

Town of Erie
Ordinance No. ____-2020

**An Ordinance of the Board of Trustees of the Town of Erie
Approving the Renewal of a Non-Exclusive Cable Franchise
Agreement with Comcast of Colorado, IX, LLC for the Use of Public
Rights-of-Way**

Whereas, on May 21, 2004, the Board of Trustees approved the grant of a non-exclusive Franchise Agreement to Comcast of Colorado I, LLC ("Grantee"), for its construction and operation of a cable television system within the Town;

Whereas, as the successor in interest to Grantee, the Comcast entity that holds the franchise in the Town is Comcast of Colorado IX, LLC ("Comcast");

Whereas, the term of the original Cable Franchise Agreement was for 15 years, expiring on May 20, 2019;

Whereas, the Town and Comcast have previously agreed to continue operating under the existing franchise on a month to month basis until a new franchise is adopted or until the current agreement is otherwise terminated;

Whereas, Comcast is agreeable to continuing providing such services in the Town, and has made application to the Town for a cable franchise renewal;

Whereas, the Town has reviewed Comcast's performance under the prior franchise and the quality of service during the prior franchise term, has identified the future cable-related needs and interests of the Town and its citizens, has considered the financial, technical and legal qualifications of Comcast, and has determined that Comcast's plans for operating and maintaining its cable system are adequate, in a full public proceeding affording due process to all parties;

Whereas, the public has had adequate notice and opportunity to comment on Comcast's proposal to provide cable service within the Town;

Whereas, the Town has a legitimate and necessary regulatory role in ensuring the availability of cable service, and reliability of cable systems in its jurisdiction, the availability of local programming (including educational and governmental access programming) and quality customer service;

Whereas, diversity in cable service programming is an important policy goal and the Comcast cable system should offer a wide range of programming services;

Whereas, the Board of Trustees desires to grant a franchise to Comcast and Comcast desires to accept the terms and conditions in the franchise for the use of Town owned rights-of-way, of Town owned easements, and of rights-of-way and access

easements dedicated and accepted for public use by the Town in installing and operating a cable system in the Town in accordance with applicable law and the attached franchise agreement (the "Franchise Agreement"); and

Whereas, after due evaluation, the Board of Trustees has determined that it is in the best interest of the Town and its residents to grant a cable franchise renewal to Comcast for a term of 10 years as provided in the Cable Franchise Agreement between the Town and Comcast.

Now Therefore be it Ordained by the Board of Trustees of the Town of Erie, Colorado, that:

Section 1. Approval. The Board of Trustees hereby approves the Franchise Agreement with Comcast of Colorado IX, LLC, in substantially the form attached hereto, subject to final approval by the Town Attorney. Upon such approval, the Mayor is authorized to executed the Franchise Agreement on behalf of the Town.

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 3. Safety. The Board of Trustees finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

Section 4. Effective Date. This Ordinance shall take effect 30 days after publication following adoption.

Introduced, Read, Passed and Ordered Published this 27th day of October, 2020.

Jennifer Carroll, Mayor

ATTEST:

Heidi Leatherwood, Town Clerk