

ORDINANCE NO. 4207

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO CABLE CONSUMER PROTECTION WITHIN THE CITY OF KIRKLAND.

The City Council of the City of Kirkland do ordain as follows:

Section 1. A new Title 31 of the Kirkland Municipal Code, entitled "Cable Consumer Protection" is hereby adopted to read as follows:

Chapter 31.04
DEFINITIONS AND RULES OF CONSTRUCTION

Sections:

31.04.010 Rules of construction

31.04.020 Defined terms

31.04.010 Rules of construction

(a) For the purposes of this title, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. Unless otherwise expressly stated, words not defined herein shall be given the meaning set forth in the Kirkland Cable Ordinance, and, if not defined therein, the meaning set forth in Title 47 of the United States Code, as amended, and, if not defined therein, their common and ordinary meaning.

(b) When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number; the masculine gender includes the feminine gender, and vice versa.

(c) The words "shall" and "will" are mandatory, and "may" is permissive.

31.04.020 Defined terms

(a) "Cable operator" shall have the meaning given that term in 47 U.S.C. § 522(5) or any successor provision.

(b) "City" means the City of Kirkland.

(c) "Complaint" means an initial or repeated customer expression of dissatisfaction, whether written or oral, or other matter that is referred beyond a customer service representative or to the city for resolution. This does not include routine inquiries and service requests.

(d) "Customer service representative" or "CSR" means any person employed by the cable operator to assist or provide service to customers, whether by answering telephone lines, answering customers' questions, or performing other customer service-related tasks.

(e) "Non-standard installation" means any installation other than a standard installation, as that term is defined in Section 31.04.020(i).

(f) "Normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, normal business hours must include evening hours at least one night per week and/or some weekend hours.

(g) "Normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(h) "Service interruption" means the loss of picture or sound on one or more cable channels.

(i) "Standard" installation means an installation to subscriber premises that are located up to that distance from the existing distribution system specified in a franchise agreement as included in the normal charge for installation, or, if no such distance is specified in a franchise agreement, up to one hundred twenty-five feet (the "standard drop length").

(j) "Subscriber" shall mean any person who lawfully receives or will receive cable service from the cable operator.

(k) "System Outage" shall mean any Service Interruption affecting all channels.

(l) The term "written" shall include electronic documents.

**Chapter 31.08
GENERAL PROVISIONS**

Sections:

- 31.08.010 Policy
- 31.08.020 Cable operator duties
- 31.08.030 Scope of ordinance
- 31.08.040 Meeting standards specified by percentages of time
- 31.08.050 Initial grace period

31.08.010 Policy

(a) The cable operator shall be permitted to resolve citizen complaints prior to action or involvement by the city. If a complaint is not resolved by the cable operator to the citizen's satisfaction, the city may intervene.

(b) These standards are intended to be of general application; however, the cable operator shall be relieved of any obligations hereunder if it is unable to perform due to circumstances beyond its reasonable control, such as natural disasters. The cable operator may, and is encouraged to, exceed these standards for the benefit of its customers.

31.08.020 Cable operator duties

A cable operator shall satisfy the customer service standards set forth in this section and any additional or stricter requirements established by regulations of the FCC or other applicable federal, state, or local law or regulation.

31.08.030 Scope of ordinance

This title does not prevent or prohibit:

(a) The city and a cable operator from agreeing to customer service requirements that exceed the standards set forth in this title;

(b) The city from enforcing, through the end of a franchise term, pre-existing customer service requirements that exceed the standards set forth in this title or are contained in current franchise agreements;

(c) The city from enacting or enforcing any lawful customer service or consumer protection laws or regulations; or

(d) The establishment or enforcement of any law or regulation by the city concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by, the standards set forth in this title, a franchise agreement, or federal or state law.

31.08.040 Meeting standards specified by percentages of time

Where standards must be met a certain percentage of the time, as specified herein, a cable operator must adopt policies designed to meet those standards in all cases, and in no event shall intentionally violate the standards. However, the cable operator shall not be subject to penalties or liquidated damages if it unintentionally fails to meet the standards in particular cases, so long as the cable operator meets the standards the specified percentage of the time.

31.08.050 Initial grace period

Other than for violations of Chapter 31.40 and Chapter 31.44 of this title, a cable operator shall not be subject to penalties, liquidated damages, or other monetary sanctions for violations of the customer service standards set forth in this title that occur during the first six months after the operator first begins to provide cable service within the boundaries of the city, unless such violations involve fraud or willful misconduct.

