

ORDINANCE #65430
Board Bill No. 76

An Ordinance to establish mandatory minimum consumer practices and protections for cable operators hereafter providing service in the City of St. Louis with definitions of terms, severability, penalty and emergency provisions.

WHEREAS, the City is empowered under Article I, Section 1(23) and (33), of its Charter to regulate businesses and promote or maintain the comfort, peace and welfare of the City and its inhabitants; and

WHEREAS, the City is authorized to enforce Federal Communications Commission customer service regulations for operators of cable television systems within the City;

BE IT ORDAINED BY THE CITY OF ST LOUIS AS FOLLOWS:

SECTION ONE. Findings

The Board of Aldermen of the City of St. Louis finds and declares as follows:

- A) Cable television systems occupy public property, to the economic benefit of operators of such systems.
- B) Residents of the City include many elderly and persons of moderate to low incomes, for whom cable television is an important source of information and entertainment.
- C) The quality of cable operators' customer service is an important element of the overall cable television service provided by such operators.
- D) Regulation of customer service standards, as hereinafter provided, is in the best interests of the residents of the City and the City itself.

SECTION TWO. Definitions

As used in this Ordinance, the following terms, phrases, words and abbreviations shall have the meanings given herein, unless otherwise expressly stated. Words in the present tense include the future tense; words in the plural number include the singular number and vice versa, masculine and feminine gender references include each other. The words "shall" and "will" are mandatory and the word "may" is permissive. Unless otherwise expressly stated, or clearly contrary to the context, terms, phrases, words and abbreviations not defined herein shall generally be given the meaning set forth in Title 47 of the U.S. Code or in 47 C.F.R. § 76.309 and, if not defined therein, shall generally be given their common and ordinary meaning. The definitions provided herein shall not apply to any reading or interpretation of 47 C.F.R. § 76.309 even though the same terms may be used therein. Terms used but not defined herein which are defined in other City ordinances pertaining to cable television shall have, for the purposes of this Ordinance, the meanings given them in such other ordinances. Inadvertent failure to capitalize a word shall not affect its meaning.

- (a) *After Hours* means outside Normal Business Hours.
- (b) *City* means the City of St. Louis, a municipal corporation of the State of Missouri, organized and existing under its Charter and the constitution and laws of the State of Missouri.
- (c) *Complaint* means a notice of dissatisfaction by a Subscriber, whether made orally or in writing to the Franchise Agency or the City. Informational inquiries shall not be counted as Complaints, unless the Subscriber was unable to reach the Operator to get the information, nor shall requests for specific channels or programming be counted as a complaint.
- (d) *FCC* means the Federal Communications Commission and its Bureaus.
- (e) *Franchise Agency* or *Agency* means the Communications Division of the Department of Public Utilities of the City or its successor.
- (f) *Franchise Authority* means the Board of Aldermen of the City.

- (g) *Installation* means the connection of the Operator's transmission system to a Subscriber's television or Subscriber-owned or Operator-provided terminal equipment, including initial connections, reconnections, activations, upgrades and downgrades of multi-channel services, whether analog or digital, on-site or computerized.
- (h) *Normal Business Hours* means not less than ten (10) hours each day on weekdays (including some evening hours during the week), and not less than five (5) hours on Saturdays.
- (i) *Normal Operating Conditions* means any and all conditions and situations that are within the control of an Operator, including but not limited to special promotions, staffing levels, regular, peak or seasonal demand periods, maintenance, repair and upgrades of transmission systems, electronic telephone and video equipment of any sort, management decisions, system mapping, employee actions, timing of plant changes or interruptions, corporate decisions, and actions or negligence by the Operator which lead to a high volume of calls, including but not limited to incorrect bills, rate increases, late bills or fees, changes in service and missed appointments). Normal operating conditions do not include situations not within the control of the Operator, including but not limited to natural disasters, civil disturbances, public works projects for which no advance notice is given, severe or unusual weather conditions, any local effects of regional or national conditions not within the control of the operator, and power outages which black out geographic areas and are not confined to video transmission system power supplies.
- (j) *Operator* means any Person to which this ordinance is applicable pursuant to Section Three(a).
- (k) *Outage* means the loss of all video or audio signals to five (5) or more Subscribers along the same trunk or feeder line. *Major outage* means the loss of all video or audio signals to twenty-five percent (25%) or more of all Subscribers in a Cable System. *Identified outage* means (i) a report of no picture/no sound on all channels from five or more Subscribers in close geographic proximity, or along the same trunk or feeder line, within twenty minutes, or (ii) determination by an Operator without such reports that five or more Subscribers are subject to such conditions.
- (l) *Person* means any individual, business, partnership, association, joint stock company, organization, corporation, proprietorship, governmental agency or political subdivision, or any natural person.
- (m) *Record* means any books or records relating to the Operator's system in the City, including without limitation any books, receipts, subscriber contracts, service complaint logs, signal leakage logs, performance test results, records of requests for service, work orders, telephone call recordings, subscriber files, computer records, codes, programs, and disks or other storage media, and other like materials.
- (n) *Service Interruption* means the loss of video or audio signal on one (1) or more cable channels on a Cable System to one (1) or more subscribers or severe degradation of picture and/or sound that renders the Subscriber unable to use the signals, for any reason.
- (o) *Subscriber* means:
- i) any Person who lawfully receives Cable Service from an Operator, including commercial as well as residential accounts;
 - ii) the City and its agencies in its capacity as a lawful recipient of such services;
 - iii) any Person previously authorized to receive Cable Service from an Operator;
 - iv) any Person who has applied to an Operator to receive Cable Service from such Operator but who has not yet begun receiving such service.
- (p) *Trained Customer Service Representative (CSR)* means an employee of an Operator who has the authority and ability to perform the following tasks, without limitation, while speaking with a Subscriber: answer billing questions, issue credits and adjust bills, schedule appointments for service and installation, troubleshoot minor service problems over the telephone, arrange changes in service and disconnections, and respond knowledgeably to other Subscriber complaints, requests or questions.
- (q) *Trained Supervisor* means an employee of an Operator with authority to modify the actions of a CSR.

SECTION THREE. Applicability

- (a) This Ordinance shall apply to any Person that provides cable service within the City.
- (b) In addition, the City reserves all of its rights with respect to Persons other than those that provide cable Cable Service within the City.

SECTION FOUR. General Customer Service Practices

- (a) This Ordinance sets forth customer service standards that an Operator must satisfy. In addition to the requirements set forth herein, an Operator at all times shall satisfy any additional or stricter requirements established by FCC regulations, or other applicable federal or state law or regulation, as amended from time to time.
- (b) An Operator shall maintain such equipment and keep such Records as are required to enable the Franchise Authority or Franchise Agency to determine whether the Operator is complying with all standards required by these regulations and other applicable law, as amended from time to time. Failure to keep and maintain such Records shall not excuse an Operator's failure to comply or to show compliance with this Ordinance.
- (c) Failure of an Operator to hire sufficient staff or properly train its staff shall not justify an Operator's failure to comply with this Ordinance. The responsibility of any Person providing Cable Service to comply with this Ordinance shall not be diminished or affected by that Person's use of contractors or other agents.
- (d) The intent of this Ordinance is to ensure that an Operator provides prompt customer service response, support personnel and services sufficient to provide a reasonable level of customer service in the City.
 - 1. At a minimum, an Operator must :
 - (A) have qualified members of the technical staff either present or on-call twenty-four hours a day, seven days a week, to respond to and investigate outages and other major problems;
 - (B) have all employees give the employee's name (and upon request, an employee ID code) to Subscribers or other Persons when answering an incoming call or inquiry and when keeping an appointment with a Subscriber.
 - 2. A pattern of offensive language by Operator personnel may be considered in determining the ability of the operator to meet community needs.
 - 3. An Operator shall respond to all Subscriber or user inquiries and complaints no more than five (5) business days after the inquiry or complaint, except to the extent a different standard is set forth for specific types of inquiries or requests herein. "Respond" to the inquiry or complaint as used in this paragraph shall mean to contact the Subscriber and discuss the actions that have been taken or are being taken to address the Subscriber's concerns.

