Local Competition Reporting

Please complete separate surveys for the following types of operations and check the appropriate box to indicate which type you are reporting on this form.

ILEC [X] CLEC [ ]

Company: USW

State: CO

	Voice Grade and Equivalent Lines 2/			
	Residential Switched (a)	Non-Residential Switched 5/ (b)	Special Access and UNE Loops 5/ (c)	Total Voice Grade Lines [(a) + (b) + (c)]
I. Voice grade lines 1/ 2/ in service as of December 31, 1998.				
A. Lines you used to provide service to end users, 3/ categorized by:				
1. Lines you owned. 4/	1,800,872	818,991	(must be special access) 17,240	2,637,103
2. Lines you leased. 4/	unknown	unknown	(must be special access) unknown	unknown
3. Total lines you provided to end users. [Line 1 + Line 2]	1,800,872	818,991	(must be special access) 17,240	2,637,103
B. Lines you provided to other communications carriers, 3/ categorized by:				
4. Lines you owned 4/ that you provided under a UNE loop arrangement, defined in 47 U.S.C. §251. 5/			(must be UNE loop) 96	96
5. Lines you owned 4/ that you provided under a wholesale (Total Service Resale) arrangement, defined in 47 U.S.C. §251. 5/	3,690	24,912	(must be special access) 242	28,844
6. Lines you owned 4/ that you provided under other resale arrangements, such as centrex provided at retail rates for resale. 5/	27	1,029	(must be special access) 27	1,083
7. Lines that you leased 4/ that you in turn provided under UNE, wholesale, or other resale arrangements.	unknown	unknown	(special access + UNE loop) unknown	unknown
8. Total lines that you provided to other communications carriers. [Line 4 + Line 5 + Line 6 + Line 7]	3,717	25,941	(special access + UNE loop) 365	30,023
C. 9. Total voice grade lines. [Line 3 + Line 8]	1,804,589	844,932	(special access + UNE loop) 17,605	2,667,126

10. Contact Person: Elridge Stafford

Contact Telephone #: 202-429-3134

OMB NO: 3060-0816
EXPIRATION DATE: 08/31/1999

Company	USW
State	CO

II. Total voice grade lines 2/ that you owned 4/ that were in service to end users 3/ as of December 31, 1998 categorized by status of your switching center.

	Switching Center Information			
	Residential Switched (a)	Non-Residential Switched 5/ (b)	Special Access and UNE Loops 5/ (c)	Total Voice Grade Lines [(a) + (b) + (c)]
11. Lines in your switching centers where at least one competing communications carrier had an operational collocation arrangement for switched local exchange services.	1,003,302	559,873	12,195	1,575,370
12. Lines in your switching centers where no competing communications carrier had an operational collocation arrangement for switched local exchange services.	801,287	285,059	5,410	1,091,756
13. Total. [Line 11 + Line 12] [also equals Line 1 + Line 4 + Line 5 + Line 6]	1,804,589	844,932	17,605	2,667,126

III. High capacity lines 1/ 2/ in service as of December 31, 1998.

	High Capacity Lines 2/			
	Number of Physical Lines/Channels in Service		Capacity of Lines/Channels in Service	
	(a) T1/T3	(b) Other	(c) T1/T3 (1.544 mbps equivalents)	(d) Other (1.544 mbps equivalents)
A. Lines you used to provide service to end users, 3/ categorized by:				
14. Lines you owned. 4/	4,332	2,776	17,480	682
15. Lines you leased. 4/	unknown	unknown	unknown	unknown
16. Total lines you provided to end users. [Line 14 + Line 15]	4,332	2,776	17,480	682
B. 17. Total lines that you provided to other communications carriers.	151	2	151	2
C. 18. Total lines connecting end users to internet service providers (ISPs) that you provide to the ISP rather than to the end user. 3/	unknown	unknown	unknown	unknown
D. 19. Total high capacity lines that you provided. [Line 16 + Line 17 + Line 18]	4,483	2,778	17,631	684

OMB NO: 3060-0816
EXPIRATION DATE: 08/31/1999

Company: USW

State: CO

IV. Lines and channels 1/ in service as of December 31, 1998 categorized by technology:

	Number of One-Way and Full Broadband 7/ Lines/Channels connected to Residential 5/ Customers			
	(a) One-Way Broadband Provided Over Own Facilities	(b) One-Way Broadband Provided Over Resold Facilities	(c) Full Broadband Provided Over Own Facilities	(d) Full Broadband Provided Over Resold Facilities
20. T1.				
21. T3.				
22. Up to T1 equiv. xDSL. 8/				
23. Greater than T1 equiv. xDSL. 8/				
24. Up to T1 equiv. coaxial (including fiber-fed). 8/				
25. Greater than T1 equiv. coaxial (including fiber-fed). 8/				
26. Optical carrier.				
27. Up to T1 equiv. electrical power line. 8/				
28. Greater than T1 equiv. electrical power line. 8/				
29. Up to T1 equiv. satellite fixed. 8/				
30. Greater than T1 satellite fixed. 8/				
31. Satellite mobile.				
32. Up to T1 equiv. wireless fixed. 8/				
33. Greater than T1 wireless fixed. 8/				
34. Wireless mobile.				
35. Other – up to T1 equiv. 8/				
36. Other – greater than T1 equiv. 8/				

V. Minutes of switched service handled over both voice grade and high capacity lines in the fourth calendar quarter of 1998.

	Minutes		
	Terminating (a)	Originating (b)	Total [(a) + (b)]
37. Total switched local, intrastate toll and interstate toll minutes originated or terminated with end users.	7,875,022,385	8,392,150,280	16,267,172,665
38. Total switched local minutes exchanged with competing local carriers in your service area. (Do not include minutes exchanged with mobile telephony carriers.)	N/A	N/A	N/A
39. Total switched minutes exchanged with mobile telephony carriers.	N/A	N/A	N/A

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Purpose: Data from this survey will be used to describe competition in the local exchange market and to gather information about the deployment of broadband services to residential customers. In addition, the data will be used to identify how much of the competition is provided on a facilities vs. a resale basis. Carriers should file separate data for voice grade and for higher capacity lines. For the voice grade part of the market, carriers should file separate data for residential, non-residential, and special access and UNE loop service.

Use of the term "lines": Interpret "lines" to mean either physical lines or wireless channels whose function is similar to lines. In categorizing lines as voice grade vs. high capacity (Sections I and III) and by type of broadband technology deployment (Section IV), base your response on the portion of the line or channel that connects to the customer's premise.

Entering responses: Leave entries blank only when redacting data for a publicly available version of your response. Use the number "0" (zero) for those values which are known to be zero, including questions that do not apply to your operations. Enter "N.A." only when values are known to be positive but are unavailable for reporting or if you cannot determine whether or not you have anything in that category. Please do not redact "0" or "N.A." responses.

