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CHAPTER 1.01

Code Adoption

1.01.010 Adopted.

The published code known as the Municipal Code of the Town of Parker, of which three (3) copies are now on file in the office of the Town Clerk and may be inspected during regular business hours, is enacted and adopted by reference as a primary code and incorporated herein as if set out at length. This primary code has been promulgated by the Town of Parker as a codification of all the ordinances of the Town of Parker, Colorado of a general and permanent nature through Ordinance No. 5.30, passed May 29, 1990, for the purpose of providing an up-to-date code of ordinances, properly organized and indexed, in published form for the use of the citizens and officers of the Town. (Ord. 5.30 §1(1.01), 1990)

CHAPTER 1.02

General Provisions

1.02.010 Definitions and rules of construction.

In the construction of the Municipal Code and of all ordinances of the Town, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any Section or ordinance, or unless inconsistent with the manifest intent of the ordinance:

(1) Definitions.

Certified mail or *certified mail, return receipt requested* means the certified mail service as described in Section 503, Extra Services, of the United States Postal Service "Domestic Mail Manual," as amended.

Code means and includes any building, construction, safety, health or other regulatory code adopted by the Town, whether adopted by reference and by ordinance or otherwise, as published and subsequently amended, unless the context requires otherwise.

County means the County of Douglas in the State of Colorado.

Day is any period of time between any midnight and the midnight following. When a period of time is defined as a number of days, the date on which the period commences shall be excluded and the last date of such period included in the computation.

Daytime means the period of time between sunrise and sunset.

In the Town means and includes all territory over which the Town now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers and other regulatory powers.

Mayor means the elected mayor of the Town, and includes a Mayor Pro Tem or other person duly authorized to act as mayor in the absence or disability of the Mayor or during the period of any vacancy in the office.

Month means a calendar month.

Municipal Code means the Municipal Code of the Town of Parker, as published and subsequently amended, unless the context requires otherwise.

Nighttime means the period of time between sunset and sunrise.

Oath means and includes any oath or affirmation required by law or ordinance.

Ordinance means the ordinances of the Town and includes the ordinances codified or the Municipal Code.

Owner, when applied to a building or land, shall include any and all owners in fee, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land, and, when applied to any personal property, animal or vehicle, shall mean any person who has the legal title or right to or has possession of a thing.

Person means and includes an individual, firm, partnership, corporation, association or other organization acting as a group or unit.

Preceding means next before; *following* means next after.

The term *property*, unless qualified, shall include real property and personal property, whether tangible or intangible.

Public way shall mean and include any street, highway, alley, boulevard, parkway, sidewalk or other public thoroughfare.

Real property shall include lands, tenements and hereditaments.

Shall is mandatory and *may* is permissive.

Sidewalk means and includes the portion of the street between the curb line and the adjacent property line, intended for the use of pedestrians.

State means the State of Colorado.

Street shall mean and include any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.

Tenant or *occupant*, applied to a building, premises or land, or any part thereof, shall include any person who occupies the whole or a part of such building, premises or land, whether alone or with others.

Town or *municipality* means the Town of Parker, Colorado.

Town Administrator means the chief administrative officer of the Town, appointed by the Town Council to execute the laws and administer the Town government.

Town Council means the governing body of the Town.

Year means a calendar year.

(2) Rules of construction.

a. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

b. When an ordinance requires an act to be done which may as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

c. If the time limited for the doing of an act expires on a Sunday or legal holiday, the act shall be done upon the day next following such Sunday or legal holiday. If the time limit for filing or issuing any application, permit, license, paper or document with or by the Town expires on a Saturday, Sunday or legal holiday, the same may be done on the business day next following.

d. Every word in every ordinance importing the masculine gender shall extend to and be applied to females as well as males, and associations and bodies corporate as well as individuals shall be included.

e. In all cases where any ordinance requires any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty, or compliance with such notice. (Ord. 5.30.2 §1, 2009; Ord. 5.30 §1(1.02 §1), 1990)

1.02.020 Effect of titles and numbers.

The title or number of any Chapter, Article, Section or Subsection of the Municipal Code, or of the ordinances of the Town, shall not be deemed to restrict, qualify or limit the effect of the provisions set forth and contained in any such Chapter, Article, Section or Subsection. The title of a bill which is enacted as an ordinance shall not be a part of such ordinance and shall not be deemed to restrict, qualify or limit the effect of the provisions set forth and contained in such ordinance or any part thereof. (Ord. 5.30 §1(1.01 §2), 1990)