SECTION FIVE. Telephones, Business Offices and Support Services

- (a) OFFICES: An Operator must maintain a minimum of two (2) customer service locations located within the City, which can fully accommodate bill payments; equipment disbursement, return or exchange; and in-person discussion with Trained Customer Service Representatives. At least one such location must be open for these purposes at least during Normal Business Hours. At least one other such location must be open for these purposes at least for a time period which is one hour per day less than Normal Business Hours.
 - 1. Trained Supervisors shall be available in at least one such location at all times when it is open to meet in person with a Subscriber or other Person requesting such a meeting. All other such locations shall have Trained Supervisors available to Subscribers by telephone at all times when they are open.
 - 2. Operator shall prepare and distribute to the Franchise Agency an annual calendar of holidays and business days on which the Operator's customer service locations required by Section Five(a) will be closed. Operator shall provide notice to Subscribers regarding hours or dates when such locations will not be open through at least two

(2) of the following means: advertisement, answering service/machine voice-mail messages, bill messages, direct mail, or through its cable system (or any other means deemed reasonable by the Agency). Notice of any closures other than regularly scheduled dates will be provided at least five (5) days prior to the date of the closure to the extent this is feasible, and if not, then as far in advance as feasible. An Operator shall provide voice messaging and door signage notices during any period when the Section Five(a) customer service locations are closed due to holidays or unusual circumstances during hours when they are ordinarily open.

3. Nothing in this section shall preclude Operator from establishing additional payment sites of its own or via third party vendors.
- (b) TELEPHONES: Operator must maintain at least one local toll-free or collect telephone access number which is available to Subscribers twenty-four hours a day, seven days a week. An Operator may establish separate telephone numbers for Normal Business Hours telephone access and for After Hours repair telephone access. An Operator must have publicly listed telephone numbers for Normal Business Hours and After Hours lines, the listings to include descriptions that allow Subscribers readily to determine which number is appropriate to call for a given time and Subscriber location.
1. Telephones must be answered by a Trained Customer Service Representative (not an answering service or machine alone) twenty-four hours a day, seven days a week, so that Subscribers may register service complaints, report service problems or outages, and request installations and repairs. Nothing herein shall be construed to prohibit an automated response unit as a first step in answering a customer call so long as the performance standards in Section Five(c) herein are met. Customer service representatives answering the phones must be able to contact qualified technical staff at all times for response and action in the event of an outage or other major problem.
 2. A repair line must be available at all times, including holidays. While such line may be part of an Operator's regional call center (rather than specific to the City system), it must be staffed by Trained Customer Service Representatives capable of receiving and responding to service complaints and inquiries, and setting up appointments for installations and service calls, generated by City Subscribers. If a company representative cannot fully respond to a Subscriber call or request after Normal Business Hours, a Trained Customer Service Representative or Trained Supervisor must contact the Subscriber and respond to inquiries or problems by the end of the next business day.
 3. Trained Supervisors shall use their best efforts to respond to Subscriber telephone requests to speak with a "manager" or "supervisor" within two hours of the request, but in any case shall respond to such requests no later than the next business day. Periods of natural disasters and Outages are exempt from this response time standard, but during such periods such calls must be returned within a reasonable period of time, generally not to exceed twenty-four hours. An Operator shall keep a report log of such Subscriber requests available for review by the Franchise Agency.
 4. Automated message systems must provide a clearly indicated opportunity to speak with a Trained Customer Service Representative.
 5. Automated message systems may not disconnect callers without allowing the caller an opportunity to return to the message system and make another menu selection or to speak with a Trained Customer Service Representative.
- (c) TELEPHONE PERFORMANCE STANDARDS, REQUIREMENTS AND REPORTS. An Operator must meet the telephone response standards herein established. An Operator must keep separate records for each customer service phone number, reported and filed monthly (showing daily and weekly figures) with the Franchise Agency pursuant to Section Sixteen(a).
1. Under Normal Operating Conditions and during Normal Business Hours, the following standards shall be met no less than ninety percent (90%) of the time, measured quarterly for purposes of compliance:
 - (A) *Hold time:* Time for telephone answer shall not exceed (i) 60 seconds from the time the call is connected to the Operator's telephone system by its local exchange carrier to the time at which any automated response unit menu presents to the caller the option to speak to a Trained Customer Service Representative and completes the description of the keys the caller must press to exercise that option,

or (ii) 30 seconds from the time at which a caller exercises the option to speak to a Trained Customer Service Representative in an automated response unit menu to the time at which the call is answered by a Trained Customer Service Representative.

If a call needs to be transferred, transfer time shall not exceed thirty (30) seconds.

(B) *Busy Signal:* Callers will receive a busy signal no more than three percent (3%) of the time.

(C) *Abandonment Rate* for incoming phone calls may not exceed 5%.

2. An Operator must provide Reports and supporting documentation demonstrating its compliance with the requirements of this Section Five(c), pursuant to Section Sixteen.

SECTION SIX. Appointments For Service Or Installation

- (a) An Operator shall comply with all requirements of this Section Six. However, an Operator shall be liable for a violation of Section Six(a) through (d) only if, under Normal Operating Conditions, it fails to meet such standard for 95% of the total number of appointments, measured quarterly, where each appointment scheduled by the Operator for a time during the month counts as one appointment and each appointment scheduled for a time during the month that constitutes a missed appointment pursuant to Section Six(a)(2), for any reason, counts as one missed appointment.
1. In addition to any penalties or liquidated damages attached to such violations, an Operator shall compensate Subscribers for any missed appointments pursuant to Section Six(g), and any failure to so compensate a Subscriber shall constitute a separate violation of this Ordinance.
 2. A “missed appointment” is one in which the Subscriber is at the appointment address and the Operator’s field personnel do not arrive within the appointment window the Subscriber was given when the appointment was made. Failure of an Operator to correctly enter the appointment into the Operator’s work order logs, or Operator’s subsequent changes in deployment of field staff, or deletion of the appointment from Operator records, shall not be grounds for Operator to claim it did not miss an appointment.
- (b) Unless otherwise requested by a Subscriber, an Operator shall perform all Subscriber-requested service calls, installations, and changes in service - including upgrades, downgrades, equipment changes, and disconnections - during Normal Business Hours. In addition to the requirements of this Section Six(b), an Operator may schedule appointments outside Normal Business Hours for the express convenience of a Subscriber, if so requested.
- (c) The appointment window for installations, service calls and upgrades/downgrades will either be
1. a specific time, or
 2. the Subscriber’s choice of any “appointment window” blocks established by the Operator. Such appointment window blocks shall not exceed four (4) hours.
- (d) Appointment Confirmations, Cancellations and Rescheduling
1. An Operator may not cancel an appointment with a Subscriber after the close of business on the business day prior to the scheduled appointment.
 2. An appointment may not be cancelled or rescheduled on the day of the appointment by service representatives or technicians who phone or arrive at a time outside the designated appointment window and find the Subscriber is not at home. An Operator may not satisfy its obligation to keep an appointment by appearing outside the appointment window given to the Subscriber.
 3. An Operator may not cancel or reschedule an appointment on the grounds that a Subscriber is not available during the appointment window until the Operator has made every reasonable effort to verify both over the phone and in person at the appointment location that the Subscriber or other authorized adult is not available at the appointment location within the appointment window or at the specific appointment time. Thus, an Operator

may not cancel or reschedule an appointment until it has, within the appointment window:

