

CHAPTER 8

CABLE TELEVISION REGULATIONS

ARTICLE I – COMMUNITY TELEVISION CODE

8-1-1 **TITLE.** This Code shall be known and may be cited as Community Antenna Television Franchise Code.

8-1-2 **PREAMBLE.** This Code was passed and approved at a regular open public meeting upon prior notice and opportunity of all interested parties to be heard and upon careful consideration of Okawville Cablevision Corporation, an Illinois Corporation, its qualifications, and the adequacy and feasibility of its construction arrangements.

8-1-3 **DEFINITIONS.** For the purpose of this Code, and when not inconsistent with the context, words used herein in the present tense include the future; words in the plural include the singular, and vice 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:

"City" or "Village" is the Village of Okawville, a municipal corporation, organized under the laws of the State of Illinois.

"Grantee" is Okawville Cablevision Corporation organized and existing under the laws of the State of Illinois, and it is the Grantee of rights under this franchise.

"Village Board" is the Village Board of Trustees of Okawville, or its designated representative.

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

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

"Gross Subscriber Revenues" shall include any and all compensation or receipts derived from installation, disconnection and re-installation charges and periodic service charges in connection with the carriage of broadcast signals and Federal Communications Commission mandated non-broadcast services, but shall not include

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any refunds or credits made to subscribers or any taxes imposed on the services furnished by Grantee. It shall not include revenue from "ancillary" or "auxiliary" services which include advertising, leased channels, pay T.V., and per program or per channel charges, if any.

"Regular Subscriber Services" shall include the carriage of broadcast signals, FCC mandated non-broadcast services, and shall not include "ancillary" or "auxiliary" services, which include, but are not limited to, advertising, leased channels, pay T.V., and programming supplied on a per program or per channel basis.

8-1-4 GRANT OF AUTHORITY. There is hereby granted by the City to Grantee the right and privilege, subject to limitation as set forth in **Section 8-1-8**, to construct, erect, operate and maintain in, upon, along, across, above, over or under the streets, alleys, easements, public ways and public places now laid out or dedicated and all extensions thereof and additions thereto in the City, all poles, wires, cables, underground conduits, manholes and other conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the transmission of television signals and other signals either separately or upon or in conjunction with any public utility maintaining the same in the City 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, sidewalks, alleys, easements and public ground and places in the City to install, erect, operate or in any way acquire the use of, as by leasing or licensing, all lines and equipment necessary to a cable television system 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, alleys, easements, public ways and places to any person at any time during the period of the franchise.

8-1-5 POLICE POWER. Grantee shall at all times during the life 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 regulations 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 INDEMNIFICATION.

(A) Grantee shall save the City harmless from and indemnify the City for all loss sustained by the City on account of any suit, judgment execution, claim or demand whatsoever against the City which may arise out of or be caused by Grantee, its agents or employees in the construction, operation and maintenance of its cable television system in the City and for all reasonable attorney fees incurred by the City, not covered by insurance.

(B) Grantee shall carry property damage and personal liability insurance with some responsible insurance company or companies qualified to do business in the State of Illinois. The amount of such insurance to be carried for liability due to property damage shall be **One Hundred Thousand Dollars (\$100,000.00)** as to any one person, and **Three Hundred Thousand Dollars (\$300,000.00)** as to any one accident; and against liability due to injury to or death of persons, **Three Hundred Thousand Dollars (\$300,000.00)** as to any one person and **Five Hundred Thousand Dollars (\$500,000.00)** as to any one accident. In addition, Grantee shall also maintain an "Umbrella Liability Insurance Policy" with some responsible insurance company or companies qualified to do business in the State of Illinois, and this policy shall provide coverage with limits of no less than **One Million Dollars (\$1,000,000.00)** for any one occurrence, combined bodily injury and/or death of persons and property damage, in excess of the insurance required above. Upon request, the Grantee shall furnish the Village Board satisfactory evidence that the above insurance policies are in full force and effect. Such limits of insurance may be increased at any time in an amount deemed proper by the City. Upon receipt of notice in writing to the Grantee, said Grantee shall have **thirty (30) days** after receipt of said notice to comply therewith. The City shall notify the Grantee in writing, within **thirty (30) days** after the presentation of any claim or demand, whether by suit or otherwise, made against the City arising out of or caused by the cable television system of Grantee. Failure by the City to properly notify Grantee within **thirty (30) days** of any such claim, suit, or demand against the City shall release Grantee from its obligation to indemnify the City as provided herein only to the extent that such failure to notify damages the Grantee. Upon the failure of the Grantee to comply with any of the conditions set forth in the paragraph, the City may order the Grantee to cease operations until said compliance is furnished the City.

8-1-7 COMPLAINT PROCEDURE. Grantee shall maintain a business office or a toll-free telephone listing in the City for the purpose of receiving injuries and complaints from its customers and the general public. Grantee shall investigate all complaints within **two (2) days** of their receipt and shall in good faith attempt to resolve them swiftly and equitably. For any service interruption beyond **two (2) days**, the customer's rate shall be reduced pro-rata for every day that the customer is without service including the first **two (2) days**. The Village Clerk shall be responsible for receiving and action upon any unresolved complaints.