1/ Include vs. exclude: Report in Section I and Section III all lines and channels that connect directly to an end user premises at one end and, at the other end, (directly or indirectly) to a carrier switch or to a network that carries traffic to the public switched telephone network. For example:

include:
- UNE loops provided to other communications carriers even if those carriers were not using those lines to provide service to end users.
- fixed wireless channels.
- symmetric and asymetric xDSL lines that carried customer voice and data to internet protocol, ATM based, or circuit switched networks whence traffic reached the public switched telephone network.
- dedicated lines that connected to an end user at one end, passed through your switch or switching center, and thence connected to another communication carrier's switch or network that carries traffic to the public switched telephone network.

exclude:
- lines provided to carriers that were used for interoffice trunking.
- private lines that connected one customer location directly to another.
- lines not in service even if the lines were on order.
- company official lines.
- mobile satellite, cellular & PCS telephone service.
- lines between your switching center and internet protocol, ATM or circuit switched networks, where you already are reporting the portion of the line between the end user and your switching center, even if you multiplexed those lines and provided higher capacity lines between your switching center and those networks.
- lines that customers cannot use to place calls to subscribers of ordinary telephone service.

Report in Section IV all lines and channels used to provide broadband service to residential customers.

include:
- all residential lines reported as high capacity lines in Section III.
- lines that you use to provide internet access or internet services to residential customers.
- lines to an residential end user that you provide to an internet service provider (ISP) and which the ISP uses to provide internet service to the residential end user.

exclude:
- cable television service and other multi-channel video programming.
- video on demand type service unless it is bundled with internet-type access.

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2/ Voice grade vs. high capacity: Count as one voice grade equivalent line: traditional analog POTS lines, Centrex-CO extensions, and Centrex-CU trunks. Count a UNE loop as a single voice grade equivalent line unless it is specifically provided and equipped as a high capacity line. Classify high capacity lines/channels as T1/T3 vs. all other. Include DS1 and DS3 lines as T1/T3 lines/channels. Include xDSL, coaxial, optical carrier, electrical power, terrestrial fixed wireless and satellite fixed lines/channels as other lines/channels. In completing Section III, report actual line counts and capacity. For example, count eight 1/4 T1 circuits as eight physical lines and as two 1.544 mbps equivalents of capacity. Count optical carrier (SONET) lines as 33 T1 equivalents. Count a T3/DS3 line as 28 1.544 mbps equivalent lines. Count a PRI ISDN line as one 1.544 mbps equivalent line. Classify other digital lines as follows:

	Reporting of Digital Lines/Channels			
	Upstream Data Rate			
Downstream Data Rate	Less than 48 kbps	48 kbps or more but less than 96 kbps	96 kbps up to 200 kbps	More than 200 kbps
Less than 48 kbps	do not report	do not report	do not report	one-way broadband
48 kbps or more but less than 96 kbps	do not report	one voice grade *	one voice grade *	high capacity and one-way broadband
96 kbps up to 200 kbps	do not report	one voice grade *	two voice grade *	high capacity and one-way broadband
More than 200 kbps	one-way broadband	high capacity and one-way broadband	high capacity and one-way broadband	high capacity and full broadband

* As noted above, digital lines are reported as voice grade lines only if they connect directly to an end user premises at one end and, at the other end, to a carrier switch or to a network that carries traffic to the public switched telephone network. For example, Basic Rate ISDN lines are reported as two voice grade lines.

3/ End user vs. carrier vs. ISP: In Section I, separate lines provided to end users from lines provided to other communications carriers under resale or UNE arrangements. In Section III, separate high capacity lines that are connected to end users into three categories: lines that you provided to end users; lines that you provided to other communications carriers; and, lines to end users that you provided to internet service providers (ISPs) that the ISPs incorporated into their own product offerings. Include as end user lines in Section I-A and Section III-A lines billed or marketed by your agents. For example, include as end user lines all lines provided through traditional marketing agency arrangements, as well as lines furnished to shared tenant service providers.

4/ Own vs. lease: Only one filer should report that they own any specific line. Count as lines you own all lines that you actually owned as well as lines obtained from non-communications carriers and used as part of your own system. Count as lines you lease all lines that you obtained from another reporting communications carrier including lines obtained under UNE loop, wholesale (Total Service Resale), or other resale or lease arrangements. For example, if you take a voice grade UNE loop and use it to provide switched access service to a residential customer, report that line in Line 2, column (a).

5/ Residential vs. non-residential vs. special access and UNE loop: Classify lines as residential only if the line terminates with a residential end user. Exclude lines that terminate with business, government, education, shared tenant system, institutional and pay telephone customers. In Section I, classify all lines provided under UNE loop arrangements in column (c). Count a UNE loop as in service if it has been provided to and is being billed to the competing carrier regardless of whether that carrier has the line in service. Classify lines provided for resale as residential vs. non-residential according to the tariff/price list under which the service is provided. If the tariff/price list does not distinguish residential vs. non-residential service, estimate a split based on the demographics of the area in which the lines are provided. Include local private lines connecting an end user with a carrier in column (c). For reporting voice grade lines, classify as special access all dedicated lines connected to an end user at one end, passed through your switch or switching center, and thence connected to another communication carrier's switch or network, even if these were provided under private line rather than special access tariffs. Report high capacity lines in Section III without any separate breakout for switched vs. special access vs. private line. In Section IV, include lines that connect to residential end users including lines billed to residential end users and lines billed to internet service providers that they incorporate into their own service offerings.

6/ A switching center is a location containing one or more switches. Do not count separate three-digit telephone prefixes as separate switching centers. Count a remote as a separate switching center if a competing carrier could obtain a UNE loop tbonlyt at the remote switch rather than at the host switch. Note: this definition of a switching center is different from wire center based definitions of switching centers which include all remote switch locations as switching centers.

7/ One-way vs. full broadband: Classify a line/channel as full broadband if it provides the customer the capability of simultaneously sending and receiving information at a rate greater than 200 kbps. Classify a line/channel as one-way broadband if it provides the customer the capability of sending or receiving information at a rate greater than 200 kbps in one direction but 200 kbps or less in the other direction. As noted in footnote 1, broadband does not include cable TV service.

8/ Up to vs. greater than T1 equiv. broadband: In Section IV, classify xDSL, coaxial, electrical power, satellite fixed, wireless fixed and other lines/channels as greater than T1 equivalent if they provide the residential end user with the capability of transmitting or receiving greater than 1.544 mbps in one direction. Classify other broadband lines/channels as up to T1 equivalent.

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Company	USW
State	CO

Space for comments or explanatory notes.

Line	Comment
2	Unknown - U S WEST is unable to categorize total lines by loop technology.
7	Unknown - U S WEST is unable to categorize total lines by loop technology.
15	Unknown - U S WEST is unable to categorize total lines by loop technology.
18	Unknown - U S WEST is unable to categorize total lines by loop technology.
38-39	N/A = Not Available, U S WEST currently does not track this type of data.

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EXPIRATION DATE: 08/31/1999

EXHIBIT C

THE DENVER POST
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U S West: Repairing the image

Thursday, September 9, 1999

PUC hears U S West complaints

HEARING from Page 1B

during which the number of customer complaints handled by the PUC against U S West skyrocketed.

The Baby Bell blames Colorado's booming growth and points out that companies such as AT&T and MCI WorldCom are reluctant to offer local service to consumers and instead focus on lucrative businesses.