- (A) Attempted to reach the Subscriber by telephone at the number specified by the Subscriber to verify that the appointment is still needed and the Subscriber or his representative is or will be at the appointment address to meet the technician. Such attempts must include letting the telephone ring at least six times. If the Subscriber's telephone is answered by a machine or service, the Operator must leave a message giving the time of the call and a separate or direct dispatch phone number or extension that the Subscriber may use to call back the Dispatchers to confirm the appointment, or request that it be rescheduled; and
 - (B) Attempted to reach the Subscriber at the appointment address. When an Operator's field personnel arrives for an appointment, such representative shall make every reasonable effort to verify that the Subscriber or an authorized adult is at the address, including:
 - (i) knock and use the doorbell to alert the Subscriber;
 - (ii) contact the building manager or custodian, if such a person is on-site;
 - (iii) look in the front and back yards so long as this can be accomplished without trespassing on Subscriber or other private property, or subjecting field personnel to physical danger (*e.g.*, dog attack).
 - (C) Upon verification in the field that the Subscriber is not at the address during the scheduled appointment time or window, field personnel shall leave a door tag or similar notice, with the identity of the person leaving the notice, the time that person determined the Subscriber was not at home, and a direct telephone number or extension the Subscriber may call to confirm or reschedule the appointment.
4. If an Operator's representative is running late for an appointment with a Subscriber and will not be able to keep the appointment as scheduled, the Subscriber must be contacted within the appointment window, and if the appointment must be rescheduled, it shall be at the earliest time that is convenient for the Subscriber, including later the same day.
- (e) At the time an appointment is scheduled, it shall be an Operator's standard practice to inform a Subscriber of its service procedures, required payments, any foreseeable delays, and phone or field verification procedures which are related to the appointment, including those circumstances in which the Operator may cancel the appointment. When an Operator offers a time or appointment window to a Subscriber, the Operator is responsible for ensuring that the time or window is actually available and for ensuring that the Operator's records and work order accurately reflect the information given to the Subscriber.
 - (f) Emergency service calls and service capability enabling the prompt location and correction of Outages or substantial system malfunctions shall be available twenty-four (24) hours a day, seven (7) days a week.
 - (g) A Subscriber who experiences a missed appointment shall receive remedies pursuant to Exhibit A, unless the Operator and the Subscriber agree on a different remedy. However, these remedies shall not apply in cases where unusual physical conditions make it impracticable to keep the appointment, if the Operator notifies the Subscriber promptly (in advance if possible, and otherwise as soon as practicable thereafter) and offers to reschedule the appointment.
 - (h) An Operator is required to document all Subscriber appointment dates and times, including those scheduled and completed, as well as those missed, cancelled, or rescheduled for any reason. If someone other than the Subscriber calls an Operator to cancel or reschedule an appointment, the Operator shall record such Person's name and asserted relationship to the Subscriber.
 - (i) The Franchise Agency shall have the power to adjust, settle and compromise disputes and to resolve complaints against a Grantee if a Subscriber demonstrates that s/he was available at the appointment location when the Operator failed to keep the appointment. The Franchise Agency may require an Operator to produce Records so that the Agency can ascertain compliance with this Section. Such Records may include daily reports for all appointments kept, made, cancelled or rescheduled by Operator, individual work order and appointment information, or other Operator Records reasonable to

ascertain the facts relating to a particular situation or time period.

SECTION SEVEN. Installations and Reconnections

- (a) Under Normal Operating Conditions, installations must be completed within seven (7) business days after an order is placed, unless the Subscriber asks for a later date. The Operator may require advance payment of the installation fee and the first month's service charges. Installations which require more than one hundred twenty-five (125) feet of drop cable from the tap, or which would occur in buildings not wired for cable service, may take longer than seven (7) business days. In such cases, the Operator shall provide the Subscriber and/or the Agency with a written explanation and a proposed schedule for installation, but it shall be completed within sixty (60) days in any case.
- (b) Section Seven(a) shall not apply if the service or product requested by the Subscriber is not generally available from the Operator in the Subscriber's area (for example, if an upgrade necessary to provide the service has not yet been completed in that area).
- (c) Reconnections due to erroneous disconnections based on Operator's billing or technical errors must be completed at no charge the same day as the Subscriber notifies the Operator of the disconnection to the extent reasonably possible, but in any event within twenty-four (24) hours. The Subscriber must be provided a credit for time out of service.
- (d) Reconnections after a disconnection attributed to non-payment of bills must be completed within seven (7) business days after payment has been received by the Operator. In such instances only, Operator may require that payment by check has cleared Subscriber's bank before the payment is deemed received by the Operator.
- (e) Installations shall not be considered completed, nor may a Subscriber be billed for services, until all services and equipment the Subscriber is told would be installed as part of that installation are in full working order.
- (f) A building owner's preference as to the point of entry into a building shall be observed whenever feasible. Runs in building interiors shall be as unobtrusive as possible and outlets located for the convenience of the Subscriber. The Operator shall use due care in the process of installation and shall repair or restore any damage to the Subscriber's property caused by said installation work. Such repair or restoration shall be undertaken as soon as possible after the damage is incurred, shall be subject to reasonable Subscriber approval of the corrective action and shall be completed within no more than thirty (30) days after the damage is incurred, unless this is not reasonably possible, in which case it shall be completed as soon as possible. Should such repair or restoration not be completed within the thirty-day period, the Operator shall notify the Franchise Agency and the Franchise Agency shall have authority to review disputes between an Operator and Subscribers as to such damage and to require reasonable corrective action by an Operator.
- (g) The provisions of Section Six regarding appointments shall apply, without limitation, to appointments for installations.

SECTION EIGHT. Service and Repair Calls

- (a) When a Subscriber requests a service appointment or repairs for a problem with cable service, or the need for repairs otherwise becomes known to an Operator:
 - 1. Any Service Interruption (including loss of video and audio signal, or "no picture/no sound") on one or more channels must be responded to promptly and fully repaired within 24 hours, including provision of any necessary working equipment and arrival of another service technician qualified to repair the problem if the first technician cannot.
 - 2. Work on all other requests for service or repair must begin by the first business day after the Subscriber reports the problem to the Operator, and must be completed within 72 hours of the Subscriber's initial request.
- (b) Repairs or maintenance work not completed, or referred to another technician, by the original technician responding to a request for repair or service call shall be resumed by the Operator within 24 hours of the original service call
- (c) Repairs or corrective action not requiring Operator to enter the interior of Subscriber premises shall not require a Subscriber to make an appointment, shall not require the Subscriber to be available on-site, and shall not be delayed on account of the Operator's inability to contact the Subscriber. Such repairs shall also be completed within the deadlines specified above.