Chapter 31.12***OFFICE AND TELEPHONE ACCESS AND COMPLAINTS*****Sections:**

31.12.010 Local business office

31.12.020 Telephone access

31.12.030 Complaints

31.12.010 Local business office

(a) A cable operator shall maintain at least one customer service center or a bill payment location on the Eastside. Service shall

be available at least nine consecutive hours Monday through Friday, and at least four consecutive hours on Saturdays, ending no earlier than one p.m. The cable operator shall provide customers the ability to remit payment by mail or in person at the service center or bill payment location.

(b) The customer service center or bill payment location must be accessible to all persons, including the elderly and persons with disabilities. Parking must be provided in a manner consistent with the Kirkland Municipal Code.

(c) The following services shall be available at the customer service center: the opportunity to pick up, exchange and return certain types of equipment, depending upon the size of the equipment; bill payment; and response to other customer inquiries and requests. Customers may pay cable bills at the bill payment location.

(d) The cable operator shall post a sign at the service center/bill payment location advising customers of its hours of operation.

31.12.020 Telephone access

(a) A cable operator shall maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week for service/repair requests. The cable operator shall have dispatchers and technicians on call twenty-four hours a day, seven days a week, including legal holidays.

(b) Qualified and trained customer service representatives will be available to respond to customer telephone and e-mail inquiries during normal business hours.

(c) After normal business hours, the access line may be answered by an answering service, an automated response unit ("ARU") or a voice response unit ("VRU"). Inquiries received after normal business hours shall be responded to by a trained company representative on the next business day.

(d) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(1) Measurement of the standard stated in Section 31.12.020(d) shall include all calls received by the cable operator at all call centers receiving calls from subscribers, whether they are answered by a live representative, answered by an ARU or VRU, or abandoned, and shall include all periods during which live representatives are available to answer calls, whether or not such periods occur during normal business hours.

(2) If a call is answered by an ARU or VRU, the standard stated in Section 31.12.020(d) shall be satisfied for a given call if the standard system includes an option to speak to a service representative, that option is presented to the caller within the first 30 seconds from the time the call is answered by the ARU, and, if that option is exercised, the caller is not required to wait more than 30 seconds to be connected to a service representative.

(e) Under normal operating conditions, a subscriber will receive a busy signal less than three (3) percent of the time.

31.12.030 Complaints

(a) The cable operator shall establish written procedures for receiving, acting upon, and resolving complaints without intervention by the city (except where necessary). Said written procedures shall describe a simple process by which any customer may submit a complaint by telephone, via the Internet, or in writing to the cable operator regarding a disputed matter, or an alleged violation of:

- (1) Any provision of these standards;
- (2) Any terms or conditions of the customer's contract with the cable operator; or
- (3) Reasonable business practices.

(b) The cable operator's complaint procedures shall be filed with the city.

(c) Complaints by any subscriber may be filed with the cable operator in writing or delivered to the cable operator orally in person or by telephone.

(d) Any complaints regarding service interruption received from subscribers by the cable operator or referred to the cable operator by the city shall be investigated by the cable operator and service restored within seventy-two (72) hours of their receipt. In the event service is not restored within seventy-two (72) hours, the subscriber shall receive a credit pursuant to Section 31.24.030(b). Any complaints not regarding service interruption received from subscribers by the cable operator or referred to the cable operator by city shall be investigated and responded to by the cable operator within two business days of their receipt.

(e) For complaints other than service interruptions, if a complaint is sent to the cable operator by city, the cable operator shall respond to city and report on the status of that complaint within twenty-four hours of the time the city delivers the complaint to the cable operator.

(f) For complaints other than service interruptions, within fifteen days after receiving a complaint from a subscriber, the cable operator shall notify the subscriber of the results of its investigation and its proposed action or credit. The cable operator shall also notify the subscriber of the subscriber's right to file a complaint with the city in the event the subscriber is dissatisfied with the cable operator's decision, and shall explain the necessary procedures for filing such complaint with the city.

(g) A cable operator shall keep a maintenance service log that will indicate the nature of each complaint, the name of the employee of the cable operator receiving the complaint, the date and time it was received, the disposition of the complaint and the time and date thereof. In said log the cable operator shall state the specific steps taken by the cable operator to remedy the complaint. This log shall be made available by the cable operator for periodic inspection by the city.

(h) The procedure for reporting and resolving complaints shall be stated in writing by the cable operator to each subscriber at the time of initial installation of cable service to the cable system, at least annually thereafter, and at any time upon request. It shall also be publicized clearly on the cable operator's Web site.

Chapter 31.16
CABLE INSTALLATION AND REPAIR STANDARDS

Sections:

- 31.16.010 General service standards
- 31.16.020 Appointments
- 31.16.030 Installation standards measured on a quarterly basis
- 31.16.040 Extension of service
- 31.16.050 Response to service request
- 31.16.060 Charges for installation and service
- 31.16.070 Cable drops
- 31.16.080 Underground and above-ground installations

31.16.010 General service standards

(a) A cable operator shall render efficient cable service, make prompt repairs, and intentionally interrupt cable service on the cable system only for good cause and for the shortest time possible and, except in emergency situations or to the extent necessary to fix the affected subscriber's service problems, or as provided in subsection 31.16.010(d), only after a minimum of 48 hours prior notice to subscribers and the city of the anticipated cable service interruption.

