City, shall defend, at its own expense, any action or proceeding against the City, in which it is claimed that personal injury or property damage arose from any activity within the City for which Grantee agreed to indemnify the City. Failure by the City to properly notify Grantee as provided herein of any such claim, suit or demand against the City shall release Grantee from its obligation to indemnify the City as provided herein.

8-1-8 COMPLAINT PROCEDURE. Grantee shall maintain a toll-free telephone listing in the City for the purpose of receiving inquiries and complaints from its customers and the general public. Grantee shall investigate all complaints within **five (5) days** of their receipt and shall in good faith attempt to resolve them promptly and equitably.

8-1-9 CONSTRUCTION AND MAINTENANCE.

(A) All structures, lines and equipment erected by Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys, easements and other public ways and places and to cause minimum interference with rights or reasonable convenience of property owners, and Grantee shall comply with all reasonable, proper and lawful ordinances of the City now in force. Existing poles, posts, conduits, and other such structures of the electric power system of the City or of any telephone company or other public utility shall be used to the extent practicable in order to minimize interference with travel and avoid unnecessary duplication of facilities. The City shall actively assist Grantee to the fullest extent necessary in obtaining reasonable joint pole or conduit use agreements from the owners or existing poles or conduits.

(B) In case of any disturbance by Grantee of pavement, sidewalk, driveway or other surfacing. Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway or surface so disturbed in as good condition as before said work was commenced.

(C) In the event that at any time during the period of this Franchise the City shall lawfully elect to alter or change any streets and rights-of-way requiring the relocation of Grantee's facilities, then in such event Grantee, upon reasonable notice by the City, shall remove, relay and relocate the same at its own expense; provided, however, that where public funds are available for such relocation pursuant to law, Grantee shall not be required to pay the cost.

(D) Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its lines to permit the moving of the building. The expense of such temporary removal shall be paid by the person requesting the same, and Grantee shall have the authority to require such payment in advance.

(E) Grantee shall have the authority to trim trees upon and overhanging all streets and rights-of-way and public places of the City so as to prevent the branches of such trees from coming into contact with Grantee's facilities.

(F) All poles, lines, structures and other facilities of Grantee in, on, over and under the streets, rights-of-way and public grounds or places of the City shall be kept by Grantee at all times in a safe condition.

8-1-10 RATES. The rates for installation of equipment and regular subscriber services shall be nondiscriminatory.

The Grantee shall keep on file with the City a current schedule of the rates and charges made by the Grantee for installation and Basic and Additional Services.

8-1-11 FCC RULES APPLICABLE. This Franchise is governed by and subject to all applicable rules and regulations of the Federal Communications Commission, specifically including Part 76, and by the laws of the State of Illinois.

8-1-12 TERMINATION FOR CAUSE BY THE CITY. The City may terminate this Franchise at any time prior to its expiration date upon any material breach of any material term or condition of this Article. The City shall notify the Grantee in writing of its intent to terminate and the reason for its revocation. The Grantee shall be afforded **sixty (60) days** during which to adequately explain what has caused the alleged material breach or other grounds for termination. Grantee shall be afforded **sixty (60) days** during which to cure the alleged breach or take affirmative action to commence or cure said breach. If the Grantee fails to cure or take affirmative action toward cutting the breach within such **sixty (60) day** period, then the City may schedule a public hearing on its intent to revoke the Franchise. Grantee shall be afforded the due process rights of notice, representation, and the right to be heard at such public hearing. After such public hearing, the City shall have the right to revoke the Franchise for just cause if said cause is established, or to impose a lesser penalty if so desired. Such decision may be appealed by Grantee and the appropriate Court shall be the Federal District Court for the district in which City is located.

In the event that revocation is imposed upon Grantee, Grantee shall have the right to sell, transfer and convey the Cable Television System and its business operation within the City to a qualified purchaser at fair market value so long as the same is diligently pursued. Grantee shall be obligated to continue its operation of the Cable Television System within the City until such sale.

8-1-13 UNFORESEEN AND UNCONTROLLABLE ACTS. Grantee shall not be liable or responsible for any delay or failure of performance of its Franchise if prevented from doing so by the resulting acts of God, flood, storms, fires, explosions, strikes, lock-outs, riots, wars, whether or not declared, insurrections, epidemics or any law, rule or acts of any court or instrumentality whether Federal, State or municipal government or any causes beyond its control, provided that the same is not willfully done or brought about for the purpose of excusing failure or omissions to perform under the Franchise and providing that using reasonable care, the same could not have been avoided by the Grantee. In the event Grantee is rendered unable to perform its Franchise, Grantee shall begin to perform its Franchise as soon as is practical after such conditions cease to exist.