The regional Bell is hiring more repair technicians and devoting more time and effort to construction projects intended to improve the quality of its local phone network. It also is expanding its customer-service staff and taking other steps.

But those excuses and reassurances have failed to temper customer anger.

Glenn Davis, a Conifer physician who began a business making medical house calls," said his business has suffered because he has been unable to get a second phone line from U S West. Davis said he has missed calls and that to avoid tying up his phone line, he reads his e-mail at midnight.

Davis' first business line was installed in November 1998. U S West then told him it would be a while before he could get a second. "It's difficult running a medical business with only one line running into your house," he said.

The next PUC hearing will be at 7 p.m. tonight in Longmont at the Longmont Civic Center Complex.

Static aired on service at PUC forum

By Roger Fillion
Denver Post Business Writer

CONIFER — U S West customers vented their anger over poor telephone service Wednesday night at the government's first public hearing that could lead to financial penalties against the Baby Bell.

Ross Eckel, who lives 11 miles south of this mountain town, told members of the Colorado Public Utilities Commission he's waited more than 1½ years to get residential phone service. He said his sister-in-law was hit by a car because of the lack of service.

"I want to know when U S West is going to give me a telephone," Eckel said during the hearing, the first of five to be held by the PUC along the Front Range.

The agency has opened a probe into charges that Colorado's main provider of local phone service has broken PUC rules governing when customers should get new service and repairs.

The agency's regulations require customers to get basic phone service within 150 days. Eckel said he first requested residential service in March 1998. U S West ultimately gave him a credit for a cellular phone, but the phone doesn't work from Eckel's house.

One evening, his sister-in-law left the home and took a wireless phone outside to a nearby dirt road where she could make a call. But while there a drunken driver plowed into her.

"We've endured an accident due to the fact we don't have a telephone in the residence," Eckel told the more than 50 members of the public that attended the hearing.

Others complained of delays of more than two years for additional phone lines, lengthy delays for repairs and poor service.

"It goes out when it rains. It goes out when it snows," said Jennifer Adelgren of Morrison. "At this point, we have a phone that cannot be used," she added. "It has a constant buzz on it."

The testimony will be entered as formal evidence against U S West while the three-member PUC decides whether to penalize the Baby Bell, which is merging with Qwest Communications International. A similar probe in 1994 led to $5.3 million in penalties.

The latest investigation covers January 1998 through April 1999,

Please see HEARING on 3B

EXHIBIT D

Friday, September 10, 1999 THE DENVER POST

State panel gets another earful about U S West

By Sean Kelly
Special to The Denver Post

LONGMONT — In round two of their public hearings into telephone service by U S West, members of the Colorado Public Utilities Commission heard customers once again tell of their problems in dealing with the telecommunications giant.

Nearly filling the room where the Longmont City Council passed a resolution in March criticizing the company, area residents told the commission how the company has failed to deliver on its promises to provide quality service as required by law.

"I'm getting tired of not being able to have a normal conversation," said Louisville resident Linda Garrett. "I feel like I need two tin cans and a string."

Testimony from the hearings will be used as evidence as the PUC decides whether to punish the company for allegations of poor service between January 1998 and April 1999. A similar inquiry in 1994 led to $5.3 million in penalties.

After listening to four hours of testimony in Conifer on Wednesday night, PUC commissioners took in three-plus hours on Wednesday.

Rising to take the podium and deliver sworn testimony, about 35 Longmont-area residents echoed many of the same complaints regarding bad connections, cross connections, weather-related outages and generally poor service.

"I've been dealing with phones for over 60 years, and I've never had a problem until I dealt with U S West," said D.T. Broun Jr., a summer resident of nearby Allenspark.

The 87-year-old Broun told the three-member commission how U S West has consistently misdelivered his monthly statement to Estes Park and about the difficulty he had in establishing summer service.

"I think U S West has handled me very shabbily. There's no longer anything personal about them. We're dealing with a machine," Broun said to nods of approval and applause from the audience.

As angry residents left the meeting, many talked of seeking help from the state Legislature or joining a class-action lawsuit against the company, which is in the process of merging with Qwest Communications International.

The resolution passed by the Longmont City Council on March 24 urged U S West to install a new, state-of-the-art switching station by Sept. 1. A spokesperson for the company has said the earliest installation date would be the first quarter of 2000.

The resolution also criticized the company for delays in providing Longmont customers with new phone service and repairs. A building boom in Longmont has left U S West scrambling to provide service to new residences and businesses.

"I am frustrated beyond belief," said Longmont resident Todd Marriott. "If anyone else would provide service, I'd sign up in a minute."

> "I'm getting tired of not being able to have a normal conversation. I feel like I need two tin cans and a string."
>
> Linda Garrett
> Louisville resident

While customers, particularly those in more rural areas, complained bitterly of poor treatment by the company, U S West has countered that other companies will not provide local service to these areas, focusing instead on more lucrative business customers.

Thursday's hearing was the second of five public forums scheduled by the PUC. Future hearings will be held on Wednesday in Thornton, Thursday in Colorado Springs, and Sept. 23 in Parker.

EXHIBIT E

tion therewith, in whole or in part, for the use of the city and its inhabitants.

(c) Any exercise of authority pursuant to this chapter, subsequent to acquisition of facilities hereunder, shall be administered through a regular department of the city government under the management and supervision of the city manager [organized] as provided in section 7.1.

(d) The council is hereby granted authority in accordance with section 4.13 to furnish fire protection outside the corporate limits of the city under such terms and conditions as may be agreed upon, subject to the Laws of Colorado applicable to home rule cities.

CHAPTER XVIII. UTILITIES AND FRANCHISES

Sec. 18.1. City powers, functions and authority.

(a) The council shall have, with regard to all public utilities and cable television, all home rule municipal powers, functions, and authority now existing and which may be hereafter provided by the Constitution and the Statutes of the State of Colorado.

(b) Subject to the laws of the State of Colorado applicable to home rule cities and the Constitution of the State of Colorado, the council, upon obtaining a majority vote of the registered taxpaying electors of the city, subject to section 18.1, subsection (c), shall have the power and authority within or without the territorial limits of the city, to construct, condemn, purchase, acquire, and lease public utilities and cable television assets, equipment and everything in relation to or in connection therewith, in whole or in part, for the use of the city and its inhabitants:

(1) The term "public utility" or "public utility corporation" when used in this Charter shall mean any person, firm or corporation operating a heat, power, gas or light system, a communication system, or a water, sewer or scheduled transportation system, and serving or supplying the public. It shall not include any person, firm or corporation owning or operating sidetracks or switches for the accommodation of manufacturing plants and business houses, or private telephone lines, and shall not include city owned utilities.

(c) In the event that it is established by law applicable to home rule cities, that the qualifications for voting on any issued [sic] provided for in this chapter are otherwise than as prescribed in this chapter, then such law shall govern said qualifications.

(d) The council shall further have the power to buy, sell, exchange, lease, own, control and otherwise deal in water rights.