(b) A cable operator shall maintain sufficient staff and facilities to handle properly and adequately respond to cable system maintenance, requests for service, and complaints.

(c) A cable operator shall maintain a duty roster of qualified technicians to respond to complaints or malfunctions of the cable system at other than normal office hours.

(d) A cable operator need not give notice to subscribers for planned maintenance that does not require more than two hours' interruption of cable service to at least fifty subscribers and that occurs between the hours of 12:00 midnight and 6:00 a.m., but shall give notice to the city no less than 24 hours prior to this kind of anticipated cable service interruption.

(e) In the event of a system outage (loss of reception on all channels) resulting from cable operator equipment failure affecting ten or more customers, the cable operator shall respond in accordance with its outage response procedures, and in no event more than two hours after the tenth customer call is received, and shall remedy the problem as quickly as possible.

(f) A cable operator shall begin working to restore service within two hours after it becomes aware of a service interruption affecting five percent or more of the subscribers within the boundaries of the Franchisors.

(g) A cable operator shall maintain a written log, which if stored in computer memory is capable of access and reproduction on hardcopy, of all cable service interruptions and requests for cable service.

31.16.020 Appointments

(a) Customers requesting installation of cable service or service to an existing installation may choose an appointment window consisting of a four-hour time block between eight a.m. and six p.m. or another block of time mutually agreed upon by the customer and the cable operator. These options shall be clearly explained to the

customer at the time of scheduling. A cable operator may also offer longer appointment windows so long as it offers the subscriber the specified four-hour time blocks as well.

(b) The date set by the cable operator for an appointment shall be no more than seven calendar days from the date of the request, unless the subscriber, after being informed of the subscriber's rights under this rule, specifically requests a later date.

(c) A cable operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

(d) A cable operator may not cancel an appointment with a subscriber after 5 p.m. on the business day preceding the appointment, except for appointments scheduled within twelve hours after the initial call.

(e) A cable operator may not require that a subscriber answer a telephone call or that the subscriber otherwise confirm availability before the cable operator commences an appointment. If a cable operator unsuccessfully attempts to contact the subscriber prior to arriving at the appointment, and then fails to keep the appointment, the cable operator's failure to reach the subscriber shall not excuse it from keeping the appointment.

(f) If a cable operator's representative is running late for an appointment with a subscriber and is not able to keep the appointment as scheduled, the subscriber shall be contacted. The appointment shall be rescheduled, as necessary, at a time convenient to the subscriber. If the customer is absent when the technician arrives, the technician shall leave hardcopy written notification of timely arrival.

31.16.030 Installation standards measured on a quarterly basis

Under normal operating conditions, each of the following standards shall be met by a cable operator no less than 95% of the time, measured on a quarterly basis:

(a) A cable operator shall complete a standard installation within seven business days after receipt of a request, excluding time required to obtain necessary permits, in all areas where trunk and feeder cable as been activated for cable service, provided, however, that if installation requires that fiber be terminated on the subscriber's premises and such termination has not yet been installed, a cable operator shall have seven days to install such termination, and the seven-day period for installation of cable service shall commence only after such termination is installed or the seven-day period for such termination has elapsed, whichever occurs first.

(b) Excluding conditions beyond the control of the cable operator, the cable operator will begin working on a service interruption promptly and in no event later than 24 hours after the interruption becomes known. The cable operator shall use its best efforts to correct service interruptions resulting from cable operator equipment failure by the end of the next day, but in no event longer than forty-eight hours. Work on other requests for service shall be commenced by the next business day after notification of the problem, and the work shall be completed within three business days from the date of the initial request. If for reasons beyond the cable operator's control the work cannot be completed in the required time even with

the exercise of all due diligence, the cable operator shall complete the work in the shortest time possible. A cable operator's failure to hire sufficient staff or to train its staff properly does not justify a cable operator's failure to comply with the required time period.

(c) If a customer experiences poor signal quality (whether it relates to a visual or audio problem) which is attributable to the cable operator's equipment, the cable operator shall respond and repair the problem no later than the day following the customer call, provided that the customer is available and the repair can be made within the allotted time. At the customer's request, the cable operator shall repair the problem at a later time that is convenient for the customer.

31.16.040 Extension of service

(a) A cable operator shall complete a non-standard installation within 60 days if the distribution system need not be extended for one-half mile or more to provide cable service, or within six months if an extension of the distribution system for one-half mile or more is required, excluding time required to obtain necessary permits.