- (d) With respect to deadlines specified in this Section Eight:
1. an Operator shall complete the work in the shortest possible time where the work could not be completed in the time periods specified herein even with the exercise of due diligence.
 2. The requirements of Section Eight(a) shall not apply during periods outside of Normal Operating Conditions. Such periods must be documented by the Operator to the reasonable satisfaction of the Franchise Agency.
 3. Failure of an Operator to accurately and timely locate or move underground plant upon request by any authorized Person shall not be cause for a waiver of the 24- and 72-hour requirements for repairs.
- (e) Except as applicable law requires, no charge shall be made to a Subscriber for a service appointment or repairs necessary to correct a problem with cable service, unless it can be documented that the problem was caused by the Subscriber.
- (f) Credits for Service Interruptions
1. An Operator shall automatically provide a credit or refund whenever the Operator is aware that a Subscriber has not received service for which the Subscriber has paid for four hours or more.
 2. The amount of the credit shall be based on the severity or duration of the problem and the channels affected, but shall not be less than one-half day's cable rate.
 3. A credit under this Section Eight(f) shall not be required where (i) the Service Interruption is part of a planned and approved Outage for a limited period that is necessary for plant upgrades, maintenance, repair, or required testing; or (ii) the Operator shows that the Subscriber caused the Service Interruption.
 4. However, a Subscriber is entitled to a full refund for a pay-per-view event that the Subscriber ordered from the Operator that is interrupted by a Service Interruption.
 5. A credit under this Section Eight(f) shall be applied upon a Subscriber's reasonably prompt request. Such credit shall also be applied without a Subscriber's request in any case where the Operator can identify the affected Subscribers. Credits are not required, however, when the Operator can demonstrate that the Subscriber seeks a refund for outage or impairment which the Subscriber has caused.
- (g) The Franchise Agency is authorized to adjust, settle and compromise disputes and to resolve complaints against a Grantee with respect to service and repair calls.
- (h) The provisions of Section Six regarding appointments shall apply, without limitation, to appointments for service and repairs.

SECTION NINE. Disconnections & Downgrades - Involuntary

- (a) Disconnection for Non-Payment
1. No Subscriber may be disconnected for non-payment other than at a time when Trained Customer Service Representatives with authority to cancel the disconnection are available for the Subscriber to contact by telephone.
 2. No Subscriber may be disconnected for non-payment if the Subscriber has informed the Operator or the Franchise Agency of a billing dispute or lost payment, until a reasonable period has elapsed for the Operator or the Franchise Agency respectively to resolve such billing dispute or lost payment and, if necessary, for the Subscriber to submit a replacement payment.
 3. No Subscriber may be disconnected for non-payment due to an Operator's failure to timely or correctly post payments.
 4. No Subscriber may be disconnected for failure to pay a portion of a bill attributable to services delivered after

the “stop bill date” as that term is used in Section Ten(a).

5. No Subscriber may be disconnected for non-payment if payment of outstanding balances is made at Operator’s office or received by the Operator at its office before the date scheduled for disconnection, including the last business day before the scheduled disconnection. It is the Operator’s responsibility to monitor such payments and cancel work orders for disconnections.
6. No Subscriber may be disconnected by an Operator for non-payment less than twenty-five (25) days after the original due date of a delinquent balance, or less than eight (8) days after the Operator sends (by first-class mail) written or telephone notice of the intent to disconnect, whichever is later.

(b) Procedure for Involuntary Disconnection

1. Before a Subscriber may be disconnected, the Operator must give prior notice by at least two (2) of the following methods, each at least five business days prior to disconnection:
 - (A) messages in bold or large type on current bill;
 - (B) postcards, other mailings, or prominent bill stuffers;
 - (C) phone call to the Subscriber, or message left on a telephone answering machine.
2. If an Operator initiates a disconnection at the Subscriber’s location, the technician performing the disconnection must first attempt to reach the Subscriber on-site by knocking or ringing at the front door or looking in the backyard to inform the Subscriber about the pending disconnection. If the Subscriber is not present, but the premises are in the care and control of another Person, the Operator’s representative shall allow such Person to attempt to contact the Subscriber prior to the disconnection. If such Person contacts the Subscriber, the Operator’s representative shall speak to the Subscriber by phone and attempt to arrange for payment of the overdue amount or a resolution of the matter prior to starting the disconnection.
3. If the Subscriber pays the outstanding balance for current period services at the time Operator attempts a disconnection at the Subscriber’s premises, the Operator shall not disconnect the Subscriber.
4. Disconnections for non-payment which are made at the Subscriber’s location when the Subscriber is not home must be accompanied by a written notice, such as a door tag, informing the Subscriber that a technician has made changes to the service and providing an Operator telephone number and customer service location address so that the Subscriber may contact the Operator for further information. Disconnections made by computer require the Operator promptly to mail information to the Subscriber containing the same information and describing the amount of payment in arrears as of the disconnection date and applicable reconnection charges and procedures.

(c) Forms of Payment: An Operator may reasonably specify forms of payment that are acceptable to avoid disconnection (such as cash, checks, money orders or credit card payments) based on the Subscriber’s payment history, security issues in the field, or other criteria.

(d) Disconnection Due to Signal Leakage

1. An Operator may disconnect a Subscriber that causes signal leakage in excess of federal limits.
2. An Operator may effect such disconnection without advance notice, provided that Operator shall first attempt to contact the Subscriber on-site about the problem.
3. If an Operator disconnects a Subscriber due to signal leakage, the Operator’s representative must leave a door tag with an explanation of the problem and a telephone number to call.
4. Once the problem is corrected, the Operator shall reconnect the Subscriber at no charge. The Subscriber shall be eligible for appropriate credits pursuant to Section Eight(f)5.

5. For purposes of this Section Nine(d), use of FCC-approved navigation devices does not in and of itself constitute signal leakage.
 6. An Operator must maintain dated, address-based incident logs of all disconnections attributed to signal leakage, including detailed description of exact location at which the leakage reading is strongest.
- (e) Other Conditions: Nothing in this Ordinance is intended to prevent an Operator from disconnecting, delaying, limiting or denying cable service to any Person who—
1. Causes damage to the Operator’s cable system or equipment;
 2. Threatens the safety of an Operator’s field technicians in the course of their duties;
 3. Illegally receives cable services for which that Person has not paid;
 4. Attempts to order Premium or Pay-Per-View Service after that Subscriber has chronically failed to pay for such services in the past;
 5. Repeatedly attempts to render payments from checking accounts with insufficient funds.

If an Operator disconnects, delays, limits or denies cable service to a Subscriber pursuant to this Section Nine(e), the Operator will give written notice to the Subscriber of the reason and of the Subscriber’s right to contact the Franchise Agency. An Operator must maintain copies of such written notice to the Subscriber in its files.