(e) Any exercise of authority pursuant to this chapter, subsequent to acquisition of facilities hereunder, shall be administered through a regular department of the city government under the management and supervision of the city manager organized as provided in section 7.1.

(f) Council, by ordinance, upon recommendation of the city manager, may authorize the extension of any city service or city owned facilities, provided under authority of this chapter, to consumers outside the corporate limits of the city, under such terms and conditions as may be agreed upon, subject to laws applicable to home rule cities.

Sec. 18.2. Use of public places by utilities.

(a) Every public utility, whether it has a franchise or not, may use the city streets, alleys, bridges, and other public places upon such terms, conditions or requirements as are provided by [the] council or by [the] city manager, and such public utility shall pay that part of the cost of improvement or maintenance of city streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and serve the city harmless from all damages arising from said use.

(b) Every such public utility may be required by the city to permit joint use by the city and by other public utilities of its property and appurtenances located in the city streets, alleys or other public places insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor.

In the absence of agreement and upon application by any public utility or by the city, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

Sec. 18.3. Utility rates.

The council shall, by ordinance, establish rates, rules and regulations and extension policies for services provided by city owned utilities, both within and outside the corporate limits of the city.

Sec. 18.4. Present franchises.

All franchise ordinances and agreements of the city in effect at the time this Charter is effective shall remain in full force and effect in accordance with their respective terms and conditions unless modified by another franchise.

Sec. 18.5. Grant of public utility franchises.

(a) Grants of public utility franchises and all extensions, and amendments shall be granted only by ordinance, and no public utility franchise shall be granted except upon the majority vote of the registered taxpaying electors of the city, subject, however, to section 18.1, subsection (c):

(1) No such franchise operation shall be approved by the council for referral to the electorate in less than thirty (30) days after application therefor has been filed with [the] council nor until the grantee named therein has filed with the clerk his unconditional acceptance of all terms of such franchise.

(2) With respect to any franchise, after mutual agreement with the holder of the franchise, the council may, by ordinance, extend the area served by the franchise including streets, alleys, public places and property not originally embraced in such franchise, when public convenience and necessity requires, subject to the terms and conditions of such original franchise, and co-extensive with the terms thereof, without a vote of the registered taxpaying electors of the city, or without a vote of any other electors of the city, if the provisions of section 18.1, subsection (c), should apply. Provided, however, that if provision is made for such extension of facilities in the original franchise agreement, [the] council need not act by ordinance to permit such extension, and the holder of the franchise may proceed to extend facilities in accordance with the terms and conditions of the original franchise.

(3) For the purposes of this Charter, cable television and garbage, trash or rubbish disposal shall not be deemed to be public utilities and permits or licenses for cable television or garbage, trash or rubbish disposal may be granted to one (1) or more companies without a vote of the registered taxpaying electors of the city, or without a vote of any other electors of the city if the provisions of section 18.1, subsection (c), should apply.

(b) No exclusive franchise shall be granted.

(c) No franchise election shall be held until the applicant deposits the cost thereof with the director of finance in an amount determined by the director of finance.

(d) No franchise shall be granted without reserving to the city such fair fee arising from the use thereof as shall be fixed in the grant of such franchise.
(Ord. No. 1016, § 4(54), 2-16-93, passed 4-6-93)

Sec. 18.6. Compensation for franchises.

Every grant of a franchise shall fix the amount and manner of payment of the compensation to be paid by the grantee for the use of the franchise and no other compensation shall be exacted for such use during the life of the franchise. This provision shall not exempt the grantee from any lawful taxation upon his or its property, nor from any license, charges, or other impositions levied by the council, not levied on account of the use granted by the franchise.

Sec. 18.7. Conditions of franchises.

All public utility franchises granted after the effective date of this Charter, whether it be so provided in the granting ordinance or not, shall

be subject to the following rights of the city, except as otherwise provided by the Statutes of Colorado applicable to home rule cities and the Constitution of the State of Colorado; but this enumeration shall not be exclusive or impair the right of the council to insert in such franchise any provision within the power of the city to impose or require:

(a) To repeal the same for inadequate service, for misuse, nonuse or failure to comply with the provisions thereof.

(b) To require proper and adequate extension of plant facilities and service and maintenance thereof at the highest practicable standard of efficiency.

(c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

(d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof.

(e) To use, control, and regulate the use of its streets, alleys, bridges, and other public places and the space above and beneath them.

(f) To permit the city as provided in section 18.1, upon the payment therefor of fair valuation, to purchase and take over the property and plant of the grantee in whole or in part. Such valuation shall be made as provided in the franchise grant or otherwise as provided by law.

(g) To impose such other regulations as may be determined by the council to be conducive to the health, safety, and welfare of the public.

Sec. 18.8. Assignment and leasing of franchises.

(a) No franchise granted by the city shall be leased, assigned, or otherwise alienated without the approval of [the] council given by ordinance and no negotiation with the lessee or assignee on the part of the city to require the performance of any act or the payment of any compensation by the lessee or assignee shall be deemed to operate as such consent. Any assignment, lease or sale of such franchise without the consent of the city shall, at the option of the council, operate as a forfeiture of such franchise.

(b) The right of [the] council to deny any assignment, lease or sale of a franchise is reserved.

(c) [The] council, upon approving any such assignment, lease or sale of a franchise, may impose such reasonable conditions and terms [as may be] deemed necessary.

Sec. 18.9. Railroad facilities.

Subject to the Statutes of Colorado applicable to home rule cities, [the] council may require, upon fair apportionment of the cost, subject to arbitration, any railroad or other transportation system to elevate or lower any of its right-of-way or tracks running over, under, along or across any public thoroughfare; to construct and maintain in good condition with proper approaches and safety devices those street crossings, bridges, viaducts or other conveniences affected by railroad or other transportation system rights-of-way; and to take such other measures for the protection of the health, safety and welfare of the public as are deemed necessary by [the] council.

Sec. 18.10. Revocable permits.

The council may grant a permit at any time for the temporary use or occupation of any street, alley, or city owned place, provided such permit shall be revocable by the council at its pleasure, regardless of whether or not such right to revoke be expressly reserved in such permit.

Sec. 18.11. Franchise records.

(a) The council shall cause to be kept in the office of the city clerk an indexed franchise record which shall contain copies of all public utility franchises granted by the city.

(b) The index shall give the name of the grantee and any assignees. The record shall be a complete history of all such franchises, shall include a convenient reference to all actions at law affecting the same, copies of all annual reports, and such

Chapter 19

STREETS, SIDEWALKS AND PUBLIC PLACES*

Art. I. **In General, §§ 19-1—19-20**
Art. II. **Excavations, §§ 19-21—19-65**
Div. 1. Generally, §§ 19-21—19-40
Div. 2. Permit, §§ 19-41—19-65
Art. III. **Public Benches, §§ 19-66—19-94**
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ARTICLE I. IN GENERAL

Sec. 19-1. Duty of owner, occupant, etc., as to maintenance of sidewalks.