(b) If a potential subscriber or the city requests an estimate of the cost of line extension to a location, a cable operator shall provide such a good-faith estimate within thirty (30) days from the date of such request.

31.16.050 Response to service request

(a) A cable operator has responded to a request for service under the provisions of this section when a technician arrives at the service location and begins work on the problem, or, if a technician's presence at the service location is not necessary to diagnose and cure the problem, when the cable operator has begun work on the problem elsewhere.

(b) If a subscriber is not home when the technician arrives, response is considered to have taken place if the technician leaves hardcopy written notification of the technician's arrival.

31.16.060 Charges for installation and service

(a) Except as federal law may otherwise provide, a cable operator may not charge a subscriber any cost other than its standard installation rate for a standard installation of a single outlet, unless the cable operator demonstrates to the city's satisfaction that extraordinary circumstances justify a higher charge.

(b) Except as federal law may otherwise provide, a cable operator may not charge a subscriber for a service call unless the service request can be demonstrated (1) both to have been repeated and not to have been based on a problem originating with the cable system, or (2) to involve subscriber negligence or misuse of equipment.

31.16.070 Cable drops

(a) Except as applicable law otherwise may require, if a drop exceeds the standard drop length, a cable operator may charge a subscriber for a cable operator's actual costs of labor and materials associated with installing the drop beyond the standard drop length if the drop length in excess of the standard drop length is necessary due to engineering requirements.

(b) If a customer requests a nonstandard residential installation, or the cable operator determines that a nonstandard residential installation is required, the cable operator shall provide the customer in advance with a cost estimate and an estimated date of completion.

(c) The subscriber's preference for the point of entry into the residence shall be observed whenever feasible.

(d) Runs in building interiors shall be as unobtrusive as possible.

(e) A cable operator shall use due care in the process of installation and shall repair any damage to the subscriber's property caused by the installation. The restoration shall be undertaken as soon as possible after the damage was incurred and shall be completed within no more than 30 days after the damage is incurred, subject to reasonable landscaping limitations.

31.16.080 Underground and above-ground installations

(a) In locations where a cable operator's system is underground, drops shall be placed underground as well.

(b) Except as federal law may otherwise require, in an area where a cable operator would be entitled to install a drop above ground, the cable operator, if requested by the homeowner, shall install the drop underground but may charge the homeowner the difference between the actual cost of labor and materials for the above-ground installation and the actual cost of labor and materials for the underground installation.

(c) Absent unusual circumstances, all underground cable drops from the curb to the home shall be buried at a depth of no less than twelve inches, and within a reasonable period of time from the initial installation, or at a time mutually agreed upon between the cable operator and the customer. In all instances, the cable operator must comply with the state's One Call requirements.

Chapter 31.20 COMMUNICATIONS WITH SUBSCRIBERS

Sections:

31.20.010 Written communications to subscribers

31.20.020 Annual notice to subscribers

31.20.030 Notification of changes

31.20.040 Telephone communication with customer service representatives

31.20.050 In-person communication with subscribers

31.20.060 Internet presence

31.20.070 Customer contract

31.20.010 Written communications to subscribers

The cable operator must take appropriate steps to ensure that all written cable operator promotional materials, announcements and advertising of cable service to subscribers and the general public, where price information is listed in any manner, clearly and accurately discloses price terms. In the case of telephone orders, the cable

operator will take appropriate steps to ensure that prices and terms are clearly and accurately disclosed to potential subscribers in advance of taking the order.

31.20.020 Annual notice to subscribers

At the time service is installed to a subscriber and at least once annually afterwards, and at any time on request, the cable operator shall provide each subscriber and the city with hardcopy written information (or, if the subscriber affirmatively requests the information in electronic form, electronic written information) concerning:

- (a) Products and services offered;
- (b) Prices, including a schedule of rates and charges, and options for programming services and conditions of subscription to programming and other services;
- (c) Installation and service maintenance policies, delinquent subscriber reconnect and disconnect procedures, and any other of its policies applicable to subscribers;
- (d) Written instructions on how to use the cable services and for placing a service call;
- (e) Channel positions of programming carried on the cable system;
- (f) The cable operator's billing, collection, disconnection and reconnections procedures and late charge procedures;
- (g) The procedures for making inquiries or complaints, including the name, address, local telephone number, and e-mail address of the employee or agent to whom inquiries or complaints are to be addressed;
- (h) The city official responsible for regulating the franchise, including the name, telephone number, and e-mail address of the official;
- (i) The cable operator's business hours, legal holidays, and procedures for responding to inquiries after normal business hours, including Days, times of operation, and location of the customer service location and bill payment center.
- (j) A copy of the service contract applicable to the subscriber, if any; and
- (k) A written notice regarding subscriber's privacy rights pursuant to 47 U.S.C. § 551.
- (l) Use and availability of parental control/lock-out devices and the cost, if any, for the use of such devices; and
- (m) Special services or equipment available for subscribers with disabilities and explanations for how to obtain and use them.

