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ORDINANCE NO. F-1326
CITY OF WHEATON
CABLE & VIDEO CUSTOMER PROTECTION LAW

WHEREAS, the City of Wheaton has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and that protect the public health, safety, and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the Cable and Video Customer Protection Law (220 ILCS 5/70-501) (hereinafter (CVCPL) authorizing the City to enforce all of the customer service and privacy protection standards of the CVCPL and

WHEREAS, the City desires to enforce the customer service and privacy protection standards with respect to complaints received from residents as provided by the Cable and Video Customer Protection Law.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City as follows:

Section 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Adoption of Cable and Video Customer Protection Law 220 ILCS 5/70-501. Chapter 26 of the Wheaton City Code shall be amended by the addition of Article VIII , to be titled Cable and Video Customer Protection Ordinance, sections 26-200 through 26-203 which shall read as follows:

CHAPTER 26: CABLE AND VIDEO CUSTOMER PROTECTION ORDINANCE

Sec. 26-200 Customer Service and Privacy Protection Ordinance.

(a) **Adoption.** The regulations of 220 ILCS 5/70-501 are hereby adopted by reference and made 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 Chapter shall be incorporated into this Chapter by reference and shall be applicable to cable or video providers offering services within the City's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Chapter by reference without formal action by the Corporate Authorities of the City.

26-201 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 except where City staff determines that it does not have the necessary resources to effectively prosecute such protections. In the later circumstance staff shall refer the customer to the Illinois Attorney General's Office.

26-202 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 \$750.00 for each day of the material breach, and shall not exceed \$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 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).

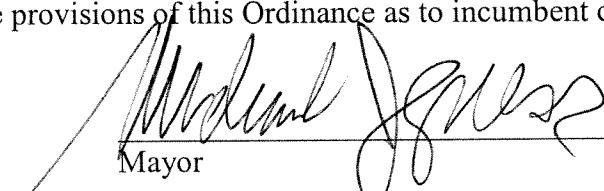
26-203 Customer Credits. The City hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of 220 ILCS 5/70-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery 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.

Section 3. Severability.

If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

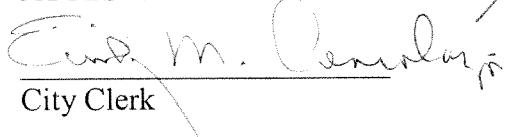
Section 4. Effective Date.

This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law. The provisions of this Ordinance as to incumbent cable operators take effect January 1, 2008.



Mayor

ATTEST:



Cindy M. Pennington
City Clerk

Ayes:

Roll Call Vote:
Councilman Prendiville
Councilman Suess
Councilwoman Corry
Councilman Johnson
Mayor Gresk

Councilman Mouhelis

Nays: None

Absent: Councilman Levine

Motion Carried Unanimously

Passed: December 3, 2007

Published: December 4, 2007