1.02.030 Amendments.

Additions or amendments to the ordinances of the Town shall be made by ordinance. (Ord. 5.30 §1(1.02 §3), 1990)

1.02.040 Severability.

The provisions of the ordinances of the Town are declared to be severable; and if any section, provision or part thereof or the application of such section, provision or part to any person or circumstance is held unconstitutional or invalid, the remainder of the ordinances shall continue in full force and effect, it being the legislative intent that every such ordinance would have been adopted even if such unconstitutional or invalid matter had not been included therein. It is further declared that if any provision or part of such ordinances, or the application thereof to any person or circumstances, is held invalid, the remainder of the ordinances and the application thereof to other persons shall not be affected thereby. (Ord. 5.30 §1(1.02 §4), 1990)

1.02.050 Repeal; effect.

The repeal, amendment or supersession of any ordinance or part of any ordinance of the Town shall not release, extinguish, alter, modify or change, in whole or in part, any penalty, liability or right which may have been incurred or obtained under such ordinance or part thereof nor any action or proceedings commenced under or by virtue of the provision repealed; and such ordinance or part thereof so amended, repealed or superseded shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, acts, decisions, hearings and appeals relating to the Town and pending before any board, officer, agency, court or governing body of the State, County or Town, or any court of record. (Ord. 5.30 §1(1.02 §5), 1990)

1.02.060 General penalty; continuing violation.

(a) Whenever by any ordinance of the Town any act is prohibited or declared to be unlawful, an offense or a misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful, an offense or a misdemeanor:

(1) Where a specific criminal or civil penalty is provided therefor, or such ordinance, or the chapter or article of the Municipal Code within which such ordinance provision is contained, provides a criminal or civil penalty for any violation of the provisions of such ordinance, chapter or article shall be punished as therein provided.

(2) Where no specific criminal penalty is provided therefor, any person convicted of violating any such provision of the ordinances of the Town hereafter enacted, or convicted of violating any rule or regulation adopted pursuant to such ordinances, shall be punished by a fine of not more than nine hundred ninety-nine dollars (\$999.00) or imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment.

(b) Each and every day on which any violation of the ordinances of the Town or the rules and regulations adopted pursuant to such ordinances is committed, exists or continues shall be deemed a separate offense. (Ord. 5.30.1 §1, 1993; Ord. 5.30 §1(1.02 §6), 1990)

CHAPTER 1.03

Amendments

1.03.010 Amendment of code by ordinance.

Amendments to the Municipal Code shall be made by ordinance. (Ord. 5.30 §1(1.03 §1), 1990)

1.03.020 Amendments effective when.

(a) An amendment to the Municipal Code shall take effect on the date specified in the amending ordinance; provided that such effective date specified shall not be sooner than the effective date of the amending ordinance.

(b) When no effective date is specified in the amending ordinance, an amendment to the Municipal Code shall take effect on the effective date of the amending ordinance. (Ord. 5.30 §1(1.03 §2), 1990)

1.03.030 Amendment of titles and numbers.

The title or number of any Chapter, Article, Section or Subsection of the Municipal Code may be amended without setting forth in full in the amending ordinance the content of the Chapter, Article, Section or Subsection so amended. (Ord. 5.30 §1(1.03 §3), 1990)

1.03.040 Effect on penalties.

An ordinance containing an amendment of a previous ordinance which imposed a penalty for violations of the ordinance shall also contain a provision imposing a penalty for violations of the ordinance as amended. Such amending ordinance need not amend any existing penalty provision unless the penalty for violation is changed. (Ord. 5.30 §1(1.03 §4), 1990)

1.03.050 Descriptive and explanatory references.

There may be inserted in any compilation or publication of the Municipal Code such descriptive and explanatory references, including tables of contents, indexes, notes and other references and cross-references, as may be necessary to identify the source of any amendment or the effective date thereof, or to facilitate reference to and use of the Municipal Code. Such references shall not be a part of the ordinances of the Town and shall not be deemed to restrict, qualify or limit the effect of any provisions contained in an ordinance or in the Municipal Code. (Ord. 5.30 §1(1.03 §5), 1990)

1.03.060 Form of changes.

(a) In all cases of amendments to the Municipal Code and the ordinances of the Town, the Town Clerk shall cause the Municipal Code to be changed as directed by the amendment, and it shall be necessary to include in the Municipal Code, or any provision thereof, the direction for amendment or any language which has been directed to be deleted. Any provision of the Municipal Code repealed by any ordinance shall not thereafter appear in the code. Any provision of the Municipal Code repealed and reenacted by ordinance shall thereafter appear in the Municipal Code in the form in which reenacted.