31.20.030 Notification of changes

(a) A cable operator shall provide to all subscribers and to the city at least 30 days' hardcopy written notice before the implementation of any change in rates, programming services, channel positions, business hours, legal holidays, or procedures for responding to inquiries after normal business hours, unless such change is beyond the control of the cable operator, in which case the cable operator shall provide the maximum possible notice up to the 30 days specified herein.

(b) In addition to the requirement of Section 31.20.030(a), a cable operator shall give at least 30 days' hardcopy written notice to subscribers and to the city before implementing any rate or service

change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (*e.g.*, inflation, change in external costs, addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified. For purpose of the carriage of digital broadcast signals, the operator need only identify for subscribers the television signal added and not whether that signal may be multiplexed during certain dayparts.

(c) At least five working days before distributing a subscriber notice, unless waived by the city, the cable operator shall provide to the city the specific points to be contained in a subscriber notice and the text of the subscriber notice, if available. If the text is not available, it shall be provided to the city as soon as it is available.

(d) A cable operator shall file with the city copies of all notices provided to subscribers.

31.20.040 Telephone communication with customer service representatives

(a) All CSRs shall identify themselves to callers immediately following the greeting during each telephone contact with the public. Each CSR, technician or employee of the cable operator in each contact with a subscriber shall state the estimated cost of the service, repair, or installation prior to delivery of the service or before any work is performed, and shall provide the subscriber with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work is to be performed.

(b) A customer service representative shall have the authority to provide credits, waive fees, schedule service appointments and change billing cycles, where appropriate. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who shall contact the subscriber within twenty-four hours and attempt to resolve the problem within seventy-two hours or within such other time frame as is acceptable to the subscriber and the cable operator.

31.20.050 In-person communication with subscribers

(a) All officers, agents, and employees of the cable operator or its contractors or subcontractors who are in personal contact with subscribers shall wear on their outer clothing identification cards bearing their name and photograph. The cable operator shall make all reasonable efforts to account for all identification cards at all times.

(b) Every vehicle of the cable operator shall be visually identified to the public as working for the cable operator. Every vehicle of a subcontractor or contractor shall be labeled with the name of the contractor or subcontractor, and shall be further identified as contracting or subcontracting for the cable operator.

31.20.060 Internet presence

A cable operator shall maintain an Internet web presence. Except for normal and regularly scheduled maintenance, the web site shall be available twenty-four hours and seven days a week under normal operating conditions. The following services shall be available on the web site: the ability to sign up for and/or disconnect service; and receive responses to other subscriber inquiries and requests.

31.20.070 Customer contract

The cable operator shall not enter into a contract with any subscriber that is in any way inconsistent with the terms of these customer service standards or the cable operator's franchise with the city.

Chapter 31.24
BILLING

Sections:

31.24.010 General standards

31.24.020 Refunds

31.24.030 Credits

31.24.040 Payment information; late fees

31.24.050 Deposits

31.24.060 Billing inquiries

31.24.010 General standards

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

(b) Bills shall fully itemize cable services, equipment, and any other items for which a cable operator charges a subscriber, including basic and premium service charges and equipment charges.

(c) Bills shall clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

(d) The first billing statement after a new installation or service change will be prorated as appropriate and will reflect any deposit.

31.24.020 Refunds

Refund checks to subscribers shall be issued promptly, but no later than:

(a) The earlier of the subscriber's next available billing cycle or 30 days following resolution of the refund request; or

(b) The return of all equipment supplied by the cable operator if cable service is terminated.

31.24.030 Credits

(a) Credits for cable service shall be issued no later than the subscriber's next billing cycle following the determination that a credit is warranted.

(b) The account of any subscriber shall be credited a prorated share of the monthly charge for cable service, upon the reasonably prompt request of a subscriber, or without a subscriber's request if the cable operator is aware of an outage and can identify the affected subscribers, if the subscriber is without cable service for a period that exceeds 12 hours during any 24-hour period, or cable service is substantially impaired for any reason for a period that exceeds 12 hours during any 24-hour period.

(c) The provisions of the preceding paragraph 31.24.030(b) do not apply if it can be documented that a subscriber seeks a refund for an outage or impairment that the subscriber caused, or a planned

outage occurred between the hours of 12:00 midnight and 6:00 a.m. and the subscriber had prior notice.

31.24.040 Payment information; late fees

(a) A cable operator's billing statement shall show a specific payment due date not earlier than the midpoint of the period for which the cable service being billed is rendered, *e.g.*, the fifteenth day of a 30-day billing cycle.