8-1-8 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 the rights or reasonable convenience of property owners, and Grantee shall comply with all reasonable, proper and lawful ordinances of the City now or hereafter in force. The Grantee shall first obtain a written permit from the City Clerk, or other person designated by the City to issue such permit, and such written permit from the City shall be obtained prior to beginning of any construction, and the City shall be furnished an accurate map showing the proposed installation. The City shall retain the right to insist upon underground or overhead installation.

(B) In case of any disturbance by Grantee of pavement, sidewalk, driveway or other surfacing, Grantee shall, promptly thereafter, 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 street, alley, easement, or other public 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, and have been obtained, without any additional expense to the City, 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 obtain prior approval before trimming trees upon and overhanging all streets, alleys, easements, sidewalks 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, sidewalks, alleys, easements and public grounds or places of the City shall be kept by Grantee at all times in a safe and substantial condition.

(G) Should any construction be necessary for Grantee to provide the cable television service contemplated under the franchise, a significant portion of such construction (at least **twenty percent (20%)**) shall be accomplished within **one (1) year** after the effective date of this Coe, or, if FCC certification is required prior to implementation of the cable television service contemplated under this franchise, within **one (1) year** after the effective date of the grant by the FCC of the necessary certification. Thereafter, Grantee shall equitably and reasonably proceed to complete the necessary construction at a rate of not less than **twenty percent (20%)** per year of the total construction contemplated.

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8-1-9 RATES. The rates for installation of equipment and regular subscriber services shall be nondiscriminatory and shall be as set forth below:

(A) **Residential Subscribers.** All residential subscribers shall be charged a rate of **Eight Dollars Fifty Cents (\$8.50)** per month plus **Two Dollars Fifty Cents (\$2.50)** for each additional outlet installed.

(B) **Commercial Subscribers.** All commercial subscribers of at least **twelve (12)** connections, shall be charged a rate of **Five Dollars (\$5.00)** per month for each outlet for basic service.

(C) Any request for increase in rates shall be accompanied by documentary evidence showing need for increase. No increase in rates charged for installation of equipment and regular subscriber services as specified above shall be made effective except as authorized by the Village Board within **ninety (90) days** after public notice of the proposed increase is given by Grantee to the Village Board and after a full, open and public proceeding upon prior notice and opportunity of all interested parties to be heard; provided that in the event that the Village Board fails to formally act upon the proposed rate increase within the **ninety (90) day** notice period, the proposed increase shall be deemed approved and shall be effective at the end of the **ninety (90) day** notice period. Approval or disapproval by the Village Board of any rate increase proposed by Grantee may be expressed by simple resolution, and this Code need not be amended for that purpose. A request for a rate increase shall not be unreasonably denied, and any denial of a rate increase shall be accompanied by a written statement which shall set forth the reasons for denial. In the event that the Village Board disapproves a proposed rate increase, Grantee shall have the right to request arbitration, in accordance with the rules of the American Arbitration Association, to determine the reasonableness of the Village Board's action. All costs of arbitration, including reasonable attorney fees, to be paid by the Grantee.

(D) Prior approval of the Village Board need not be obtained for any increase in rates charged for installation of equipment and regular subscriber services resulting from the imposition of or an increase in taxes or license charges imposed upon cable television facilities, services, operations, or income; provided that any such increase in rates is limited to an amount necessary to offset the aforesaid imposition of or increase in taxes or license charges. Any such increase shall become effective **ten (10) days** after notice of such increase is given to the Village Board together with a certification that the increase is due solely to the imposition of or increase in taxes or license charges.

(E) Rates for services other than installation of equipment and regular subscriber services shall be established and published by Grantee pursuant to the rules of the Federal Communications Commission.

(F) No subscriber shall be charged an installation fee or charge if said subscriber applies for cable television service within **one (1) year** from the date the Grantee first accepts application for service. Grantee is to advertise in a newspaper serving the area that said Grantee is accepting applications for said services. Any subscriber applying for service over **one (1) year** after the date of said advertisement in said newspaper, or any re-subscriber shall pay an installation fee of **Twenty-Five Dollars (\$25.00)**. Grantee agrees to provide without charge a reasonable number of outlet installations and service to churches, schools and church educational buildings.

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8-1-10 **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. Should there be any modifications of the provisions of Section 76.31 of the Rules and Regulations of the Federal Communications Commission which must be incorporated into this franchise, the City and Grantee agree that such incorporation shall be accomplished within **one (1) year** after the effective date of the FCC's adoption of the modification or upon renewal of this franchise, whichever occurs first.