The owner, occupant or agent of the owner of any building, property or lot in the city shall maintain the sidewalks for the property including those on public rights-of-way in a clean condition and remove snow and ice from the sidewalks within twenty-four (24) hours after each snowfall. (Code 1969, § 9-100)

State law reference—Authority for above section, CRS, § 31-15-702(1)(a)(III).

Sec. 19-2. Information regarding location of pipes, etc.

Every person shall furnish upon request to the public works director, information regarding the location in any street, alley, sidewalk or other public place of the city of any pipe or other structure installed, maintained or utilized by the person. (Code 1969, § 16½-29)

State law reference—Underground facilities information filed with county clerk and recorder, CRS, § 9-1.5-103.

Secs. 19-3—19-20. Reserved.

ARTICLE II. EXCAVATIONS*

DIVISION 1. GENERALLY

Sec. 19-21. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Person shall mean and include any person, firm, partnership, association, company, corporation, organization, public or private utility, governmental body or quasi-governmental body including but not limited to cities, towns, counties, the State of Colorado, the United States government, improvement districts, water districts, sanitation districts, sewage disposal districts and any other special districts authorized by law.

*State law reference—Excavations, CRS, § 9-1.5-101 et seq.

*Charter references—Departments created, § 7.1; powers of city manager as to director of public works, § 7.4; director of public works generally, § 7.8; powers, duties and functions of planning commission, § 10.3.

Cross references—Administration generally, Ch. 2; improvement districts, § 8.5-1 et seq.; plumbing code amendments, § 5-154; repair of damage to streets by moving of oversized structures, § 5-180; conditions of street occupancy by cable television franchise grantee, § 6-7; placement of garbage and trash for pickup, § 8-18; solicitation of business upon streets by secondhand dealers, § 9-137; use of public rights-of-way by peddlers, solicitors and transient merchants, § 9-175; auction sales upon public ways, § 9-220; application of motor vehicles and traffic provisions to streets, sidewalks, etc., § 11-3; obstruction of public ways by vendors, § 14-7; subdivisions, § 17-81 et seq.; sidewalks in subdivisions, § 17-129; master plan, § 10.7; rehabilitation of blighted areas, § 10.9; taxation, Ch. XIII; utilities and franchises, Ch. XVIII; general provisions, Ch. XIX.

State law references—Obstructing street, CRS, §§ 18-9-107, 43-5-301; general municipal powers as to streets and alleys, CRS, § 31-15-702; acceptance and improvement of streets, CRS, § 31-23-217; public improvements, CRS, Title 31, Art. 25; water mains and other improvements, CRS, § 31-35-301 et seq.; state, county and municipal highways, CRS, Title 43, Art. 2.

Public works director shall mean the director of public works for the city or any duly authorized agent or representative acting in his stead or on his behalf.
(Code 1969, § 16½-21)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 19-22. Obstruction, hindering of work.

It shall be unlawful to hinder or obstruct any work including any resurfacing operation, cut or excavation operations conducted in accordance with the provisions of this article.
(Code 1969, § 16½-35)

Sec. 19-23. Construction area, time limit.

It shall be unlawful to stop up or to obstruct more than the space of one (1) block and one (1) intersection at any one (1) time in any one (1) street or to keep the same blocked up for more than one (1) day after the repair is completed unless permission is first obtained from the director of public works.
(Code 1969, § 16½-28)

Sec. 19-24. Barricades, other protective devices.

(a) It shall be unlawful for any person to dig or cause to be dug any hole, cut, drain, ditch or any other excavation in any street, alley, sidewalk or other public place belonging to the city, without providing during the nighttime sufficient warning lights to be placed with suitable barricade or temporary fence around the hole, cut, drain, ditch or other excavation. During the daytime, the barricade or temporary fence shall be maintained and kept in place, but warning lights shall not be required.

(b) Every hole, cut, drain, ditch or other excavation in any street, alley, sidewalk or other public place belonging to the city shall be further protected at all times by traffic safety devices as prescribed by the public works director in order to minimize the disruption of the flow of traffic in the vicinity of the work.
(Code 1969, § 16½-30)

State law reference—State traffic-control manual, CRS, § 42-4-501.

Sec. 19-25. Removal of barricades, other protective devices.

It shall be unlawful to damage, displace, remove or interfere with any barricade or temporary fence, warning light or any other safety device which is lawfully placed around or about any hole, cut, drain, ditch or any other excavation or construction work in any street, alley, sidewalk or other public place belonging to the city.
(Code 1969, § 16½-31)

State law reference—Interference with official devices, CRS, § 42-4-508.

Sec. 19-26. Backfills, surface repairs.

(a) Backfills and surface repairs shall be made in accordance with the plans and specifications furnished by the public works director. The plans and specifications shall conform with the standards provided for in section 19-27 and shall be specifically adapted to the particular conditions of travel, load requirements, terrain and subsoil moisture where the backfill is to be affected.

(b) In the event of settlement, subsidence or failure of a repair made by the permittee of a particular excavation or cut or part thereof within a period of one (1) year after the street repair is completed, the permittee who had performed the excavation work shall be notified by the public works director and given reasonable opportunity to correct the condition to the satisfaction of the public works director. If the permittee fails to correct the condition to the satisfaction of the public works director and the city is required to correct the condition, the permittee shall be responsible for the repair costs occasioned thereby in addition to the fees provided for in section 19-49. The permittee shall discontinue any and all other work within the rights-of-way within the city and shall be issued no additional street cut permits until such time as the required repair has been completed and paid for.
(Code 1969, § 16½-33)

Sec. 19-27. Restoration of public property.

(a) Holders of permits issued pursuant to this article doing work in or under flexible or rigid streets shall immediately replace material in their

cuts and compact the material to a density as determined by the public works director in accordance with the *American Association of State Highway Officials Designation T-99.* When the public works director certifies the cut has been filled and the density requirements are met, the permittee shall maintain the cut until such time as the city is able to restore the roadway surface, not to exceed ten (10) working days from the time of completion of the work by the permittee.

(b) Cuts made by any person in any gravel or underdeveloped street or in any borrow ditch in a right-of-way in the city shall be restored by the permittee to its original condition.

(c) If, after due notice by the public works director, the permittee fails to complete his work within forty-eight (48) hours subsequent to the notice, the city may complete the work created by any cut or excavation authorized by permit issued pursuant to this article and all costs of completion shall be charged by the city to the permittee in addition to the permit fees provided for in section 19-49.

(d) If the city manager determines it to be in the best interests of the city to allow or require the permittee to resurface the cut or excavation in or under any flexible or rigid street instead of the city doing so, the city manager may authorize the completion of the job according to his specifications and in his discretion adjust accordingly the permit fees provided for in this article. Provided, however, if the alternate method is determined by the city manager to be in the best interests of the city, the following minimum requirements shall be complied with:

(1) The permittee shall replace the material in the cuts, compact backfill by jetting and rolling or vibrating to the density specified in subsection (a) of this section and resurface the cut immediately with a temporary or permanent type patch.

(2) The backfill shall be surfaced in a manner so as to duplicate the original surface as nearly as careful workmanship and availability or materials permit. However, if the city manager determines it to be necessary and in the best interests of the city, he may require the permittee, at the permittee's expense, to use a temporary patch which may be of cold plant-mixed asphaltic concrete, an adequate treatment of prime oil, or other similar material of such a nature as to yield a smooth driving surface of sufficient durability to endure the period of its intended use.