(b) If a balance due is not received by thirty days after the end of the period for which the cable service being billed is rendered, the cable operator may assess a late fee in accordance with state and local law and judicial decisions.

(c) Any late fee shall appear on the following month's billing statement.

(d) A subscriber may not be charged a late fee or otherwise penalized for any failure by a cable operator, including a failure to timely or correctly bill the subscriber or a failure to properly credit the subscriber for a payment timely made.

31.24.050 Deposits

(a) A cable operator may require a reasonable, non-discriminatory deposit on equipment provided to subscribers, in addition to any allowable monthly rental fees.

(b) A subscriber deposit shall bear interest in accordance with applicable law or at the going rate, which may not be less than the interest rate then chargeable for unpaid federal income taxes (26 U.S.C. § 6621). All deposits, with interest, shall be returned to the subscriber within 30 days after return of the equipment.

31.24.060 Billing inquiries

If a subscriber requests a written response to a written billing inquiry, the cable operator shall respond in writing (in hardcopy if the subscriber so requests it or if the subscriber's request is in hardcopy) within 30 days of receipt.

Chapter 31.28 DISCONNECTION AND RECONNECTION

Sections:

- 31.28.010 Termination of cable service by subscriber
- 31.28.020 Cable operator duties
- 31.28.030 Return of equipment
- 31.28.040 Disconnection of cable service by operator
- 31.28.050 Reconnection of cable service

31.28.010 Termination of cable service by subscriber

(a) A subscriber may terminate or downgrade cable service at any time.

(b) Except as federal law may otherwise require, there will be no charge for disconnection. Any downgrade charges will conform to applicable law.

31.28.020 Cable operator duties

A cable operator will disconnect or downgrade any cable service for a subscriber who so requests within seven business days. No period of notice before voluntary termination or downgrade of service may be required of subscribers by the cable operator, and the subscriber shall not be required to pay for the time which elapses from notification to actual disconnection.

31.28.030 Return of equipment

(a) A subscriber may be asked, but not required, to disconnect a cable operator's equipment and return it to the business office.

(b) If a cable operator fails to remove its property from a subscriber's premises within 60 days of the termination of cable service, the property shall be deemed abandoned unless the subscriber is responsible for the cable operator's failure to remove the property.

31.28.040 Disconnection of cable service by operator

(a) If a subscriber fails to pay a monthly subscriber fee or other fee or charge, a cable operator may disconnect the subscriber's cable service. However, the disconnection may not occur until after 35 days from the beginning of the period for which the cable service being billed is rendered, plus at least 10 days' advance hardcopy written notice to the subscriber of the intent to disconnect, given after the 35 days have elapsed. However, if the subscriber pays all amounts due, including any late charges, before the date scheduled for disconnection, the cable operator may not disconnect cable service.

(b) A cable operator may immediately disconnect a subscriber if the subscriber is damaging or destroying the cable operator's cable system or equipment. After disconnection, the cable operator shall restore cable service if the subscriber provides adequate assurance that the subscriber has ceased the practices that led to disconnection and paid all proper fees and charges, including any reconnect fees and amounts owed the cable operator for damage to its cable system or equipment.

(c) A cable operator may disconnect a subscriber who causes signal leakage in excess of federal limits. Disconnection may be effected either:

(1) After five days' hardcopy written notice to the subscriber, if the subscriber fails to take steps to correct the problem; or

(2) Without notice if signal leakage is detected originating from the subscriber's premises in excess of federal limits, provided that the cable operator shall immediately notify the subscriber of the problem and, once the problem is corrected, reconnect the subscriber.

31.28.050 Reconnection of cable service

(a) A cable operator shall reconnect cable service to a subscriber who wishes to have the subscriber's cable service restored if the subscriber first satisfies any previously owed obligations.

(b) The cable operator shall complete such reconnection within forty-eight hours.

**Chapter 31.32
CHANGES IN CABLE SERVICE**

Sections:

- 31.32.010 Notice of change of service
- 31.32.020 Charges for authorized cable services only
- 31.32.030 Requirement to purchase cable service other than basic service

31.32.010 Notice of change of service

When a cable operator substantially alters the cable service it provides to a class of subscribers, the cable operator shall provide each subscriber notice as required in Section 31.20.030, explain the substance and full effect of the alteration, and provide the subscriber with the right to choose to receive any combination of cable services offered by the cable operator.

31.32.020 Charges for authorized cable services only

A cable operator may not charge for any cable service or product that the subscriber has not affirmatively indicated the subscriber wishes to receive. Payment of the regular monthly bill does not in and of itself constitute such an affirmative indication.