(b) Ordinance provisions imposing penalties for violations solely for the purposes provided in Section 1.03.040 shall not be duplicated in any compilation or publication of the Municipal Code when such Code already contains a provision imposing the same penalty for the same violation. (Ord. 5.30 §1(1.03 §6, 1990)

CHAPTER 1.04

Legal Notices and Publication

1.04.010 Legislative findings and purpose.

(a) The Town Council finds, determines and declares that the primary purpose of publishing legal notices is to give the widest publicity practicable to the activities and enactments of the government of the Town to the citizens it serves. The Town Council finds that the type, duration and need for the publication of legal notices may vary depending upon the type of activity or enactment, the immediacy of the need for the Town's action, and the extent to which extensive citizen input or participation will improve the Town's ability to serve its citizenry. The Town Council further finds that Section 7.5 of the Town Charter only generally describes the manner for publication of notices involving ordinances, and that Section 7.5 of the Town Charter does not address either many of the Town's other activities which involve legal notices or specify the exact manner of publication. Therefore, the Town Council finds that municipal legislation is needed to specify more accurately and completely the manner in which the Town has implemented and interpreted Charter Section 7.5 since its initial enactment.

(b) The Town Council finds that the provisions of this Chapter 1.04 controlling the notice and publication of the Town's legal notices are matters of purely local and municipal concern, and that the adoption of this Chapter is an exercise of the Town's home rule authority pursuant to Article XX, Section 6 of the Colorado Constitution and Section 15.12 of the Town Charter. (Ord. 1.53 §1, 1992)

1.04.020 Definitions.

As used in this Chapter, the following terms shall have the following meanings:

Clerk means the Town Clerk or such Clerk's designee.

General circulation is a term to describe the character of the newspaper as one of general, not special, or limited, circulation; it describes a newspaper which contains items of general interest to the public, such as news of political, religious, commercial or social affairs. Such term shall not include a mere advertisement sheet, or a newspaper restricted or devoted exclusively to some particular trade, calling or branch of industry.

Legal notice means any notice or other written matter required to be published in a newspaper by the Town Charter, by the ordinances of the Town or by any applicable law of the State.

Newspaper for matters of local concern means any daily, triweekly, semiweekly, or weekly newspaper as defined in Section 24-70-102, C.R.S., as amended, or weekly publication that has

been published during a period of one (1) year and with a general circulation per publishing period of twenty percent (20%) of the households within the Town.

Newspaper for matters of state concern, such as notices for annexation or under the Colorado Liquor Code, means any daily, triweekly, semiweekly or weekly newspaper as defined in Section 24-70-102, C.R.S., as amended.

Publish, published or publication means to make public; to circulate; to make known to the people or the public in general; printing or otherwise reproducing copies of something together with distributing those copies in such a manner as to make their contents easily accessible to the general public.

Town means the Town of Parker, Colorado. (Ord. 1.53.3 §1, 2001; Ord. 1.53.2 §1, 1997; Ord. 1.53.1 §1, 1994; Ord. 1.53 §1, 1992)

1.04.030 Publication of legal notices.

(a) In general. Except where otherwise provided in this Municipal Code, every legal notice of the Town shall be published in a newspaper of general circulation within the Town. Except where otherwise provided, the Clerk shall have primary responsibility for insuring that the publication of the Town's legal notices substantially complies with the Town Charter, the Town's ordinances and any applicable law of the State. The Clerk shall determine which newspapers adequately satisfy the Town's needs for accurate, timely and reliable publication at a competitive or reasonable publication cost.

(b) Ordinances. At least two (2) days prior to any regular or special council meeting at which the Town Council intends to introduce or consider any ordinance, the Clerk shall cause to be published an agenda describing any such ordinance. After final passage of the ordinance by a roll call vote of Council, the Clerk shall publish the ordinance, but publication of the title thereof together with a statement that the full text is available for public inspection and acquisition in the Clerk's office during the Town's regular business hours, shall be sufficient publication. This Subsection (b) shall not apply to emergency ordinances.