(e) In asphalt public rights-of-way the required permanent patch shall be the same thickness as the existing in place asphalt, except in no event shall it be less than two and one-half (2½) inches thick. The permanent patch shall consist of hot plant-mixed asphaltic concrete and shall be completed within fifteen (15) days following the availability of the material.

(f) The permittee shall restore the subject site to a condition equal to or better than the condition which existed prior to the commencement of the work. The restoration shall be accomplished within twenty-four (24) hours after completion of the work for which the excavation was made. Any ditches, gutters, culverts, storm sewer works and drainpipes shall be left open, unblocked and in operating condition.

(g) After the restoration has been completed, the city manager shall be notified by the permittee and the site shall be subject to inspection and approval by the city manager.
(Code 1969, § 16½-34)

Secs. 19-28—19-40. Reserved.

DIVISION 2. PERMIT

Sec. 19-41. Required.

(a) It shall be unlawful for any person to dig up, open, excavate or cause to be dug up, opened or excavated any street, alley, sidewalk or other public place belonging to the city without having first secured a permit therefor from the public works director.

(b) The permit shall be kept at the site of the excavation while the work is in progress and shall be exhibited upon request to any police officer, public works director, or to any other authorized representative of the city.

[illegible] city street, alley, sidewalk or other public place belonging to the city without first having obtained a city permit as required by this section shall have all operations suspended by the public works director and shall obtain a city permit applicable to that particular cut or excavation and shall pay twice the usual fee that would have been charged if a permit had properly been obtained prior to making the cut or excavation. The penalty fees are in addition to any charges that may be brought in court for violation of this article.

(d) Any person may make an emergency cut or excavation in a city street, alley, sidewalk or other place belonging to the city. However, the person must, the first working day after making the cut or excavation, notify the public works director of the cut or excavation and obtain a permit and pay the required fees. Should the person fail to make this notification and obtain the required permit, the matter will be dealt with as is provided in subsection (c) of this section.
(Code 1969, § 16½-22)

State law reference—Emergency situations defined, CRS, § 9-1.5-102(2).

Sec. 19-42. Application.

Application for permit to excavate shall be made upon a form provided by the public works director and shall recite specifically and illustrate by sketch or plan the exact location and the approximate depth, length, width, extent, nature and purpose of the excavation desired to be made, the purpose for which the privilege is requested, the duration of time required for the work and the amount of the permit fee and any other pertinent data requested by the public works director.
(Code 1969, § 16½-23)

Sec. 19-43. Bond.

Before any permit required by this division shall be issued to an applicant, the applicant shall file with the finance director a bond in favor of the city in the following amounts:

(1) One thousand dollars ($1,000.00) for projects valued at one thousand dollars ($1,000.00) or less;

[illegible] jects valued at more than one thousand dollars ($1,000.00) and not exceeding two thousand dollars ($2,000.00);

(3) Three thousand dollars ($3,000.00) for projects valued at more than two thousand dollars ($2,000.00) and not exceeding three thousand dollars ($3,000.00);

(4) Four thousand dollars ($4,000.00) for projects valued at more than three thousand dollars ($3,000.00) and not exceeding four thousand dollars ($4,000.00);

(5) Five thousand dollars ($5,000.00) for projects valued at more than four thousand dollars ($4,000.00) and not exceeding five thousand dollars ($5,000.00);

(6) Six thousand dollars ($6,000.00) for projects valued at more than five thousand dollars ($5,000.00) and not exceeding six thousand dollars ($6,000.00);

(7) Seven thousand dollars ($7,000.00) for projects valued at more than six thousand dollars ($6,000.00) and not exceeding seven thousand dollars ($7,000.00);

(8) Eight thousand dollars ($8,000.00) for projects valued at more than seven thousand dollars ($7,000.00) and not exceeding eight thousand dollars ($8,000.00);

(9) Nine thousand dollars ($9,000.00) for projects valued at more than eight thousand dollars ($8,000.00) and not exceeding nine thousand dollars ($9,000.00);

(10) Ten thousand dollars ($10,000.00) for projects valued at more than nine thousand dollars ($9,000.00).

The bond shall be executed by the applicant as principal and at least one (1) surety upon whom service of process may be had in the state. The bond shall be conditioned upon the applicant fully complying with all provisions of the ordinances of the city and of the rules and regulations of the department of public works and upon payment of all judgments and costs rendered against the applicant for any violation of the ordinances of the

city or the statutes of the state or that may be recovered against the applicant by any person for damages arising out of any negligent or wrongful acts of the applicant and the performance of work done pursuant to the permit issued under the provisions of this division. Action on the bond may be brought by any person so aggrieved as beneficiary on the bond. The bond must be approved by the finance director as to form and as to the responsibility of the surety thereon prior to the issuance of the permit provided for in this division. Provided, however, the finance director may waive the requirements of any such bond or permit the applicant to post his bond without surety thereon upon finding that the applicant has financial stability and assets located in the state to satisfy any claims intended to be protected against by the bond required by this section.
(Code 1969, § 16½-37)

Sec. 19-44. Insurance.

Every applicant, before being granted a permit under the provisions of this division, shall, in addition to the filing fee required in section 19-49 and in addition to the permit bond required by section 19-43 furnish the city with proof of insurance in such form as is approved by the public works director with an insurance company licensed to do business in the state with the following provisions for coverage:

(1) Bodily injury liability including motor vehicle in the amount of:

a. One hundred thousand dollars ($100,000.00) each person;
b. Three hundred thousand dollars ($300,000.00) each accident.

(2) Property damage liability including motor vehicle in the amount of:

a. Twenty-five thousand dollars ($25,000.00) each occurrence;
b. Fifty thousand dollars ($50,000.00) aggregate.

Proof of insurance shall be specified for all operations of the permittee and for all of his vehicles to be used in the course of his operations in the city.
(Code 1969, § 16½-38)

Sec. 19-45. Conditions.

(a) All permits shall be issued pursuant to this division according to the provisions of this article and subject to the rules, directions and limitations regarding the time to be required for the work and the manner in which the work is to be performed as the public works director may prescribe.

(b) The permits issued shall be on the condition that all work performed thereunder shall be in accordance with this article and the requirements of the public works director, all of which are intended to provide for the proper care and protection of the streets, alleys, sidewalks and other public places of the city and persons and property of the general public.

(c) Further, all permits issued shall be on the condition that all work done thereunder shall be only the work allowed by the city and specified in a contract with the city or the permit issued pursuant to this division.

(d) Permits shall be issued pursuant to the provisions of this division only to those persons who are licensed as excavators or determined by the public works director to be duly qualified as excavators or licensed sewer contractors, structural contractors, special contractors, sidewalk contractors, paving contractors, general contractors, sewer layers or plumbers performing the work for which they are licensed.
(Code 1969, § 16½-26)

Sec. 19-46. Inquiry to utility companies.