- (f) Reconnection
1. After a permissible disconnection for nonpayment, the Operator shall reinstate service within seven (7) business days after payment by the Subscriber of all outstanding charges in full, subject to a Subscriber’s rights with respect to billing disputes or lost payments under Section Nine(a)2.
 2. The Operator is not required to reconnect a Subscriber with an undisputed outstanding balance unless extenuating circumstances are applicable in the judgement of the Operator and the Franchise Agency, after joint consultation.
 3. After a disconnection, delay, limitation or denial for cause as described in Section Nine(e) above, an Operator is required to restore service only after the Subscriber has provided adequate assurance that s/he has ceased, and will not resume, the practices which led to the disconnection, and paid all proper fees and charges, including any reconnection fees or amounts owed to the Operator for damage to its Cable System or equipment.

SECTION TEN. Disconnections & Downgrades - Voluntary

- (a) A Subscriber may order a disconnection or downgrade of service or equipment at any time and may select any business day occurring 24 hours or more after ordering such disconnection or downgrade, as the date on which the services will end (the “stop bill date”).
- (b) As long as the Subscriber reasonably cooperates with the Operator’s removal of any canceled converters or similar equipment from the Subscriber’s premises:
- 1 the Operator shall promptly disconnect or downgrade any Subscriber as of the “stop bill date”;
 - 2 the Operator shall not impose a charge for canceled services which are delivered after the “stop bill date”;
 - 3 the Operator shall not charge fees for equipment after the “stop bill date”;
 - 4 Unless the Subscriber requests otherwise, removal of charges, refunds or credit amounts will be applied to the account as of the “stop bill date”, regardless of when the disconnection or downgrade occurred in the field;
- (c) While Subscribers may be asked to deliver such equipment to the Operator’s office, they shall not be required or forced

to do so as a condition of refunds, credits or return of deposits. A Subscriber may only be held liable for unreturned equipment if, within two weeks of disconnection, or by the last date the Subscriber occupies the premises (whichever is earlier):

1. the Subscriber refused an appointment for equipment pickup during a specified appointment window;
 2. the Subscriber failed to keep such appointment or failed to return such equipment when visited by the Operator;
or
 3. the Subscriber could not be contacted by the Operator for a period of five business days.
- (d) Subscribers may not continue to be charged for services or equipment due to Operator delays in completing disconnections or downgrades or equipment removal after the “stop bill date”.
- (e) Any charges for services or equipment with a “stop bill date” which is seven or more business days prior to the Subscriber’s next billing date may not appear on the Subscriber’s next bill.
- (f) Subscribers may not be charged late fees, involuntarily disconnected, or otherwise penalized for excluding from their payments amounts billed for canceled services after the “stop bill date”.
- (g) Following the “stop bill date” for a full disconnection, the Operator must promptly issue a full or pro-rated refund check for any pre-paid monthly charges .
- (h) No charge may be imposed on a Subscriber for any full disconnection, and downgrade fees for partial cancellation of service must comply with the requirements of federal law and local rate orders.
- (i) Full refunds of service and installation charges shall be given for downgrades or disconnections requested in accordance with any “Money Back Guarantee” conditions established in promotional campaigns for any tier or other cable service. Downgrade fees may not be charged if such services are canceled within such promotional windows. If an Operator is fined by another entity for a failure to provide such a refund or for charging such a fee, the Operator shall not be subject to a penalty or liquidated damages for that event pursuant to this Section Ten(i).
- (j) Subject to applicable federal law, Subscribers may downgrade or disconnect at no charge within 30 days after they receive a bill with a rate increase for that service or equipment. For purposes of this Section Ten(j), “rate increase” shall include (but not be limited to) unilateral price increases to all Subscribers, discontinuation of special price promotional packages held by a particular Subscriber, and changes in Premium service prices at the end of a promotional period. This Section Ten(j) shall not apply to a rate increase where a Subscriber has agreed to pay for a service or equipment at a normal price after a period charged at a lower promotional rate, and the rate increases to the normal price in accordance with that agreement.
- (k) Operators must notify Subscribers who have fully disconnected service of the terms and conditions under applicable law regarding both parties’ rights with respect to Subscriber premises cable service wiring. Except as otherwise provided under applicable law or agreement binding on a building owner, any such building owner may require an Operator to promptly remove the Operator’s wiring from the owner’s building at no charge to the building owner.

SECTION ELEVEN. Outages

- (a) An Operator shall take timely measures to post appropriate messages, including areas or Zip codes affected, on its telephone system automatic response unit to notify Subscribers of any Identified Outages. Such messages should also provide instructions for Subscribers whose converters or navigation devices may not be functioning as a result of the Identified Outage. Periods of natural disasters are not included in this requirement.
- (b) Within one (1) hour after an Identified Outage, service technicians will respond and use all available means to correct the Outage in the shortest possible time.
- (c) Operator will maintain reports on the cause, area and duration and repair of all Outages.

- (d) The requirements of this Section Eleven are in effect 24 hours per day, 7 days a week.
- (e) An Operator may intentionally interrupt service only for good cause and the shortest possible time, including interruption for system upgrade, repair and maintenance, for emergencies or to the extent necessary to fix an affected Subscriber's problem. Routine maintenance shall occur at times that affect the fewest Subscribers, generally between 2 am and 6 am. An Operator shall notify the Franchise Agency no less than twelve (12) hours prior to a planned Service Interruption. In addition, an Operator shall post override notices on all its system's channels to advise Subscribers prior to planned Service Interruptions.

SECTION TWELVE. Changes In Services and Rates

- (a) Before an Operator unilaterally alters equipment, the Basic Service Tier, a Cable Programming Tier, another Tier, or any other cable service, or the rate for any such equipment or service, it must provide the Franchise Authority and Franchise Agency sixty (60) days advance written notice. The Operator shall also provide Subscribers with thirty (30) days advance written notice by any reasonable means and explain the substance and effect of such alteration. Such notice is required for all regulated and unregulated rates for any and all services, to any and all classes of Subscribers, including without limitation governmental and educational Subscribers; commercial account Subscribers; and Subscribers of optional tier or other cable services.
- (b) Changes not within the control of the Operator are subject to notice as soon as reasonably possible. Operator must also notify Subscribers at the time the alteration is made of their right within thirty (30) days after the alteration to elect to continue receiving, or to cancel at no charge, any service so altered, or combination of services which includes an altered service. Such notice must be clear and obvious.
- (c) Negative option billing is prohibited except to the extent that federal law specifically provides that Operators are permitted to make alterations by negative option. For purposes of this Section Twelve(c), "negative option billing" shall be defined as charging a subscriber for any service or equipment that the Subscriber has not affirmatively requested by name. The Franchise Agency shall have the power to adjust, settle and compromise disputes and to resolve complaints. The Operator shall have the burden of proof with respect to any issues regarding negative options. Subscribers may not be charged an upgrade or downgrade fee in order to receive, block or cancel services changed by an Operator. Notwithstanding the foregoing, acts by an Operator that federal law has deemed permitted under federal law shall not be considered negative options for purposes of this Section Twelve(c).
- (d) If an Operator plans to provide a free Premium Channel, the Operator shall, no later than ten (10) days before such Premium Channel is offered without charge, notify all Subscribers of its plans including the time periods involved, a general description of the nature of the content of the offered Premium Channel, and the Subscriber's right under this Ordinance to have the channel blocked at no charge. For purposes of this Section Twelve(d) only, "Premium Channel" shall mean any pay service offered on a per-channel or per-program basis.
- (e) Rates for services, and equipment are subject to all applicable federal, state, and local laws and rules. If an Operator implements rates that exceed rates established by City rate orders, it must notify Subscribers that such rates are in dispute and (where appropriate) are under appeal.
- (f) An Operator must notify the Franchise Agency regarding any changes in rates or billings or services affecting governmental and educational Subscribers in writing no less than ten (10) business days in advance of the actual change or notice to governmental or educational Subscribers of such change, whichever comes first. The Franchise Agency shall have authority to determine if such charges comply with this Ordinance and the terms and conditions of any other applicable law or contracts.