(c) Emergency ordinances. Emergency ordinances enacted by the Town Council pursuant to Section 7.6 of the Town Charter shall be posted and published in full by the Clerk as soon after passage as is reasonably practicable.

(d) Notices by order of court. This Section shall not apply to the publication of legal notices by order of a court. Notices by order of a court shall be made in strict compliance with the terms of such court order. (Ord. 1.53 §1, 1992)

CHAPTER 1.05

Ordinance Adoption Procedures

1.05.010 First reading.

Any member of the Council may introduce a bill for an ordinance at a regular or special meeting of the Council. Introduction may be made by review of the title only or of the full text. The Council may vote to reject, revise or pass the bill along for the final reading to take place at a regular or specially scheduled meeting of the Council. (Ord. 1.65 §1, 1994)

1.05.020 Final reading.

Any member of the Council may, after any regular or special meeting at which a bill for an ordinance was introduced, initiate the final reading of said bill at a regular or specially scheduled meeting of the Council. Passage or rejection of the bill shall be by a roll call vote of the Council. For purposes of this Section, a roll call vote shall include a voice vote and/or electronic vote that displays those Councilmembers that vote for passage of the bill and rejection of the bill. If approved, the bill shall be adopted and shall become effective pursuant to Section 1.03.020 of this Code. (Ord. 1.65 §1, 1994; Ord. 1.1211 §1, 2002)

1.05.030 Publication.

A bill for an ordinance may not be introduced, passed or approved at a regular or specially scheduled meeting of the Council unless the entire text of the ordinance is made available to members of the Council at least four (4) days before said meeting. Prior to the regular or special meeting at which the bill is to be introduced, passed or approved, an agenda which gives the title of the bill shall be posted at least two (2) days before said regular or special meeting in a conspicuous place in at least two (2) public places, with one (1) such public place being viewable from directly outside the main entrance of the Town Hall and the other being the Town of Parker Web site (www.parkeronline.org). In the event that the Town of Parker Web site is not operable, then the Town Clerk shall post the agenda in another public place selected by the Town Clerk in the manner provided herein. Publication of an ordinance, upon approval, shall follow the provisions of Subsection 1.04.030(b) of this Code. (Ord. 1.65.1 §1, 2005; Ord. 1.65 §1, 1994)

1.05.040 Emergency exception.

Notwithstanding the provisions of Sections 1.05.010 through 1.05.030, emergency ordinances necessary for the preservation of the public health, welfare, peace, safety or property shall be approved by a majority vote of the Councilmembers present at any meeting at which said emergency ordinance is introduced. There shall be no requirement for the publication of such proposed emergency ordinance or for a first and final reading. However, immediately after approval of the emergency ordinance, the full text of the ordinance must be posted in a conspicuous place in at least two (2) public places, with one (1) such public place being viewable from directly outside the main entrance of the Town Hall. (Ord. 1.65 §1, 1994)

1.05.050 Study sessions.

Notwithstanding any provisions under this Chapter, the Council has the discretion to meet at any time, and to the extent practicable, in a study session to review any proposed bill for an ordinance. No official action of the Council may occur at such study session. The study session may be called at any time, and the posting and publication requirements of this Chapter shall not apply. (Ord. 1.65 §1, 1994)

CHAPTER 1.06

Process to Accept Real Property

1.06.010 Acceptance by resolution.

The Town Council by resolution may accept the conveyance of real property by any person, firm or corporation, public or private. (Ord. 1.73 §1, 1994)

1.06.020 Conveyance invalid.

Any document purporting to convey real property to the Town shall not be deemed a valid transfer of title until accepted by the Town Council by resolution, unless the transfer is made pursuant to an agreement previously approved by the Town Council. (Ord. 1.73 §1, 1994)

1.06.030 Recordation.

The recordation of any document purporting to convey real property to the Town that has not been accepted by the Town in the manner described in this Chapter shall be subject to the penalty provisions of this Chapter. (Ord. 1.73 §1, 1994)

1.06.040 Penalty.

Any person violating any provision of this Chapter shall be guilty of a misdemeanor and, upon conviction, be punished by a fine of not more than four hundred ninety-nine dollars (\$499.00) for each separate offense. Each day a violation of this Chapter continues shall constitute a separate offense. (Ord. 1.73 §1, 1994)

CHAPTER 1.07

Competitive Cable Franchise Application Requirements

1.07.010 Instructions and definitions.

(a) An applicant for a competitive cable franchise ("Applicant") shall include the requisite information set forth below, in writing, in its franchise application, in addition to any information required by 47 C.F.R. § 76.41 and applicable state and local laws and the application fee set by resolution of the Town Council.