8-1-14 TRANSFERS. All of the rights and privileges and all of the obligations, duties and liabilities created by the Franchise shall pass to and be binding upon the successors of the City and the successors and assigns of Grantee; and the same shall not be assigned or transferred without the written approval of the City Council, which approval shall not be unreasonably withheld; provided, however, that this Section shall not prevent the assignment of the Franchise by Grantee as security for debt without such approval; and provided further that transfers or assignments of this Franchise between any parent and subsidiary corporation or between entities of which

at least **fifty-one percent (51%)** of the beneficial ownership is held by the same person, persons, or entities shall be permitted without the prior approval of the City Council.

8-1-15 **FRANCHISE FEE.** In consideration of this Franchise, Grantee agrees to pay the City a sum of money equal to **five percent (5%)** of Grantee's Gross Subscriber Revenues per year derived from installation of equipment, Basic Service and Additional Cable Services in the City. Such annual sum shall be payable semi-annually for the period ending **June 30th** and **December 31st** with the payments due **thirty (30) days** after the end of each semi-annual period. The fee set forth herein shall be in lieu of all other license fees or taxes levied upon Grantee by the City.

8-1-16 **RECEIVER SALES PROHIBITED.** As a condition of this Franchise, Grantee agrees that it shall not engage within the City in the business of sales or repair of television receivers owned by its subscribers, nor shall it be responsible for the operating condition of said receivers; provided, however, that paragraph shall not apply to converters, decoders, home interactive terminals and other such devices as may be used in furnishing any programming or service via Grantee's Cable Television System.

8-1-17 **ACCEPTANCE.** This Article when accepted by Grantee shall be and become a valid and binding contract between the City and Grantee; provided that this Article shall be void unless Grantee shall, within **ninety (90) days** after the final passage of this Article, file with the City Council a written acceptance of this Article and the Franchise herein granted, agreeing that it will comply with all of the provisions and conditions hereof and that it will refrain from doing all of the things prohibited by this Article.

8-1-18 **OWNERSHIP AND USE OF THE CABLE TELEVISION SYSTEM.** Company shall have the unrestricted right and availability to utilize the Cable Television System for telecommunication purposes other than cable television service, including but not limited to telephone service, internet access, point-to-point data and voice and message transmission so long as said uses do not unduly interfere with the cable television service being provided to Subscribers.

8-1-19 **EXECUTION BY CITY.** The President of the City Council of the said City and the City Clerk, pursuant to the authority herein granted, shall execute the Franchise as herein provided.

8-1-20 **GRANTEE'S RULES.** The Grantee shall have the right to prescribe rules and regulations for the conduct of its business not inconsistent with the provisions of this Article or any ordinances of the City.

8-1-21 **SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any Federal or State court or administrative or governmental agency of competent jurisdiction, specifically including the Federal Communications Commission, such portion, shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

8-1-22 **REPEALS.** Upon enactment by the City of this Article and acceptance by Grantee, all prior ordinances, agreements or parts of agreements conflicting with the provisions of this Article shall be and the same are hereby repealed.

8-1-23 **UNLAWFUL ACTS.**

(A) It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of Grantee's cable television system for the purpose of enabling himself or others to receive any television signals, radio signals, pictures, programs, sounds, or any other information or intelligence transmitted over Grantee's cable system without payment to Grantee.

(B) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cable, wires, or other equipment used for the distribution of television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over Grantee's cable system.

(C) It shall be a misdemeanor punishable by a fine of not more than **Five Hundred Dollars (\$500.00)** for any person to violate any of the provisions of this Section.

(Ord. No. 2005-12-04; 12-12-06)

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

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 City.

(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 City. The allocation shall be based on the number of subscribers in the City 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 City 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 City 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 City.

(B) **Amount of Fee.** The amount of the fee imposed hereby shall be **five percent (5%)** of the holder's gross revenues.

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

(D) **Holder's Liability.** The holder shall be liable for and pay the service provider fee to the City. 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 City.

(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 City 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 City 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 City or its designee for PEG access support in the City.

(C) **Payment.** The holder shall pay the PEG access support fee to the City or to the entity designated by the City 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 City, 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 City'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 City 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 City 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 City. If all local franchises between the City and cable operator terminate, the audit requirements shall be those adopted by the City 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 City'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 City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

(Ord. No. 2008-09-01; 09-22-08)

(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 applicable to the cable or video providers offering services within the City'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 City.

8-3-2 ENFORCEMENT. The City 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 City.

8-3-3 CUSTOMER CREDITS. The City 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 City, 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 City 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).