The applicant for any permit required by this division shall be directed and is hereby required to inquire of the utility companies as to the location of underground facilities which might be affected by the proposed cut or excavation.
(Code 1969, § 16½-32)

State law reference—Notice of excavation, CRS, § 9-1.5-103.

Sec. 19-47. Boring, jacking, tunneling.

If the public works director determines it to be in the best interests of the city to require the applicant for a permit required by this division to bore, jack or tunnel a utility line or other line

[illegible] be placed in the public right-of-way, instead of making a street cut or excavation therefor, he shall have authority to impose the requirement and issue a permit for the boring, jacking or tunneling.
(Code 1969, § 16½-25)

Sec. 19-48. Liability of persons for damages.

Any person who shall undertake work pursuant to a permit issued under the provisions of this division or to perform work under contracts with the city or by virtue of permission obtained from the city council, shall be answerable for any damage occasioned to persons, animals or property by reason of carelessness or negligence connected with the work and by obtaining a permit for the work shall thereby impliedly consent and agree to hold the city harmless from any damage or injury.
(Code 1969,§ 16½-36)

State law reference—Damage to underground facility, CRS, § 9-1.5-103.

Sec. 19-49. Fees.

(a) Each applicant for a permit required by this division shall pay a fee to the city manager before the issuance of any permit under the provisions of this division for administrative, inspection and replacement costs incurred by the city due to excavation or other related work pursuant to this article. No permit issued under the provisions of this division shall be for more than one (1) project unless otherwise specifically provided by the public works director.

(b) The city manager reserves the right to waive the permit fee requirements, provided that in no event shall any such waiver result in a cost to the city.

(c) Current fee schedules shall be maintained on file at the city public works building, 4407 East 60th Avenue, Commerce City, Colorado 80022, and shall be open to examination during normal business hours.

(d) The schedules shall be reviewed periodically by the city manager. The results of the review shall be presented to the city council. The city council shall then review and adopt the schedules based upon all administration, inspection and replacement costs of permit procedures to the city.
(Code 1969, § 16½-27)

Sec. 19-50. Issuance.

(a) *Authority of public works director.* The public works director is hereby authorized to grant permits to dig in, cut, open, excavate or cause to be dug up, opened, cut or excavated any street, alley, sidewalk or other public place belonging to the city to persons desiring to do the work for which a city permit is required pursuant to the provisions of this division.

(b) *Considerations.* If the public works director finds that issuance of any permit pursuant to this division would be contrary to the public health, safety and welfare of the citizens of this city, the public works director shall deny the permit. In considering whether or not any permit shall be granted pursuant to the provisions of this division, the public works director shall consider the following:

(1) The period of time and the severity of any adverse effect of the proposed excavation upon traffic in the city;

(2) Whether the proposed excavation would serve a public purpose beneficial to the inhabitants of the city;

(3) The effect of the proposed excavation upon the use and enjoyment of property adjacent to the proposed excavation including the period of time and severity of any such adverse effect;

(4) Whether the proposed excavation is of such magnitude that restoration of the public right-of-way to the condition that existed prior to the excavation would be impossible, improbable or impractical;

(5) Whether the proposed project would involve placement of facilities in the city right-of-way that would or foreseeably could interfere with existing facilities located in the city right-of-way;

(6) Whether the proposed excavation would or foreseeably could interfere with existing facilities located in the city right-of-way;

(7) Whether the applicant has in the past exhibited a lack of responsibility by failing to comply with the requirements of the city in the making of excavations and/or in the clean-up of the site after excavations, in the city-owned property.

(Code 1969, § 16½-24(a), (b))

Sec. 19-51. Denial, appeal.

(a) If the applicant is refused issuance of the permit by the public works director and the applicant desires to appeal that decision, the applicant shall apply to the city council in writing for review of the decision of the public works director within ten (10) days of receipt of the written decision by the public works director. Upon receipt of the request for review, the city council shall set a public hearing to be held within forty-five (45) days of receipt by the city council of the request for review of the decision. Notice of the public hearing by the city council shall be given by one (1) publication in a newspaper of general circulation within the city stating the time, place and purpose of the hearing. The notice shall be given at least six (6) days and not more than fourteen (14) days, not counting the date of publication or the date of hearing, prior to the hearing date.

(b) If the city council, after public hearing, denies the appeal of the applicant and sustains the decision of the public works director, the applicant shall appeal the decision of the city council to a district court of competent jurisdiction to Rule 106(a)(4) of the Colorado Rules of Civil Procedure within thirty (30) days from the date of final action taken by the city council or the claims of the applicant shall be forever barred.

(Code 1969, § 16½-24(c), (d))

Charter reference—Definition of publication and mailing of notices, § 19.5.

State law reference—Rules of Civil Procedure, CRS, Vol. 7A, Ch. 1 et seq.

Sec. 19-52. Records.

The public works director shall keep a record of all applications made for excavation or cut permits and of the permits so issued.

(Code 1969, § 16½-29)

Secs. 19-53—19-65. Reserved.

ARTICLE III. PUBLIC BENCHES

DIVISION 1. GENERALLY

Sec. 19-66. Administration, enforcement.

The city manager is vested with the administration and enforcement of this article and shall have power to make reasonable regulations for the carrying out of the provisions of this article. He may increase the number of benches authorized pursuant to any permit provided that he first finds that the holder of the permit is in compliance with the provisions of this article and that the location of any additional benches pursuant to an issued permit shall satisfy the requirements of this article. The city manager shall have the authority to reduce the number of benches authorized pursuant to any permit if a bench site is not occupied by a bench during any period of thirty (30) consecutive days of the permit.

(Code 1969, § 16½-52; Ord. No. 625, § 2, 3-8-82)

Sec. 19-67. Specifications.

All benches placed pursuant to this shall confirm to the following:

(1) No bench shall carry an advertisement or sign containing any vulgar or obscene word or picture, and only such advertising matter shall be placed thereon as is ordinarily displayed by other advertising mediums. No advertisement or sign or any other word or words shall be placed on any bench which might mislead or distract traffic or be distracting to the environment or the property of the neighborhood.

(2) No bench shall be more than forty-two (42) inches high, nor more than two (2) feet, six (6) inches wide, nor more than seven (7) feet long.

(3) Not more than two (2) benches may be maintained at any one (1) location without a special finding by the city manager that the public convenience requires more than two (2) benches at the location. Benches shall be located only at bus stops. The permittee shall inspect each bench periodically.

- No bench shall be maintained in any alley, nor at any location where the distance from the face of the curb to the property line is less than ten (10) feet unless the city manager finds in his written approval of the application that to maintain a bench at such location is in the public interest.

(5) Advertising shall be displayed only on the front and rear surfaces of the back rest.

(6) No bench shall be positioned or aligned in a manner which creates an obstruction to vision or traffic. Any bench which is determined by the city manager to obstruct the vision of traffic shall be repositioned in a manner to eliminate the obstruction or removed by the permittee at the request of the city manager.

(Code 1969, § 16½-59; Ord. No. 625, § 7, 3-8-82)

State law references—Obscenity, CRS, § 18-7-101 et seq.; removal of traffic hazards, CRS, § 42-4-114; display of unauthorized traffic-control devices, etc., CRS, § 42-4-507.