(b) The Town shall accept and review only those applications that include complete responses to every requirement of Section 1.07.020 below. Submission of an application that does not include the requisite information set forth in Section 1.07.020 and the application fee shall not commence the time period for granting or denying the application set forth in 47 C.F.R. § 76.41(d). The Applicant shall submit additional or updated information as necessary to ensure that the requisite information provided is complete and accurate throughout the Town's review of the application.

(c) Applications shall be made to the Town Clerk.

(d) Upon request, the Town will promptly provide access to documents or information in its possession or control that are necessary for the completion of the application, provided that the Applicant does not otherwise have access to such documents or information and that such documents or information are subject to disclosure under state open records laws.

(e) For the purposes of the application, the terms, phrases and their derivations set forth below shall have the meanings given unless the context indicates otherwise. 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 include the plural number. The word *shall* is always mandatory and not merely directory.

Affiliated entity or *affiliate* means any entity having ownership or control in common with the Grantee, in whole or in part, including, without limitation, the Grantee's parent corporations and any subsidiaries or affiliates of such parent corporations.

Applicant means an applicant for a cable franchise pursuant to the provisions of the Competitive Franchise Application Rule ("CFAR") set forth in Part 76 of Title 47 of the Code of Federal Regulations, § 76.41, and includes the parent corporation, its subsidiaries and principals.

Control is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

Interest includes officers, directors and shareholders owning five percent (5%) or more of the Applicant's outstanding stock or any equivalent voting interest of a partnership or joint venture.

Parent corporation includes any entity with ownership or control of the Applicant.

Principal includes any person, firm, corporation, partnership, joint venture, affiliates or other entity, who or which owns or controls five percent (5%) or more of the voting stock (or any equivalent voting interest of a partnership or joint venture) of the Applicant.

Regulatory authority includes any governmental or quasi-governmental organization or entity with jurisdiction over all or any portion of the Applicant or its operations.

Town means the Town of Parker, a Colorado home rule municipality. (Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)

1.07.020 Requisite information.

(a) Identification and ownership information. The application shall include:

(1) The name, address, telephone number and website (if applicable) of the Applicant and the proposed franchisee (if different from Applicant); and

(2) The name, address, primary telephone number and primary e-mail address of all individual(s) authorized to represent the Applicant before the Town during its consideration of the franchise(s) requested, including the Applicant's primary contact and any additional authorized contacts.

(b) Business structure.

(1) If a corporation, the Applicant shall provide the following:

a. A list of all officers and members of the Board of Directors, their principal affiliations and their addresses;

b. A certificate of good standing indicating that the Applicant is licensed to do business in the State; and

c. A statement indicating whether the Applicant is directly or indirectly controlled by another corporation or legal entity. If so, the Applicant shall attach an explanatory statement and respond to Subparagraphs a. and b. above concerning the controlling corporation.

(2) If a partnership, the Applicant shall:

a. Describe the structure of the partnership and the interests of general and limited partners; and

b. State whether the Applicant is controlled directly or indirectly by any corporation or other legal entity. If so, the Applicant shall attach an explanatory statement and respond to Subparagraphs (1)a. and (1)b. or (2)a. above, as applicable, concerning the controlling entity.

(c) Experience.

(1) Current franchises. An Applicant shall list all cable systems in which it or any affiliate owns more than five percent (5%) of the system. For each system, the Applicant shall include the name of the system, address, communities served, number of subscribers, number of homes passed, date of system award, duration (start and end date) of franchise, status of construction and percent of penetration of homes passed as of the most recently available date (indicate date).

(2) Potential franchises. An Applicant shall list communities where it or any affiliate currently has a formal or informal request pending for an initial franchise, the renewal of a franchise or the approval of a transfer of ownership. The Applicant shall include the names of the communities, date of application and date of expected action.

(d) Management structure. Every application for a competitive franchise shall include a management/organizational chart, showing the management structure of the Applicant. A similar chart shall also be provided showing the relationship of the Applicant to all general partners, parent corporations, subsidiaries, affiliates and all other subsidiaries of parent corporations, including a brief

description of each entity's relationship to the Applicant. (Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)

1.07.030 Legal qualifications.

(a) Media cross-ownership.

