

ORDINANCE NO. 394

AN ORDINANCE AUTHORIZING THE GRANTING OF A REVOCABLE PERMIT TO OPERATE WITHIN THE CITY OF LAS ANIMAS, COLORADO, A SYSTEM FOR RECEPTION AND DISTRIBUTION OF PICTURES AND SOUND BY CABLE AND PROVIDING CONDITIONS AND REGULATIONS THEREWITH; PROHIBITING THE OPERATION OF SUCH A SYSTEM WITHOUT SUCH PERMITS; AND PRESCRIBING THE PENALTY FOR VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS, COLORADO:

Section 1. An exclusive revocable permit to install, operate and maintain a Cable Distribution System within all or any portion of the city of Las Animas, Colorado, hereinafter sometimes called "City", shall first be obtained from the City Council before any person, firm or corporation commences to operate a Cable Distribution System within the city and said permit shall be obtained under and pursuant to the terms and provisions of this ordinance. A Cable Distribution System, sometimes hereinafter called "Cable Company" or "Permittee", means any facility which in whole, or in part, receives, amplifies or otherwise converts the signals broadcast by one or more television or radio stations or transmits programs originating locally and distributes such signals by wire or cable to subscribing members of the public who pay for such service.

Section 2. All construction and installation by a permittee shall comply with all existing and future ordinances and regulations of the city of Las Animas. The granting of a permit under the provisions of this ordinance shall be a grant of permission to construct, operate and maintain all facilities necessary or appropriate for its system in, under, above, along and upon the streets, avenues, alleys, sidewalks, bridges, viaducts, easements for public or utilities and other city property now or hereafter existing. This permit shall not operate or be construed to abridge, restrict, or in any way limit the city's right to utilize the surface, sub-surface or air space overlying the surface of any of its streets, avenues, alleys, sidewalks, bridges, viaducts, easements for the public or utilities and other city property for municipal purposes or for public use. The construction, operation and maintenance of permittee's transmission and distribution system shall be carried out in a manner which will not unnecessarily hinder or obstruct the free use of the streets or endanger persons or property. A permittee shall at its own expense modify its transmission and distribution system when necessary to avoid such hinderence, obstruction or danger.

Any poles, wires, cables, lines, vaults, conductors, installations or facilities to be constructed or installed in streets or public ways shall be so constructed or installed only at such locations and in such manner as approved by the Superintendent of Public Works or his duly authorized representative.

Section 3. It is understood, and a permittee shall agree thereto, that in accepting the permit provided for in this ordinance, all utility poles in streets and public ways in the city of Las Animas are presently owned, maintained and controlled by utility companies; that cables and other conduits, appliances and facilities necessary to conduct the cable company's business shall

be provided or allowed only in any one or a combination of the following manner:

a. The permittee shall arrange with the utility company or companies to use the poles and other facilities necessary to operate its system under such reasonable rules and regulations for the installation, repair and maintenance of such cables and facilities as may be agreed to by the cable company and such utility companies; evidence of such agreement shall be furnished to the city.

b. A permittee may arrange with the telephone company that the telephone company furnish to a permittee cable facilities and appurtenant service necessary for the operation of a permittee's system and if such arrangement is made the permittee shall furnish evidence of the same to the city.

In the areas where utility poles are not in existence and it would not be detrimental to allow poles to be erected, the permittee is authorized to construct, install, operate and maintain on, under and above the streets and public ways of the city such poles, lines, cables, wiring, conductors, vaults and related facilities and appurtenances as are necessary for the purpose of originating, receiving, amplifying and distributing television and radio signals in the conduct of its business. In those areas of the city where public utility lines are underground or thereafter may be placed underground, a permittee shall likewise construct, install and operate all its lines, cables and other facilities underground. Any streets or sidewalks damaged or disturbed in the construction or operation of permittee's poles, cables and other installations shall be promptly repaired and restored by permittee at its expense to the satisfaction of the city. If the city elects to change the grade of any street or any public way to vacate or otherwise alter the same, permittee shall relocate its poles and other installations at its expense.

Section 4. A cable company granted a permit under the provisions of this ordinance shall commence construction and installation of its facilities within two years after the effective date of the permit unless the City Council of the city of Las Animas by resolution shall extend the time for commencement of such installation or unless commencement is delayed by any state or federal agencies asserting jurisdiction to regulate the operations described herein or by strikes, fires or act of God.

Section 5. Permittee shall not engage in the business of selling time or advertising, renting, repairing, selling or installing television sets, radios, antennas or other electronic devices for the reception of electronic signals, except those required by its system without the prior approval of the City Council of the city of Las Animas duly given by resolution.

Section 6. Charges made by permittee for its services including installation, repair, removal and monthly service charges shall be uniform for the same or similar services and shall be according to maximum rates as established by permittee and approved by the City Council. No rate shall be increased above the maximum approved without reapproval by the council.

Section 7. The company shall establish and at all times maintain reasonable standards of service and performance to its customers consistent with generally accepted practices and standards in the industry of cable distribution systems.

Section 8. A permittee shall operate its system so as not to interfere with the direct broadcast or reception of other signals whether television, radio, telephone or telegraph signals.

Section 9. A permittee's C.A.T.V. system and its services shall be made available in every part of the city except in those areas, if any, where it appears there are not sufficient potentials users to make the installation and operation of the system economically feasible; provided, however, that the City Council upon complaint that service is not furnished may determine whether or not it is feasible and proper to furnish such service in the area wherein requested. The facilities constructed or operated by permittee in connection with its system may also be used to provide service to areas outside of the city.

