

ORDINANCE NO. 19-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO AMENDING CHAPTER 5 OF THE MUNICIPAL CODE CONCERNING FRANCHISES

WHEREAS, the City of Castle Pines is authorized under Part 1 of Article 32 of Title 31 of the Colorado Revised Statutes to grant to utilities and other service providers the right and privilege to erect, construct, operate, or maintain infrastructure and systems within the City and to use the City's streets and rights-of-way for such purposes; and

WHEREAS, in accordance with Section 31-15-401(1)(b), C.R.S. the City has granted such right and privilege to erect, construct, operate, or maintain infrastructure and systems within the City and to use the City's streets and rights-of-way to certain utility providers through approval of franchise agreements with: Comcast X, LLC (cable); Qwest Broadband Services, Inc. (cable); Intermountain Rural Electric Association (electric); Public Service Company of Colorado (gas, electric); and Black Hills/Colorado Gas Utility (gas) (collectively, "Franchise Agreements"); and

WHEREAS, the City Council approved the Franchise Agreements via ordinances and the same were codified in the Castle Pines Municipal Code in Chapter 5; and

WHEREAS, with the adoption of home rule in May, 2019, the City Council is amending and updating the Municipal Code to conform to and correspond with the Home Rule Charter ("Charter Code Amendments"); and

WHEREAS, as part of the Charter Code Amendments, the City desires to streamline and remove unnecessary or redundant provisions in the Municipal Code; and

WHEREAS, the City Council finds that the incorporation of the individual Franchise Agreements into the Municipal Code is not necessary and therefore wishes to repeal Articles 1, 1.5, 2, 3, and 6 of Chapter 5 without repealing the underlying ordinances adopting such franchises; and

WHEREAS, the Franchise Agreements shall continue to be available for public inspection on the City's website in the same manner as other ordinances adopted by the City Council; and

WHEREAS, the City Council finds this Ordinance to further the public health, safety and welfare of the community.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, ORDAINS:

Section 1. Recitals Incorporated. The foregoing recitals are incorporated herein as findings and determinations of the City Council.

Section 2. Amendments to Chapter 5 of the Castle Pines Municipal Code, entitled "Franchises and Communication Systems." Chapter 5 of the Castle Pines Municipal Code, entitled "Franchises and Communication Systems," is hereby amended to:

- a. Repeal Articles 1, 1.5, 2, 3, and 6;

b. Relocate Article 4, titled *Emergency Telephone Service*, to Article 2, and renumber all sections therein accordingly;

c. Relocate Article 5, titled *Competitive Cable Franchise Application, Review and Evaluation*, to Article 1 and renumber all sections therein accordingly; and

d. Delete Appendix 5-A, titled *Cable Franchise Customer Service Standards*.

Section 3. **Saved from Repeal.** Nothing herein shall be construed to repeal, amend, or otherwise affect the validity and enforceability of the franchise agreements adopted by the following ordinances of City Council, which ordinances shall remain in full force and effect until specifically repealed or amended:

a. Ordinance No. 09-03 (Comcast X, LLC cable franchise)

b. Ordinance No. 09-04 (Intermountain Rural Electric Association electric franchise)

c. Ordinance No. 09-05 (Public Service Company of Colorado gas and electric franchise)

d. Ordinance No. 15-02 (Qwest Broadband Services, Inc. d/b/a CenturyLink cable franchise)

e. Ordinance No. 17-02 (Black Hills/Colorado Gas Utility gas franchise).

Section 4. **Severability.** If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect, in accordance with Section 6.8 of the Charter.

Section 5. **No Existing Violation Affected.** Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any ordinance hereby repealed or amended by this Ordinance, or any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 6. **Codification Amendments.** The codifier of the City's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Castle Pines Municipal Code.

Section 7. **Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Castle Pines, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 8. **Publication and Effective Date.** The City Clerk is hereby directed to cause publication of this Ordinance in accordance with Section 6.5 of the Charter. This Ordinance shall be effective thirty (30) days after final publication on the City's official website and posting at the City Clerk's office pursuant to Section 1-3-40 of the Municipal Code.

INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, the 10th day of SEPTEMBER, 2019.

READ, PASSED, AND ADOPTED ON SECOND READING, FOLLOWING A PUBLIC HEARING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 24th day of September, 2019.



ATTEST:

DocuSigned by:
Tobi Basile
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Tobi Basile, CMC, City Clerk

DocuSigned by:
Tera Stave Radloff
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Tera Stave Radloff, Mayor

Approved as to form:

DocuSigned by:
Linda C. Michow
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Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading on September 10, 2019; published by title only in the *Douglas County News-Press*, together with the statement that “[t]he complete text of the ordinance is available through the City Clerk’s office and on the City’s official website with second reading and public hearing to be held on September 24, 2019”; and finally passed and adopted by the City Council on September 24, 2019, following a duly noticed public hearing and published on the City’s official website and posted at the City Clerk’s office on September 11, 2019.

ATTEST:

DocuSigned by:
Tobi Basile
AD03A3B02032400...
Tobi Basile, CMC, City Clerk