31.32.030 Requirement to Purchase Cable Service Other than Basic Service

Subject to federal law, a cable operator that is not subject to effective competition may not require a subscriber to purchase a cable service other than basic service as a condition of purchasing premium or pay-per-view programming.

**Chapter 31.36
PARENTAL CONTROL**

Section:

- 31.36.010 Parental control

31.36.010 Parental control

Upon the request of a subscriber, a cable operator shall make available to each subscriber, either for rent or for purchase or both, the option of blocking the video and audio portion of any channel or channels of programming entering the subscriber's home. The control option shall be made available to all subscribers requesting it at the time that cable service is provided or within a reasonable time thereafter.

**Chapter 31.40
RIGHTS OF INDIVIDUALS**

Sections:

31.40.010 Discrimination prohibited**31.40.020 Privacy****31.40.010 Discrimination Prohibited**

(a) In connection with rates, charges, facilities, rules, regulations and in all of a cable operator's services, programs or activities, and all of a cable operator's hiring and employment in the city, there shall be no discrimination by a cable operator or by a cable operator's employees, agents, contractors, subcontractors or representatives against any person because of sex, age (except minimum age and retirement provisions), race, creed, national origin, sexual orientation, marital status or the presence of any disability, including sensory, mental or physical handicaps (unless based upon a bona fide occupational qualification). This requirement shall include, but not be limited to, the following practices: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) Cable service shall not be denied to any group of potential residential subscribers because of the income of the residents of the local area in which such group resides.

(c) A cable operator shall not violate any applicable federal, state or local law or regulation regarding nondiscrimination.

(d) Nothing in this section shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any subscriber coming within such classification would be entitled, or to prevent a cable operator from waiving or modifying connection and/or service charges on a nondiscriminatory basis during promotional campaigns.

31.40.020 Privacy

(a) A cable operator shall at all times protect the privacy rights of all subscribers under all applicable law, including, but not limited to, Section 631 of the Cable Act, 47 U.S.C. § 551.

(b) The cable operator shall not monitor cable television signals to determine the individual viewing patterns or practices of any subscriber without prior hardcopy written consent from that subscriber.

(c) A subscriber's "prior written or electronic consent" for purposes of Section 31.40.020(b) and 47 U.S.C. § 551 shall be obtained by a cable operator pursuant to a separate document with a prominent statement that the subscriber is providing such consent in full knowledge of the provisions of 47 U.S.C. § 551. Such written permission shall be for a limited period of time not to exceed one (1) year, which shall be renewable in writing at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such an authorization. The authorization shall be revocable at any time by the subscriber, without penalty of any kind, by delivering to the cable operator in writing, by mail or otherwise, the subscriber's decision to revoke the authorization. Any revocation shall be effective upon receipt by the cable operator.

(d) A subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a cable operator. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such cable operator. A subscriber shall be

provided reasonable opportunity to correct any error in such information.

Chapter 31.44
ANTI-COMPETITIVE ACTIONS

Sections:

31.44.010 Anti-competitive actions

31.44.010 Anti-competitive actions

A cable operator may not engage in unlawful acts that have the purpose or effect of limiting competition for the provision of cable service or services similar to cable service within the boundaries of the city.

Chapter 31.48
ENFORCEMENT

Sections:

31.48.010 Verification of compliance

31.48.020 Noncompliance with standards

31.48.030 Enforcement procedures

31.48.010 Verification of compliance

If the city has reason to believe that a cable operator may not be in compliance with the standards established in this title, the city, on reasonable notice, may require the cable operator to demonstrate compliance with the standards required in this title. The cable operator shall provide sufficient detail to permit the City to verify the extent of compliance.

31.48.020 Noncompliance with standards

The cable operator's noncompliance with any provision of these standards may be deemed by the city a franchise violation.

31.48.030 Enforcement procedures

(a) If the city determines that a cable operator has failed to perform any obligation under this title or has failed to perform in a timely manner, the city may make a written demand on the cable operator that it remedy the violation. If the violation is not remedied or in the process of being remedied to the satisfaction of the city within a reasonable time period following the demand, the city may:

(1) issue a civil citation for a civil infraction and impose a penalty not to exceed one thousand dollars (\$1000.00);

(2) assess against the cable operator any monetary damages provided for such violation in its franchise agreement;

(3) assess and withdraw the amounts specified above from the cable operator's performance bond or other applicable security instrument;

(4) revoke the cable operator's cable franchise as provided in its franchise agreement; or

(5) pursue any legal or equitable remedy available under any applicable law or under the cable operator's franchise agreement.

(b) The following penalty amounts shall apply, in place of the amount specified in Section 31.48.030(a)(1), in assessing civil penalties for customer service standards that are measured on a quarterly basis:

(1) For the first calendar quarter in which a cable operator does not meet the prescribed standard (a "noncompliant quarter"), the cable operator will be subject to a civil penalty in the amount of \$1,500.

