

ORDINANCE NO. 96

AN ORDINANCE GOVERNING THE OPERATION OF CABLE TELEVISION COMPANIES TO OWN AND OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE TOWN OF ENNIS, COUNTY OF MADISON, MONTANA, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF SUCH CONTRACTS, AND PROVIDING FOR THE REGULATION AND USE OF SAID SYSTEM.

BE IT ORDERED BY THE TOWN COUNCIL OF THE TOWN OF ENNIS:

SECTION 1: DEFINITIONS: For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, word in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Town is the town of Ennis in the State of Montana, and the grantor of rights under this Ordinance awarding a non-exclusive franchise.

(2) "County" is the County of Madison in the State of Montana.

(3) "Company" is the grantee of rights under this Ordinance awarding a non-exclusive franchise.

(4) "Person" is any person, firm, partnership, association, corporation, Company or organization of any kind.

(5) "Cable Television System" or "Systems: shall mean a system of antennas, cables, wires, lines, towers, waveguides, or other conductors, convertors, equipment or facilities, designed and constructed for the purpose of producing, receiving, amplifying and distributing, audio, video and other forms of electronic or electrical signals, located in the town of Ennis, County of Madison.

SECTION 2: RECORDS AND REPORTS. The Company shall keep full, true, accurate and current books of account, which books and record shall be made available for inspection and copying by the Mayor or the Town Council or its authorized representative at all reasonable times.

SECTION 3: LIABILITY AND INDEMNIFICATION. The Company shall pay and by its acceptance of any letter of intent to operate a cable system the

Company expressly agrees that it will pay, all damages and penalties which the Town may legally be required to pay as a result of the Company's negligence in the installation, operation, or maintenance of the Cable Television System authorized herein. The Town shall notify the Company's representative within fifteen (15) days after the presentation of any claim or demand to the Town, whether by suit or otherwise, made against the Town on account of any negligence or contract as aforesaid on the part of the Company. The Company further agrees as follows:

(a) Company shall carry Worker's Compensation Insurance with statutory limits, and Employer's Liability Insurance with limits of not less than One Hundred Thousand (\$100,000.00) Dollars, which shall cover all operations to be performed by Company as a result of this Ordinance.

(b) Company shall carry Comprehensive General Liability and Comprehensive Automobile Liability Insurance with bodily injury limits of not less than Three Hundred Thousand (\$300,000.00) Dollars.

(c) Company's Worker's Compensation, Comprehensive General Liability and Comprehensive Automobile Liability Insurance shall be written by an insurance Company with a capital and/or surplus of not less than Three Million (\$3,000,000.00) Dollars, and Company agrees to furnish Town with certified copies or certificates of insurance of said policies, which shall prove that insurance shall not be cancelled unless ten days' prior written notice shall first be given to Town.

SECTION 4: SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURES.

(a) Upon grant of a Franchise to construct and maintain a community television system in the Town, the Company may enter into contracts with Light, Gas and Water Division of the Town, any Public Utility Companies or other owner or lessee of any poles located within or without the Town to whatever extent such contract or contracts may be expedient and of advantage to the Company for the use of poles and posts necessary for proper installation of the System, obtain right of way permits from appropriate State, County and Federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the Company's receiving antennas, obtain permission from the Federal Aviation Authority to erect and

maintain antennas suitable to the needs of the System and its subscribers and obtain whatever other permits a County, State or Federal Agency may require. In the construction, installation and maintenance of its System, the Company will use steel, cable and electronic devices, all of specialized and advanced design and type, in the operation of its System, the Company will employ personnel with training, skill and experience in electronics and communications. Neither material nor personnel of this sort will be available to the Company for its System in the event of a war or other similar national emergency.

(b) The Company's system, poles, wires, and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of person, or interfere with any improvement the Town may deem property to make, or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.

(c) All transmission and distribution structures, lines and equipment erected by the Company within the Town shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.

(d) In case of any disturbance of pavement sidewalk, driveway, or other surfacing, the Company shall, at its own cost and expense and in a manner approved by the Town, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced.