SECTION THIRTEEN. Notices - Written and Oral

- (a) An Operator shall comply with all notice provisions established by applicable law or in its franchise agreement.
- (b) An Operator shall provide the following written information to each Subscriber on each of the following topics at the time of installation and at least annually thereafter, and at any time upon request. Copies of all such materials provided to Subscribers shall also be provided to the Franchise Agency.

1. description of products and services offered, including prices and options for cable services, associated equipment and installation charges, and conditions of subscription to programming and other services and facilities;
 2. description of the Operator's installation and service maintenance policies, delinquent Subscriber disconnection and reconnection procedures, and any other of its policies applicable to its Subscribers;
 3. instructions on how to use the services and equipment, including the capabilities and limitations of such equipment;
 4. instructions for how to place a service call;
 5. description of the Operator's billing and complaint procedures, and the address and telephone number of the Franchise Agency office responsible for receiving Subscriber complaints;
 6. copy of the service contract between the Operator and Subscriber, if any;
 7. notice regarding Subscribers' privacy rights pursuant to applicable law;
 8. notice of the commercial availability of universal remotes and other compatible equipment clearly indicating that a list of specific brands and models shall be provided to any Subscriber upon request;
 9. The Operator's customer service telephone numbers; the addresses and hours of any of the Operator's customer service locations in the City; and the address and telephone number of the Franchise Agency.
- (c) All written notices to Subscribers regarding changes in operator procedures and practices affecting Subscribers in the City shall be provided to the Franchise Agency prior to printing and distribution. An Operator shall make a good-faith effort to provide copies of such notices early enough that the Agency, if it chooses, can review and comment on them. An Operator's distribution of notices containing information that is contrary to applicable law, is fraudulent, or would reasonably be expected to mislead Subscribers as to their rights, is a violation of this Ordinance.
- (d) Every Operator's promotional materials, announcements, advertising of service, and oral or written sales presentations to Subscribers shall conform to applicable laws governing such advertising and, to the extent to which price terms are presented in such materials or presentations, shall clearly and accurately disclose such price terms.
- (e) In addition to (but not in duplication of) any notice required under Section Twelve(a), Subscribers shall be notified in writing of any changes in rates, programming services or channel positions, or any significant changes in any other information required to be provided by this section. An Operator may also provide additional notice by any other means, such as announcement on its Cable System. These notices shall be made:
1. as soon as possible when the change is out of the Operator's control; and
 2. in accordance with applicable federal, state and local law, including this ordinance, when the change is within the Operator's control.
- (f) Each Operator shall maintain a public file containing all notices provided to Subscribers under this Ordinance as well as promotional offers made to Subscribers. Copies of all such notices, rate cards, promotional or special offers sent to Subscribers, and any copies of blank agreements used with Subscribers, shall be promptly filed with the Franchise Agency.
- (g) Notices to Subscribers, including but not limited to notices of rate and service changes, that are published solely in the legal section of local newspapers do not constitute 'reasonable means' as that term is used in this Ordinance or in 47 U.S.C. § 552(c) as applied in the City.

SECTION FOURTEEN. Billings, Charges and Credits

- (a) Bills shall be clear, concise and understandable.

1. Appropriate office addresses and phone numbers for billing inquiries or disputes shall be clearly marked on each bill.
 2. Bills shall be fully itemized and clearly delineate all activity during the billing period, with an itemization of at least the following: basic tier charges, any other tier charges, premium charges, pay-per-view charges, optional charges, payments, credits, rebates, late fees, and pro-rated amounts for service upgrades, downgrades and disconnections. An Operator's first billing statement after new installation, reconnection or service change shall be pro-rated to reflect the service period. Any unusual billing debits, credits, or changes in service must be clear and understandable. The Franchise Agency will work with an Operator at the Operator's request to accommodate the Operator's reasonable space limitations to ensure that the results are clear and understandable.
 3. An Operator's billing statement must show a specific payment due date. Bills shall clearly and conspicuously indicate the past due date and, if applicable, the action a Subscriber must take to avoid disconnection.
- (b) All Operators must take reasonable steps to ensure that Subscribers understand the terms and obligations of their subscriptions in advance.
1. Promotional materials must prominently specify the periods for which any special prices or discounts remain in effect and the prices to which they return at the end of such periods (unless they return to a price the Subscriber is currently paying).
 2. Prior to upgrades or changes in a Subscriber's service package, an Operator's written materials and/or oral presentation shall fully disclose to the Subscriber whether the Subscriber is able to cancel the upgraded services and voluntarily downgrade to the same package of service at the same price as before the upgrade or change.
 3. Prior to upgrades or changes in a Subscriber's service package, an Operator's written materials and/or oral presentation shall fully disclose to the Subscriber any charges or penalties for downgrading or removing services at a later date.
 4. Subject to applicable law, at the end of any special price offer or promotional period, Subscribers shall have the right to cancel any Cable Services with no downgrade charge.
- In the case of pay-per-view or pay-per-event programming, promotional materials must clearly and accurately disclose all price terms. In the case of telephone orders, an Operator shall take appropriate steps to ensure that price terms and restrictions are clearly and accurately disclosed to potential Subscribers before the order is accepted. Operator shall provide the Franchise Agency with verification on a quarterly basis that the requirements of this paragraph are being met.
- (c) Subscribers must have adequate time to pay bills before imposition of late fees or penalties for non-payment. Any balance not received within the time period after the due date specified in Section Fourteen(c)2 below may be assessed a processing charge (late fee) to the extent not in conflict with applicable federal or state law.
1. Subscribers must have a minimum of eighteen (18) days between the date the Operator mails the bill by first-class mail and the due date on the bill. Due dates generally may not be earlier than the tenth day of the billed period.
 2. An Operator shall provide Subscribers a grace period of an additional five (5) business days after the due date before the Operator may impose a late fee for nonpayment. Late fees may not actually be applied to any account until the billing cycle cutoff date on which all posted payments and charges for the following month's bill are applied.
- (d) Subscribers will not be responsible for late fees resulting from delays in Operator's billing system, payment collection or posting practices or for any failure by an Operator to timely or correctly bill the Subscriber or to properly credit the Subscriber for timely payment made.
- (e) Credits for erroneous late fees will be applied to all affected accounts automatically by the Operator prior to generating the next Subscriber bill.

- (f) Late fees may not exceed the lesser of (1) any state statutory limits or (2) any court-ordered limits.
- (g) No Subscriber's billing cycle shall be changed arbitrarily. An Operator shall use its reasonable best efforts to accommodate one-time requests for specific billing cycles by Subscribers on fixed incomes.
- (h) Disputes about billings will be settled by the Franchise Agency in accordance with this Ordinance. No Subscriber may be disconnected for non-payment except as provided in Section Nine(a)2 if the Operator has written notice of a billing dispute or lost payment. The Agency will evaluate repeated complaints by individual Subscribers for legitimacy, to avoid the complaint process being used inappropriately.
- (i) Credits must be issued for Outages pursuant to Section Eight(f).
- (j) An Operator may require payment by credit or bank cards for Pay-per-View orders, once the outstanding monthly balance has exceeded an amount deemed appropriate by the Operator.
- (k) Operator must address Complaints about billings within five business days after the complaint is received. Credits for service shall be issued no later than the Subscriber's next billing cycle after determination that the credit is warranted.