(2) For a second consecutive noncompliant quarter, a cable operator shall be subject to a civil penalty in the amount of \$2,000.

(3) For each consecutive noncompliant quarter beyond the second, a cable operator shall be subject to a civil penalty in the amount of \$4,000.

(c) Remedies available to the city for franchise violations under this title and under the franchise agreement shall be construed, except as otherwise provided in this title, as cumulative and not alternative.

(d) If civil penalties are assessed against a cable operator under this section, the cable operator is not subject to liquidated damages payable to the city for the same violation. If liquidated damages payable to city are assessed against a cable operator, the cable operator is not subject to civil penalties under this section for the same violation. If the city seeks actual damages for any violation, any civil penalties or liquidated damages recovered by the city for the same violation, including civil penalties or liquidated damages for partial time periods included in a longer time period for which actual damages are sought, shall be offset against any actual damages recovered by the city.

(e) A cable operator shall pay civil penalties or liquidated damages within 30 days after receipt of notice from the city.

(f) The filing of an appeal to any regulatory body or court does not stay or release the obligations of a cable operator under the franchise agreement and applicable law.

(g) An assessment of liquidated damages or civil penalties does not constitute a waiver by the city or the franchisors of any other right or remedy they may have under the franchise or applicable law, including the right to recover from the cable operator any additional damages, losses, costs, and expenses, including actual attorney fees, that were incurred by the franchisors or the city by reason of or arising out of the violation. However, the city's election of liquidated damages under the franchise agreement shall take the place of any right to obtain actual damages over and above the payment of any amounts otherwise due. This provision may not be construed to prevent the city from electing to seek actual damages for a continuing violation if it has imposed civil penalties or liquidated damages for an earlier partial time period for the same violation, subject to the offset specified in subsection (d) of this section.

Chapter 31.52
MISCELLANEOUS PROVISIONS

Sections:

31.52.010 Services for customers with disabilities

31.52.020 Notice/work

31.52.030 Captions

31.52.040 Severability

31.52.050 Costs

31.52.010 Services for customers with disabilities

(a) For any subscriber with a disability or who is otherwise mobility-impaired the cable operator shall at no charge deliver and pick up converters and other cable operator equipment at the subscriber's home. In the case of a malfunctioning converter or such other equipment, the technician shall provide another converter or such other equipment, hook it up and ensure that it is working properly, and shall return the defective converter or such other equipment to the cable operator.

(b) A cable operator shall work cooperatively with any services that allow hearing-impaired subscribers to contact the cable operator by telephone.

31.52.020 Notice/work

Except in the case of an emergency involving public safety or service interruption to a large number of subscribers, the cable operator shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed. In the case of an emergency, however, the cable operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made. Nothing herein shall be construed as authorizing access or entry to private property. Any work on private property shall be conducted in accordance with an agreement between the cable operator and the property owner. If damage is caused by any cable operator activity, the cable operator shall reimburse the property owner one hundred percent of the cost of the damage or replace or repair the damaged property to as good a condition as before the cable operator's activity commenced. Affected property owners shall be notified in advance of major construction or installation projects in adjacent rights-of-way.

31.52.030 Captions

The captions to sections are inserted solely for information and shall not affect the meaning or interpretation of this title.

31.52.040 Severability

If any section, subsection, sentence, clause, phrase or portion of this title is for any reason held invalid or unenforceable by any court or agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

31.52.050 Costs

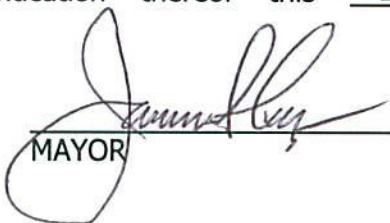
Except where otherwise expressly stated herein, all costs incurred by a cable operator in connection with any provision of this title shall be borne by the cable operator.

Section 2. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this 1st day of September, 2009.

Signed in authentication thereof this 1st day of September, 2009.




MAYOR

Attest:



City Clerk

Approved as to Form:



City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4207

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO CABLE
CONSUMER PROTECTION WITHIN THE CITY OF KIRKLAND.

SECTION 1. Adopts a new Title 31 of the Kirkland Municipal
Code relating to cable consumer protection within the City of Kirkland.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Authorizes publication of the ordinance by
summary, which summary is approved by the City Council pursuant to
Section 1.08.017 Kirkland Municipal Code and establishes the effective
date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to
any person upon request made to the City Clerk for the City of
Kirkland. The Ordinance was passed by the Kirkland City Council at its
meeting on the 1st day of September, 2009.

I certify that the foregoing is a summary of Ordinance
4207 approved by the Kirkland City Council for summary
publication.



City Clerk