

ORDINANCE NO. _____

**AN ORDINANCE ESTABLISHING
AND ADOPTING CABLE/VIDEO SERVICE PROVIDER
CUSTOMER SERVICE STANDARDS**

WHEREAS, the City 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 5/22-501) (the “Law”) authorizing a City to enforce all of the customer service and privacy protection standards of the Section; and

WHEREAS, the City desires to enforce the customer service and privacy protection standards as provided by the Cable and Video Customer Protection Law; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Rochelle, Ogle County, 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. Authorization Required. Chapter 26 is hereby amended by adding a new Article IV, Cable/Video Service Regulations, which shall read as follows:

ARTICLE IV. - CABLE/VIDEO SERVICE REGULATIONS

26-81. - Definitions.

26-82. - Authorization Required.

26-83. - Cable/Video Service Customer Protection Regulations.

26-84. - Enforcement.

26-85. - Penalties.

26-86. - Customer Credits.

26-81. - DEFINITIONS.

CABLE SERVICE: That term as defined in 47 U.S.C. § 522(6).

COMMISSION: the Illinois Commerce Commission.

SERVICE: 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.

VIDEO SERVICE: 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.

26-82. - AUTHORIZATION REQUIRED.

A person or entity, including a telecommunications carrier, seeking to provide Cable Service or Video Service pursuant to this Chapter shall not use the public rights-of-way for the installation or construction of facilities for the provision of Cable Service or Video Service or offer Cable Service or Video Service until it has obtained either: (i) a State-issued authorization from the Commission to offer or provide cable or video service under Section 401 of the Cable and Video Competition Law of 2007 (220 ILCS 5/21-100 et seq.); or (ii) a cable franchise from the City under Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11).

26-83. - CABLE/VIDEO SERVICE CUSTOMER PROTECTION REGULATIONS.

- A. Adoption. The regulations of 220 ILCS 5/22-501 are hereby adopted by reference and made applicable to the cable or video providers offering services within the City's boundaries.
- B. Amendments. Any mandatory 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 municipality'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.

26-84. - 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.

26-85. - PENALTIES.

The City does hereby declare that for any material breach of the standards and requirements of the Cable and Video Customer Protection Law, as incorporated by reference in this ordinance, or any applicable rights and obligations of the Illinois Cable and Video Competition Law of 2007, as enumerated in this Chapter, a provider of Cable Service or Video Service shall be subject to monetary penalties which 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. Such penalties shall be in addition to the penalties provided in the Law and shall not represent the City's exclusive remedy for any material breach. All monetary penalties shall apply on a competitively neutral basis.

- A. Material breach means any substantial failure of a service provider to comply with service quality and other applicable standards, rights and obligations specified in any provision of the law.
- B. The City shall give the service 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 assuming penalties, shall be deemed to occur for each day that a material breach has not been remedied by the service provider after the notice in (B).
- D. The City Council hereby delegates authority to levy penalties to the City Manager.
- E. Any decision of the City Manager to levy penalties may be appealed to the City Council, which shall conduct a hearing on the alleged material breach and penalties levied therefore within twenty-one (21) days following receipt of the service providers request for an appeal.

26-86. - CUSTOMER CREDITS.

The City hereby adopts and incorporates by reference the schedule of customer credits for violations of the Law provided for in the provisions of 220 ILCS 5/22-501(s). Those credits shall be applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The service provider is responsible for proactively 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.

PASSED this 23rd day of March, 2015, pursuant to a roll call vote as follows:

AYES: _____

NAYES: _____

ABSENT: _____

ABSTAIN: _____

APPROVED by me this ____ day of _____, 2015.

Mayor of the City of Rochelle, Ogle County, Illinois.

ATTESTED, Filed in my office,
And published in pamphlet form

This ____ day of _____, 2015.

Clerk of the City of Rochelle,
Ogle County, Illinois.