8-1-11 **FRANCHISE TERM.** This franchise shall take effect and be in full force from and after the final passage hereof, subject to acceptance by Grantee as herein provided, and the same shall continue in full force and effect for a term of **fifteen (15) years**, beginning with the date of such acceptance; provided, however, that should FCC certification be necessary prior to implementation of the cable television service contemplated under this franchise, then the term shall begin upon the effective date of the grant by the FCC of the necessary certification.

8-1-12 **RENEWAL PROCEDURE.** Grantee shall have the option to request renewal of this franchise for an additional period not to exceed **fifteen (15) years**. Should Grantee desire to exercise this option, it shall so notify the City, in writing, not less than **three (3) months** prior to expiration of this franchise. Upon exercise of this option by Grantee, the City shall conduct a full, open, and public renewal proceeding upon prior notice and opportunity of all interested parties to be heard. The renewal proceeding shall be held for the sole purpose of considering the performance of Grantee under this franchise and any other factors deemed relevant in determining whether to renew this franchise. Renewal shall not be unreasonably denied. If this franchise is renewed by the City, all of the terms and provisions contained herein shall be controlling during the renewal period, except to the extent that said terms and provisions are modified by the City with Grantee's agreement or unless this franchise is superseded by a new franchise.

8-1-13 **FORFEITURE.** If Grantee should violate any of the terms, conditions or provisions of this franchise, or if Grantee should fail to comply with any reasonable provisions of any ordinance of the City regulating the use by Grantee of the streets, alleys, easements or public ways of the City and should Grantee further continue to violate or fail to comply with the same for a period of **thirty (30) days** after Grantee shall have been notified in writing by the City to cease and desist from any such violation or failure to comply so specified, then, unless Grantee is proceeding with due diligence to bring itself into compliance, Grantee may be deemed to have forfeited and annulled and shall thereby forfeit and annul all the rights and privileges granted by this franchise; provided that such forfeiture shall be declared only by written

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decision of the Village Board after an appropriate public proceeding before the Village Board affording Grantee due process and full opportunity to be heard and to respond to any such notice of violation or failure to comply, and provided further that the Village Board may, in its discretion and upon a finding of violation or failure to comply; impose a lesser penalty than forfeiture of this franchise or excuse the violation or failure to comply upon a showing by Grantee of mitigation circumstances. Grantee shall have the right to appeal any finding of violation or failure to comply and any resultant penalty to any court of competent jurisdiction. In the event that forfeiture is imposed upon Grantee, it shall be afforded a period of **six (6) months** within which to sell, transfer, or convey this cable television system to a qualified purchaser at fair market value. During this **six (6) month** period, which shall run from the effective date of the final order or decision imposing forfeiture, including any appeal, Grantee shall have the right to operate this cable television system pursuant to the provisions of this franchise. The above provisions do not apply to the conditions as set forth in **Section 8-1-6** of this Code.

8-1-14 **SURRENDER RIGHT.** Grantee may surrender this franchise at any time upon filing with the Village Clerk of the City a written notice of its intention to do so at least **three (3) months** before the surrender date. On the surrender date specified in the notice, all of the rights and privileges and all of the obligations, duties and liabilities of Grantee in connection with this franchise shall terminate.

8-1-15 **TRANSFERS.** All of the rights and privileges and all of the obligations, duties and liabilities created by this 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 Village Board, 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 assignment 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 any now existing person, persons, or entities shall be permitted without the prior approval of the Village Board.

8-1-16 **FRANCHISE FEE.** In consideration of the terms of this franchise, Grantee agrees to pay the City a sum of money equal to **three percent (3%)** of Grantee's gross subscriber revenues per year as defined in **Section 8-1-3(F)**. Such annual sum shall be payable **one-half (1/2)** thereof at the end of each semi-annual period. The semi-annual anniversary shall be the last day of June and last day of December of each year; and each semi-annual payment shall be paid within **sixty (60) days** thereafter. The above stated sum of **three percent (3%)** of Grantee's gross

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subscriber revenue per year as defined in **Section 8-1-3(F)**, shall be subject to increase, at Grantor's option and after reasonable notice to Grantee, to **five percent (5%)**; provided that no special petitions need be filed with, or hearings held before the Federal Communications Commission (FCC) for the purpose of FCC approval of said increase.

8-1-17 **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, not shall it be responsible for the operating condition of said receivers; provided, however, that this 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.

8-1-18 **ACCEPTANCE.** This Code when accepted by Grantee shall be and become a valid and binding contract between the City and Grantee; provided that this Code shall be void unless Grantee shall, within **ninety (90) days** after the final passage of this Code, file with the Village Clerk a written acceptance of this Code 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 Code.

8-1-19 **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 or its lessee.

(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 distribution of television signals, radio signals, pictures, programs, sounds, or any other information or intelligence transmitted over Grantee's cable system.

(C) The City shall not be liable to Grantee to enforce any of the conditions of this Section.

8-1-20 **SEVERABILITY.** If any section, subsection, clause, phrase, or portion of this Code 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.

(Ord. No. 263; 08-25-80)

**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 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

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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.

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- (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.

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(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

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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.*

(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 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 completively 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).