(e) In the event that at any time during the period of any letter of intent the Town shall lawfully elect to alter, or change the grade of any street, alley or other public way, the Company upon reasonable notice by the Town, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(f) The Company shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant or main, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalks and

inside curb line, and those placed in alley shall be placed close to the line of the lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said streets, alleys and public ways.

(g) The Company shall, on the request of any person holding a building moving permit, issued by the Town, temporarily raise or lower its wires to permit the moving of building. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Company shall have the authority to require such payment in advance. The Company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

SECTION 5: LINE EXTENSIONS.

(a) It shall be the obligation of Company to serve all residents of the Town service area except to the extent that density of homes, adverse terrain and other factors render providing service impracticable, technically infeasible or economically noncompensatory. For purpose of determining compliance with the provisions of this Section, and to provide for a reasonable and nondiscriminatory policy governing extension of cable service within the Town, the Company shall extend service to new subscribers, at the normal installation charge and monthly rate for customers of that classification, under the following terms and conditions:

(1) Where the new subscriber, or nearest subscriber of a group of new subscribers is located within 500 feet of existing trunk cable, and

(2) Where the number of homes to be passed by such new extension cable plant bears the same proportional ratio to the total amount of new cable plant as the average number of homes passed per mile of existing cable plant.

SECTION 6: COMPLIANCE WITH STANDARDS. All facilities and equipment of Company shall be constructed and maintained in accordance with the requirements and specifications of the National Electrical Safety Code and such applicable ordinances and regulations set forth by the Town and/or any other Local, State or Federal agencies.

SECTION 7: COMPANY RULES AND REGULATIONS. The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this Franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of Federal and State laws.

SECTION 8: COMPLIANCE WITH FCC RULES AND REGULATIONS. The Company shall, at all time, comply with the rules and regulations governing CATV operations promulgated by the FCC, specifically those set out in Section 76.31 of the FCC Rules and Regulations. This shall include adherence by the Company to FCC rules regarding technical and engineering specifications involved in the construction of the CATV System and signal carriage therein.

SECTION 9: SERVICE AREA. The Company shall serve the residents of Ennis, Montana within the town limits.

SECTION 10: SEVERABILITY.

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

(b) Should any provisions of this Franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.

SECTION 11: ORDINANCES REPEALED. All ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 12: RATE INCREASE. No increase in subscriber rates shall take place without prior approval of the Town Council.

SECTION 13: FINANCIAL STATEMENTS. The Company shall furnish to the Town Council semiannual financial statements.

SECTION 14: BE FURTHER ORDAINED that this Ordinance take effect from the date it shall have been passed by the appropriate authoritative body, and become effective as otherwise provided by law.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 13th day of February, 1992

R. Neil Brandy
MAYOR

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

ATTEST:

Dorinda M. Allison
TOWN CLERK

(SEAL)

First reading 1-9-92
Second reading 1-29-92

AFFIDAVIT OF PUBLICATION

STATE OF MONTANA }
County of Madison } SS.

Daryl L. Tihenor

being duly sworn says that he is publisher and printer of The Madisonian, a weekly newspaper published in the City of Virginia City, County of Madison, State of Montana; that the annexed notice is a true copy which was published in said

newspaper for a period of 2

successive weeks, commencing on the 6th

day of February, 1992

and ending on the 13th day of

February, 1992

Daryl L. Tihenor
Publisher and Printer.

Subscribed and sworn to before me this 5th

day of March, 1992

Jami L. Christensen

Notary Public in and for the State of Montana,
residing at Virginia City, Montana. My commission

expires Jan 31, 1993



ORDINANCE NO. 96
An ordinance governing the operation of cable television companies to own and operate and maintain a cable television system in the Town of Ennis, County of Madison, Montana, setting forth conditions accompanying the grant of such contracts, and providing for the regulation and use of said system.
This entire ordinance can be seen at the office of the Town of Ennis.
Respectfully submitted,
Pamela M. Allison
Town Clerk, Town of Ennis
(Pub. Feb. 6, 13, 1992) et