SECTION FIFTEEN. Deposits, Advance Payments, Refunds and Credits

- (a) An Operator may require payment of undisputed past due amounts prior to installation or reconnection. An Operator may require at time of installation an advance payment equal to one month of services ordered plus the cost of the installation. An advance payment for installations or other services not received by a Person must be refunded within 35 days. Any Subscriber deposit required by an Operator shall bear interest at seven percent per annum. Upon disconnection, all equipment deposits, with interest, shall be returned to the Subscriber within 35 days after all Operator equipment is returned and all other outstanding financial obligations of the Subscriber to the Operator have been met.
- (b) Credits for service shall be issued no later than the Subscriber's next billing cycle after determination that a credit is warranted.
- (c) Refunds or reimbursements rather than credits, including any monetary credit resulting from a missed appointment, shall be issued to Subscribers who:
 - 1. are no longer receiving Cable Service for which they have already paid;
 - 2. pre-paid for installations or upgrades which were not completed for any reason if the Subscriber is no longer receiving Cable Service from the Operator;
 - 3. experience damages or theft as a result of Operator or subcontractor actions in connection with installation or service.
- (d) Operator Checks for refunds and reimbursements shall be issued and mailed to the remitter of payment within thirty-five (35) business days:
 - 1. after a request for refund or reimbursement is made by the Subscriber/remitter subsequent to the event giving rise to the need for refund or reimbursement; or
 - 2. if there is a dispute, after determination that refund or reimbursement is warranted or ordered by the Franchise Agency.

SECTION SIXTEEN. Reports and Documentation

- (a) An Operator shall submit to the Franchise Agency fifteen (15) days after the end of each month, in a form reasonably acceptable to the Agency, the following reports. These reports shall distinguish on a preliminary basis between Normal Operating Conditions and any periods not under Normal Operating Conditions.
 - 1. Telephone response statistics that provide documentation of Operator's performance pursuant to Section Five(c)

of this Ordinance, including but not limited to Operator's own statistics and measurements and any independent third party studies made available to the Operator by its telephone service provider during the applicable time period. Separate statistics shall be provided for Normal Business Hours and for periods outside Normal Business Hours.

2. A summary of installations, indicating the number for each day completed, cancelled and rescheduled, and the reasons for same.
 3. A summary of service calls, including the number and nature of the calls received and an explanation of the causes and dispositions of such calls.
 4. A report reflecting the credits issued for missed appointments.
 5. The total number of Subscribers.
 6. A summary of Identified Outages, including each outage's date, location, cause, and approximate duration and area affected.
- (b) The Franchise Agency may, upon reasonable prior notice, require an Operator to submit the following additional Operator reports, records or documentation reasonably necessary to verify compliance with this Ordinance:
1. complete list of all recorded Subscriber Complaints to the Grantee and measures taken to resolve them;
 2. Subscriber location service call and installation records/work orders, including but not limited to the date and time of any visits to a subscriber location scheduled or rescheduled by the Operator;
 3. signal leakage logs and incident reports;
 4. technical records regarding performance related to service under this Ordinance;
 5. Operator's subscriber payment and posting documentation, which may include information maintained by its billing service.
- (c) Upon the Franchise Agency's request, an Operator shall also make all other supporting Records for reports, and for compliance with this Ordinance, available to the Franchise Agency at a location within the St. Louis metropolitan area.
- (d) Any report or Record required to be submitted to the Franchise Agency pursuant to this Ordinance shall be forwarded or made available to the Franchise Agency or, if so directed by the Franchise Agency, to the Franchise Authority.
- (e) An Operator's failure to collect the necessary information shall not be a defense for any inaccuracy or incompleteness in the Operator's reports required in this Section Sixteen.

SECTION SEVENTEEN. Privacy

The following provisions with respect to Subscriber privacy are deemed to be consistent with applicable federal and state law as of the date of enactment of this Ordinance. This provision shall not be deemed to waive any Operator's right to contest this provision based on any change in federal or state law after that date of enactment.

- (a) If the Franchise Agency requests aggregate Subscriber information, without personally identifiable information, pursuant to this Ordinance, an Operator shall not refuse to provide such information on grounds of Subscriber privacy.
- (b) If a Subscriber provides personally identifiable information to the Franchise Agency in order to request the Franchise Agency's assistance, an Operator shall not refuse on grounds of Subscriber privacy to discuss such information, or the Subscriber's concerns related to that information, with the Agency.
- (c) To the extent a Subscriber's prior written or electronic consent may be required by applicable law, if the Subscriber provides such consent either directly or via the Franchise Agency, the Operator shall not refuse on grounds of Subscriber

privacy to provide that Subscriber's personally identifiable information to the Franchise Agency, to the extent consented to by the Subscriber.

- (d) Prior consent delivered to the Operator by facsimile (by way of illustration and not limitation) shall be deemed sufficient to constitute prior written or electronic consent for purposes of this Section Sixteen(e) and 47 U.S.C. § 551.
- (e) An Operator shall not object to disclosing Subscriber information to the City if it has provided the Subscriber the opportunity to prohibit or limit such disclosure in accordance with 47 U.S.C. § 551(c)(2)(C)(i), unless to do so would expressly violate other applicable law.

SECTION EIGHTEEN. Mobility-Limited Subscribers

- (a) Upon request of mobility-limited Subscribers, an Operator shall arrange for delivery, pick-up or exchange or replacement of converters or other Operator equipment at the Subscriber's address, or by a satisfactory equivalent such as provision of a pre-paid postage mailer.
- (b) An Operator shall make special arrangements to accommodate Subscribers who may be unable to answer a door or telephone in response to a request for an appointment. Work orders shall indicate any special instructions or directions necessary to accommodate a mobility-limited Subscriber.

SECTION NINETEEN. Parental Control

- (a) An Operator shall make available to any Subscriber upon request the options of blocking both video and audio portions of any channel(s) of video programming entering the Subscriber's home. This control shall be provided at no charge, except to the extent that federal law specifically provides that the Operator must be permitted to charge a Subscriber, as well as a reasonable security deposit for the use of any device provided by the Operator.
- (b) All Subscribers must be notified of the availability of blocking devices on an annual basis.

SECTION TWENTY. Exclusive Contracts

No Operator shall require the exclusive right to serve a Subscriber, Person or location as a condition of offering cable service or extending a Cable System.

SECTION TWENTY-ONE. Administration, Enforcement and Penalties

- (a) Administration
 - 1. This ordinance shall be administered on behalf of the City by the Franchise Agency.
 - 2. An Operator shall be responsible for all of its agents, subcontractors, and employees, with respect to the Operator's compliance with this Ordinance.
 - 3. All notices of deficiencies, non-compliance, and changes in requirements issued by the Franchise Agency shall be in writing.
- (b) Penalties
 - 1. Penalties imposed pursuant to this Section shall not exceed \$500 per violation.
 - 2. Each day that a violation continues shall constitute a separate violation of this Ordinance for purposes of calculation of penalties.
 - 3. The following procedure shall apply in assessing penalties for violations of customer service standards that are measured on a quarterly basis:
 - (A) If the Operator does not meet the prescribed standard (for example, the 90% standard for telephone answering) in a given calendar quarter (a "noncompliant quarter"), it shall pay a penalty in the amount

of twenty dollars (\$20) for every day in the noncompliant quarter. In addition, the Operator will thereafter be on notice and subject to penalties if it fails to meet the standard involved for subsequent monthly periods until it meets the standard for a quarter (a “compliant quarter”).