(1) Section 613 of the Cable Communications Policy Act of 1984, 47 U.S.C. § 533(a) and applicable FCC rules prohibit certain forms of media cross-ownership. An Applicant shall state whether it or an affiliate directly or indirectly owns, operates, controls or has an interest in any of the following or whether the Applicant holds or operates any company or business operating jointly with any of the following:

a. A national broadcast television network (such as ABC, CBS or NBC, etc.).

b. A television broadcast station whose predicted Grade B contour, computed in accordance with Section 73.684 of the FCC's rules, overlaps in whole or in part the Town's service area, or an application for license to operate such a station.

c. A telecommunications or telephone company whose service area includes any portion of the Town's service area.

(2) If the response to any of Subparagraphs (1)a. through c. above is affirmative, the Applicant shall state the name of the Applicant or affiliate, the nature and percentage of ownership or interest and the company that is owned or in which the interest is held.

(b) Franchise violations. An Applicant shall state whether it or any affiliate has been found in violation by a regulatory authority or franchising authority of any franchise ordinance or agreement, contract or regulation governing a cable system. If so, the Applicant shall identify the judicial or administrative proceeding, giving the date, name of tribunal and result or disposition of that proceeding.

(c) Other violations. An Applicant shall state whether it has been found in violation by a regulatory authority of any other type (e.g., utility) of a franchise, ordinance, agreement, permit, contract or regulation. If so, the Applicant shall identify the judicial or administrative proceeding, giving the date, name of tribunal and result or disposition of that proceeding. (Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)

1.07.040 Financial qualifications.

(a) Unless SEC Forms 10K and 10Q are available on the EDGAR database, Applicants with existing operations shall provide audited financial statements, including statements of income, balance sheets and cash flow statements, together with any notes necessary to the understanding of the financial statements for the last three (3) fiscal years for the Applicant and any parent corporation.

(b) Applicants that are new (start-up) entities shall provide pro forma projections for the next five (5) fiscal years, if available, but at a minimum the next three (3) fiscal years from the date of the application. (Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)

1.07.050 Technical qualifications, planned services and operations.

(a) The application shall describe the Applicant's planned initial and proposed cable services geographic area, including a map of all areas proposed to be served and proposed dates for offering service to each area. The application shall additionally state whether the Applicant proposes to provide cable services to the entire franchise area and, if so, a proposed timetable for meeting that goal.

(b) If the Applicant has or asserts existing authority to access the public right-of-way in any of the initial or proposed service areas listed in Subsection (a) above, the Applicant shall state the basis for such authority or asserted authority and attach the relevant agreements or other documentation of such authority.

(c) The Applicant shall describe with particularity its planned residential cable services, including basic cable services; other cable programming service tiers and any additional pay-per-view, on-demand or digital services; and the projected rates for each category, tier or service.

(d) The Applicant shall describe with particularity its planned system technical design, upstream and downstream capacity and speed, provision for analog or digital services or packages, distribution of fiber, planned count of households per residential node and any other information necessary to demonstrate that the Applicant's technology will be deployed so as to be able to successfully offer cable services in the proposed locations.

(e) The Applicant shall describe with particularity its planned nonresidential cable services.

(f) The Applicant shall describe its planned construction and extension or phase schedule, as applicable, including system extension plans or policy, and describe the current status of the Applicant's existing or proposed arrangements with area utilities, including pole attachments, vault-or conduit-sharing agreements, as applicable.

(g) The Applicant shall describe its plan to ensure that the safety, functioning and appearance of property and convenience and safety of other persons are not adversely affected by installation or construction of the Applicant's facilities, and that property owners are justly compensated for any damages caused by the installation, construction, operation or removal of the facilities.

(h) The Applicant shall describe its plan to comply with the subscriber privacy protections set forth in 47 U.S.C. § 551 and the privacy protections of the Town's local cable customer service standards. (Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)

1.07.060 Affidavit of applicant.

Each application shall be accompanied by an affidavit substantially in the form set forth below:

This application is submitted by the undersigned who has been duly authorized to make the representations within on behalf of the Applicant and certifies the representations are true and correct.

The Applicant recognizes that all representations are binding on it, that all application commitments are enforceable and that material misrepresentations or omissions or failure to adhere to any such representation may result in a denial of an application by the Town.

The Applicant shall comply with all applicable local laws.