Sec. 19-68. Maintenance.

The holder of a permit required by this division shall maintain the bench, and the immediate area occupied by the bench in a safe and sightly manner. If the permittee fails to comply with this section, the city manager may revoke the permit and remove and store the bench and charge the cost thereof to the permittee. The permittee may recover the bench if he pays the costs within sixty (60) days after the removal and mailing, return receipt requested, to the permittee of legal notice of the removal. If the permittee desires to appeal the action of the city manager, a written request for hearing before the city council shall be submitted to the city clerk within ten (10) days after the legal notice is sent to the permittee of the adverse action by the city manager.

(Code 1969, § 16½-57; Ord. No. 625, § 6, 3-8-82)

Charter reference—Definition of publication and mailing of notices, § 19.5.

Sec. 19-69. Notification of claim.

The city shall immediately notify the holder of the permit required by this article of any claim of which the city has notice, where the claim arises from the installation or maintenance of any bench installed pursuant to this article.

(Code 1969, § 16½-62)

Sec. 19-70. Grounds for removal.

(a) The city manager shall have the authority to order the removal of any bench which has been installed pursuant to this article on the following grounds:

(1) If the maintaining of the bench at a particular location obstructs the view along a public way or creates a hazard to persons traveling on the public way;

(2) If the position or alignment of the bench creates an obstruction to the vision of traffic.

(b) Any bench which is determined by the manager to obstruct the vision of traffic shall be repositioned in a manner to eliminate the obstruction or be removed by the permittee.

(c) If a bench is ordered removed pursuant to this section, the provisions of section 19-71 shall apply with regard to the adjustments of any fees due by the permittee.

(Code 1969, § 16½-60)

Sec. 19-71. Refund of fees.

If a bench is ordered removed under this article where the holder of the permit required by this article is not in default, the city shall refund the fee to the permittee. No refund of fees shall be given upon denial of an initial application pursuant to this article.

(Code 1969, § 16½-58)

Secs. 19-72—19-85. Reserved.

DIVISION 2. PERMIT

Sec. 19-86. Required.

(a) It shall be unlawful for any person to install, erect or maintain any public bench upon public property in the city without first having secured a permit therefor as provided in this division.

(b) It shall be unlawful for any person to place advertising upon any public bench on public prop-

erty within the city without having first secured a permit therefor as provided in this division.
(Code 1969, § 16½-50)

Sec. 19-87. Filing of application.

Application for permit to erect, install and maintain public benches upon public property and to place advertising thereon shall be made upon a form provided by the city manager. The application shall give the location of the proposed bench or benches at bus stops in the city and such other information as the city manager may require. No application shall be made for less than ten (10) benches and one (1) permit may be issued for ten (10) or more benches, provided, however, that a separate permit fee shall be paid for each bench. Applications for permits required by this division shall only be considered during the period October 1 to November 15 of each calendar year with the effective date of any permit to be the following January 1.
(Code 1969, § 16½-51; Ord. No. 625, § 1, 3-8-82)

Sec. 19-88. Application fee.

Each application for issuance of a permit required by this division or for renewal thereof shall be accompanied by a fee to be set by resolution of the city council which shall remain in effect until such resolution is amended by action of the city council.
(Code 1969, § 16½-53; Ord. No. 625, § 3, 3-8-82; Ord. No. 785, § 1, 12-8-86)

Sec. 19-89. Consideration of application.

In any case where an application for a permit required by this division is submitted, the city manager shall act upon the same within a reasonable time of receipt of the application. In reviewing any application, the city manager shall consider the qualifications of the applicant, and any other relevant evidence to determine whether issuance of the permit would be in the best interests of the public health, safety and welfare. No application shall be approved for less than placement of ten (10) benches nor until the applicant shows proof of ability to comply with all ordinances of the city, including the provisions of this article.
(Code 1969, § 16½-55; Ord. No. 625, § 5, 3-8-82; Ord. No. 785, § 2, 12-8-86)

Sec. 19-90. Insurance, hold harmless agreement.

The holder of a permit required by this division shall defend at his own expense any litigation arising from the installation or maintenance of a bench for which he has obtained a permit. The permittee shall issue an endorsed insurance certificate to save the city harmless from any damages or suit for damages alleged to arise from the installation or maintenance of any bench. Evidence of public liability insurance in the amounts stated in this section shall be filed at or prior to the time of filing application for each permit with the city manager:

(1)	For death or injury of one (1) person	$300,000.00
(2)	For property damage	50,000.00
(3)	Total limit of liability (personal injury)	300,000.00

One (1) endorsed insurance certificate may be filed to cover the maintenance of any number of benches.
(Code 1969, § 16½-61)

Sec. 19-91. Denial, suspension or revocation.

The application for a permit required by this division shall be denied or the permit suspended or revoked under the following circumstances:

(1) If the city manager finds that the maintenance of a bench at the proposed or designated location would tend or does obstruct passage along a public way or would tend or does create a hazard to persons traveling thereon, the application shall be denied or if already issued, the permit shall be revoked.

(2) If the property owners or occupants residing within the immediate area of any bench location, protest in writing that they will or have been adversely affected by the main-

tenance of the bench, the city manager shall hear their protests, upon reasonable notice to the person maintaining the bench. If, after hearing, the city manager finds that the public would be, or has been, adversely affected by reason of maintenance of the bench, the city manager shall deny the application or if the application has been approved, the permit to maintain the bench shall be revoked and the permittee directed to remove the same within thirty (30) days. If the permittee does not remove the bench within such time, the city manager may cause the same to be removed as provided in section 19-68.

(3) If the city manager determines, after hearing, that the space occupied by the bench is needed for other public purposes and that removal of the bench from the location if in the best interests of the city, the permit shall be revoked.

(4) If the city manager determines, after hearing, that the permittee has violated any of the provisions of this article, the permit shall be suspended or revoked, if the application has been approved, and denied if the application is pending, provided that such action is determined by the city manager to be in the best interests of the public health, safety and welfare.

(Code 1969, §§ 16½-56, 16½-64; Ord. No. 785, § 3, 12-8-86)

Sec. 19-92. Transfer.

No permit issued pursuant to the provisions of this division shall be assigned by the permittee without the consent of the city manager.

(Code 1969, § 16½-67; Ord. No. 785, § 4, 12-8-86)

Sec. 19-93. Expiration.

Any permit authorized by this division shall expire on December 31 following the date of issuance.

(Code 1969, § 16½-65; Ord. No. 625, § 9, 3-8-82)

Sec. 19-94. Renewal.

An application for renewal of any permit granted pursuant to this division shall be submitted to the city manager or his designated representative at least forty-five (45) days prior to expiration of the permit. The application shall then be reviewed as provided in section 19-89. Each permit issued hereunder must be renewed annually as provided herein to avoid expiration.

(Code 1969, § 16½-65; Ord. No. 625, § 9, 3-8-82; Ord. No. 785, § 5, 12-8-86)

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EXHIBIT F