- (B) At the end of the month following a noncompliant quarter (for example, April following a noncompliant first quarter), the Operator shall report to the City the statistics pertaining to the standard for that month. If the Operator fails to meet the standard for that month, the Operator shall pay penalties in the amount specified in Section Twenty-one(b)3(C). The same report shall be made, and monthly measurement continued, for subsequent months until a compliant quarter occurs.
- (C)
 - (i) If the Operator does not meet the prescribed standard in the month immediately following the initial noncompliant quarter (the “test month”), then its monthly penalty shall be \$100 for every day in the test month; \$200 for every day in the second noncompliant month; and \$500 for every day in any subsequent noncompliant months.
 - (ii) If the Operator meets the prescribed standard in the test month, then its monthly penalty shall be \$100 for every day in the first subsequent noncompliant month, and \$300 for any subsequent noncompliant months to a compliant quarter.
- (D) After a compliant quarter the Operator shall return to quarterly measurement and penalty determination, until another non-compliant quarter occurs, in which event the procedures and penalties described in Section Twenty-one(b)3(B) and Section Twenty-one(b)3(C) shall apply.
- (E) Penalties of twenty dollars per day for a noncompliant quarter pursuant to Section Twenty-one(b)3(A) shall not be assessed if the Operator (i) meets the prescribed standard during the subsequent test month and (ii) meets the prescribed standard in the quarter (as a whole) following the noncompliant quarter.
- (F) Thus, for example, if the first quarter is noncompliant, and the Operator fails the relevant standard for April, the Operator pays \$1,800 for the first quarter (assuming it is not a leap year); pays \$3,000 (30 days x \$100) for April; and continues to report the relevant monthly statistics for May and June. If May is also noncompliant, the Operator pays \$6,000 (30 days x \$200). Assume that June is compliant, and that the second quarter as a whole is also compliant. In that case, the Operator would be evaluated on quarterly statistics for the third quarter. Assume that the third quarter was again noncompliant, but the Operator succeeded in returning to compliance in October. The Operator would not be required to pay a penalty for the third quarter (because it met the prescribed standard in October), but would continue to be evaluated monthly for November and December. In these months, again due to the Operator’s success in meeting the standard in October, the lower set of penalties specified in Section Twenty-one(b)3(C)(i) would apply: thus, noncompliance in November would result in a penalty of \$3,000 (30 days x the lower rate of \$100).

- (c) If a Grantee is fined for a violation of this Ordinance, such Grantee shall not be subject to liquidated damages pursuant to its Franchise Agreement for the same violation or act.
- (d) In order to enforce the remedies specified in this section, the Franchise Agency shall notify the City Counselor that an alleged violation of this Ordinance has occurred. Either upon such notice by the Franchise Agency, or on his or her own motion if the City Counselor in his or her discretion determines that there is a reasonable basis for the belief that a violation has occurred, the City Counselor may prosecute such violation pursuant to Missouri law.
- (e) Provided that fines imposed shall not exceed \$500 per violation, the City Counselor may authorize alternative enforcement proceedings by the Agency in lieu of the procedures set forth above. Such authorization shall be in writing, with notice to the Grantee involved. Such alternative enforcement procedures shall be as follows:
 - 1. Hearing procedures.
 - (A) The Regulatory Section of the Franchise Agency shall issue a written notice of complaint/violation to an Operator, specifying the nature and time of the alleged violation and proposing a penalty consistent

with this Section.

2. In response to a notice issued under Section Twenty-one(e)1, an Operator may agree to pay the proposed penalty, or may contest such notice. An Operator may contest such notice by notifying the Communications Commissioner in writing within ten (10) business days after the Operator's receipt of the notice issued by the Regulatory Section. Such an Operator's Reply shall include the basis for the Operator's objection and any supporting documents the Operator wishes to have considered in reviewing the notice of violation.
3. Within ten (10) business days after receipt of an Operator's Reply, the Communications Commissioner shall notify such Operator and the Regulatory Section of a date, time and place of a hearing on the matter, which date shall be not less than fifteen (15) and not more than forty-five (45) days from the date of such notification by the Communications Commissioner.
4. The hearing shall be conducted as required by the Missouri Administrative Procedure Act, Ch. 536 RSMo, as amended (the "APA"), for a contested case.
5. Not less than thirty (30) days following the conclusion of the hearing, the Communications Commissioner shall issue a written decision consistent with the APA, finding that the complaint/violation as stated in the notice is proven and imposing an appropriate administrative penalty, or modifying or dismissing the Regulatory Section's notice of violation. If the Communications Commissioner does not issue such a decision within such thirty-day period, the Regulatory Section's notice of violation shall be deemed dismissed, provided that the Communications Commissioner may extend such period up to a total of 45 days.
6. Decisions of the Communications Commissioner pursuant to Section Twenty-one(e)5 are appealable pursuant to the APA.

(f) Hearing officers

1. In lieu of conducting a hearing himself, the Communications Commissioner may appoint a hearing officer to conduct any hearing pursuant to this Section and submit recommended findings of fact and conclusions of law to the Commissioner. If so, the Commissioner's notice of hearing shall so advise the Operator and the Regulatory Section within ten (10) business days of receipt of Operator's Reply, and shall advise the parties of the name and address of the hearing officer. Hearing Officers may, but need not, be attorneys, and may be appointed from any list of duly selected hearing officers maintained by any City department or agency.
2. Regulations. The Franchise Agency may issue regulations concerning enforcement procedures which are consistent with this Ordinance and applicable law. An Operator shall be provided written notice of and opportunity to comment on any such regulations prior to their applicability as to that Operator.

SECTION TWENTY-TWO. Severability

The provisions of this ordinance are severable. In the event any provision hereof is determined to be invalid, the remaining provisions shall remain in full force and effect.

SECTION TWENTY-THREE. Waiver Of Requirements

The Franchise Agency may, with the prior approval of the City Counselor's office, waive any material requirement under this ordinance for good cause shown as determined by the City Counselor's office and the Agency. Any such waiver must be in writing and explain in detail the reason for the waiver, and the Agency shall promptly report to the Board of Aldermen regarding any such waiver.

EXHIBIT A

SUBSCRIBER REMEDIES FOR MISSED APPOINTMENTS

1. For a missed service call appointment:

Each occurrence:	\$20 credit to Subscriber's account
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2. For a missed installation, upgrade or downgrade appointment:

First occurrence:	Installation fee waived (or \$20 credit if the installation was to have been free)
Subsequent occurrences:	\$20 credit for each to Subscriber's account

3. For new installations, if Subscriber subsequently requests cancellation of the order due to failure to complete

Prompt cash refunds to the payer for the full amount of pre-paid charges, plus a transferable coupon good in the Grantee's system in the City for one free installation and \$20 in free service, without expiration
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Approved: March 4, 2002