Consent is hereby given to the Town and its representatives to make inquiry into the legal, character, technical, financial and other qualifications of the Applicant by contacting any persons or organizations named herein as references, or by any other appropriate means.

Name of Applicant's Authorized Representative: _____

Affiant's Signature: _____

Official Position: _____

Date:

STATE OF COLORADO)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me this ____ day of _____, 20____.

WITNESS MY HAND AND OFFICIAL SEAL. My Commission expires: ____.

NOTARY PUBLIC

(Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)

1.07.070 Open records; confidentiality.

Unless otherwise provided by law, information submitted as part of an application is open to public inspection and subject to the Colorado Open Records Act. It is the Applicant's responsibility to be familiar with the Colorado Open Records Act. An Applicant may specifically identify any information it considers proprietary. In the event that the Town receives a request from another party to disclose any information which the Applicant has deemed proprietary, the Town will tender to the Applicant the defense of any request to compel disclosure. By submitting information which the Applicant deems proprietary or otherwise exempt from disclosure, the Applicant agrees to defend and hold harmless the Town from any claim for disclosure, including, but not limited to, any expenses, including out-of-pocket costs and attorneys' fees, as well as any judgment entered against the Town for the attorneys' fees of the party requesting disclosure. (Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)

1.07.080 Application fee.

The Town shall, by resolution, set an application fee sufficient to cover the reasonable cost of processing applications under this Chapter. Upon request of the Applicant, the Town may reduce or waive the application fee. In evaluating such a request, the Town will consider the following factors:

- (1) The size of the proposed franchise area;
- (2) The number of potential subscribers in the proposed franchise area;
- (3) The financial hardship to the Applicant (including any parent corporation or affiliate); and

(4) Other information relevant to the cost of processing the application and/or the Applicant's ability to pay the fee. (Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)

1.07.090 Review process.

(a) Acceptance of application.

(1) Within five (5) business days of receipt of an application, the Town shall review the application to ensure that all requisite information is included in the application.

(2) If the application is not complete, the Town will notify the Applicant in writing, listing the requisite information that is required to complete the application and notifying the Applicant that the time period for granting or denying the application set forth in 47 C.F.R. § 76.41(d) will not begin to run until such information is received.

(3) If the application is complete, the Town will notify the Applicant in writing that all requisite information has been received.

(b) Staff review. The Town staff shall review all completed applications based on the review criteria set forth herein. If, during the review of an application, staff reasonably requires additional information from the Applicant, staff will promptly request the information from the Applicant, in writing, along with a notification that the time period for granting or denying the application set forth in 47 C.F.R. § 76.41(d) will be tolled until such information is received by the Town. After completing the review, staff shall provide an analysis of the application to the Town Council.

(c) Franchise negotiations. Within the time period set forth in 47 C.F.R. § 76.41(d), the Town shall attempt to negotiate a cable franchise agreement with the Applicant and, within that time period, schedule the application and any proposed franchise for public hearing as set forth in Section 1.07.100 below. (Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)

1.07.100 Public hearing.

The Town shall hold a public hearing before acting on the application, affording participants a process substantially equivalent to that required by 47 U.S.C. § 546(c)(2) governing renewal of cable franchises. (Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)

1.07.110 Review criteria.

The Town may deny an application if, based on the information provided in the application, at the public hearing and/or any terms of a proposed franchise agreement:

(1) The Applicant does not have the financial, technical or legal qualifications to provide cable service;

(2) The Applicant will not provide adequate public, educational and governmental access channel capacity, facilities or financial support; or

(3) The Applicant's proposed terms do not comply with applicable federal, state and local laws and regulations, including, but not limited to, local customer service standards or relevant existing contractual obligations of the Town. (Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)

1.07.120. Non-CFAR applications.

Notwithstanding any other provisions of this Chapter, any competitive cable services franchise Applicant may elect to submit a cable franchise application to the Town and/or engage in cable franchise negotiations without regard to the application of the FCC CFAR. In such cases, the Town will negotiate the terms of a competitive cable franchise without regard to 47 C.F.R. § 76.41 and the other provisions of this Chapter. Agreement by any Applicant to negotiate a franchise without regard to 47 C.F.R. § 76.41 and the other provisions of this Chapter shall not be deemed by the Town to effect a waiver of any Applicant's right under applicable law to trigger application of 47 C.F.R. § 76.41 and this Chapter, where applicable. (Ord. 10.14.1 §1, 2007; Ord. 10.14 §1, 2007)