Section 10. The cable system operated by permittee shall deliver satisfactory television signals from at least the following T.V. stations:

<u>Air Channel</u>	<u>Station</u>	<u>City</u>
2	KWGN-TV	Denver
5	KOAA-TV	Pueblo
6	KRNA-TV	Denver
11	KKTV-TV	Colorado Springs
13	KRDO-TV	Colorado Springs

Section 11. Permittee will on request therefor provide and furnish without charge to the City Hall of the city of Las Animas, to each public school in the city, to Bent County Memorial Hospital one service outlet for main regular channel television reception for educational and other programing or reception furnished by the permittee.

Section 12. The installation, construction, operation and the maintenance of a permittee's C.A.T.V. system and the conduct of its business shall comply with the current federal, state and city laws, regulations and ordinances applicable thereto and all laws, ordinances and regulations hereafter passed or adopted.

Section 13. A permittee shall indemnify, protect and hold harmless the city of Las Animas from any and all liability for losses and physical damages to property and bodily injury or death to persons including payments made under any workmen's compensation law, which may arise out of or because of erection, maintenance, presence, use or removal of said facilities within the city or by any act of permittee its agents or employees. Permittee shall carry insurance to protect parties hereto from and against all claims, demands, actions, judgments, costs, expenses, and liability which may arise as a result, directly or indirectly, from or by reason of such loss, injury or damage. The amounts

of such insurance against liability due to physical damage to property shall be not less than \$100,000.00 as to any one accident, and not less than \$300,000.00 aggregate in any single policy year; and against liability due to bodily injury or to death of persons not less than \$100,000.00 as to any person and not less than \$300,000.00 as to any one incident. Permittee shall also carry such insurance as it considers necessary to protect it from all claims under any Workmen's Compensation laws in effect that may be applicable to permittee. All insurance required by this ordinance shall be and remain in full force and effect for the entire life of this ordinance or as long as the permittee is operating under its terms.

Section 14. A permittee shall furnish a bond to the city of Las Animas in the sum of \$5,000.00, which shall remain in full force and effect throughout the term of any permit granted under the provisions of this ordinance, to guarantee the payment of all sums which may become due to the city for rentals inspections or work performed for the benefit of the cable company through this ordinance and a permit granted thereunder and such bond shall guarantee to the city the performance by the cable company of all the provisions of this ordinance and all laws, rules and regulations herein permitted or hereafter adopted and enforced.

Section 15. A permittee shall quarterly pay to the city 5% of its gross revenue and receipts derived from the conduct of its business in the city. Within 30 days after the end of each calendar year, permittee shall file with the city a financial statement prepared by a certified public accountant showing in detail the gross receipts for the preceding calendar year. The city shall have the right to inspect a permittee's books and records showing such receipts.

Section 16. Any person, firm or corporation desiring a permit for a C.A.T.V. system in the city shall file a written application with the city clerk setting forth among other things the charges made by permittee for its services including installation, repair, removal and monthly service charges, a statement showing the financial condition, responsibility and resources of the applicant, the experience of the applicant in the C.A.T.V. field and similar businesses, the ability of the applicant to furnish efficient and dependable service to the public and potential users of C.A.T.V. in the city, the channels or program coverage service of the applicant and any particular features thereof and other pertinent information bearing upon the quality, scope and type of service.

Section 17. The city expressly reserves the right to revoke any permit granted pursuant to this ordinance. Such revocation shall be accomplished by resolution duly adopted after a hearing held, after reasonable notice to a permittee at which time permittee shall be permitted to present evidence, opinions and arguments relating to such revocation. Permittee shall within one year after the effective date of any revocation remove its facilities from the city streets and cease operations therein.

Section 18. Any permit granted under the provisions of this ordinance shall not be assignable by a cable company except with the written consent of the City Council of the city of Las Animas.

Section 19. Installation, operation or maintenance of a cable distribution system within the city limits of the city of Las Animas without first obtaining a permit therefor as herein provided, shall be unlawful and a violation of the within ordinance and shall subject the violator to the penalty hereinafter provided.

Section 20. Any person who violates any provision of this ordinance shall upon conviction thereof be punished as follows:

(a) No fine or imprisonment shall exceed the following limits:

- (1) Fines, three hundred dollars (\$300.00); or
- (2) Imprisonment, ninety (90) days; or
- (3) A combination of both and imprisonment within the designated limits.

(b) Each day failure of compliance with any such provisions shall constitute a separate violation.

Section 21. If any provision of this ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision and to this end provisions of this ordinance are declared to be severable.

Ketty Ann Long
Mayor

ATTEST:

Lila M. Maupin
City Clerk

Passed on first reading and ordered published the 5th day of April, 1971.

Passed on second reading this 3rd day of May, 1971.

Passed on third reading and ordered published the 3rd day of May, 1971.

STATE OF COLORADO)
COUNTY OF BENT) ss.
CITY OF LAS ANIMAS)

I, Lila M. Maupin, City Clerk of the City of Las Animas, Colorado do hereby certify the above and foregoing Ordinance was introduced, read in full and passed on first reading at the regular meeting of the City Council held Monday, the 5th day of April, 1971, and published in the Bent County Democrat, the official newspaper of said city, and was finally passed approved and adopted at the regular meeting of the City Council held, Monday, the 3rd day of May, 1971, and ordered published in the Bent County Democrat, the official paper of said city, as Ordinance No. 394 of the City of Las Animas, Bent County, Colorado.

IN WITNESS WHEREOF, I have hereunto set my hand and af-
fixed the seal of the city of Las Animas, this 4th day of
May, 1971.

Lila Marpin
City Clerk