

ORDINANCE NO. 584

AN ORDINANCE GRANTING TO MOUNTAIN STATES VIDEO, INC., A COLORADO CORPORATION, A PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE A CABLE TELEVISION SYSTEM AND DISTRIBUTION FACILITIES AND ADJUSTMENTS AND REMOVALS THERE-TO IN, UNDER, ABOVE, ALONG, AND UPON THE STREETS, AVENUES, BRIDGES, VIADUCTS, EASEMENTS, ALLEYS, SIDEWALKS, FOR THE PUBLIC OR UTILITIES AND OTHER CITY PROPERTY IN THE CITY OF GOLDEN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

Section 1. After a full and complete hearing on all aspects of the adoption of this ordinance and after full discussion and due deliberation, the Council of the City of Golden, herein called the "City," finds that the construction, operation and maintenance of a cable television system serving the City is consistent with the public interest and, specifically, with the establishment and healthy maintenance of television broadcast service within the City.

Section 2. The City hereby grants to Mountain States Video, Inc., a Colorado corporation, its successors and assigns, herein called "Permittee," a non-exclusive permit to construct, maintain and operate such transmission and distribution facilities as may be reasonably required for, or are in any manner, incidental to the transmission of signals, other than telephone company signals, by wire in and for the City as its corporate limits may from time to time exist. The permit and all rights granted hereunder shall continue for a period of 15 years from the effective date hereof.

Section 3. Permittee is hereby granted the right, permission and authority to construct, operate and maintain all facilities necessary or appropriate for its cable system or the transmission of signals by wire in, under, above, along and upon the streets, avenues, alleys, sidewalks, bridges, viaducts, easements for the public or utilities and other city property now or hereinafter existing.

Section 4. All construction of Permittee shall comply with all existing and future ordinances and regulations of the City. 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. Permittee shall at its own expense modify its transmission and distribution system when necessary to avoid such hindrance, obstruction or danger.

Section 5. The operations and facilities of Permittee shall be conducted and maintained in a manner which will not interfere with the radio and television reception obtained through any method other than Permittee's facilities and will not in any manner interfere with the communication facilities owned and operated by the City of Golden.

Section 6. Permittee shall commence construction of its system promptly after:

this ordinance has become effective; the approval of the Federal Communications Commission has been obtained; appropriate pole alterations have been made; and the necessary microwave facilities have been substantially completed. It shall carry on such work diligently and without any unnecessary delays and it will commence service to the public immediately after completion of any substantial portion of the system, due allowance of time being made for delays, if any, caused by labor troubles, governmental prohibitions, fire and other casualties, and all other causes beyond applicant's reasonable control, whether like or unlike the foregoing.

Section 7. 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 8. Permittee shall indemnify, protect, and hold harmless the City from and against 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 be caused by the 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 the parties hereof from and against all claims, demands, actions, judgments, costs, expenses, and liabilities, which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. The amounts of such insurance against liability due to physical damages to property shall be not less than \$100,000.00 as to any one accident and not less than \$500,000.00 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 \$500,000.00 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 9. Permittee shall collect from its customers and pay to the City as a permit fee 4% of the gross subscription receipts paid to it by customers located within the City. "Gross subscription receipts" shall mean the amount received by Permittee from the sale of its services within the City less any amounts collected for the connection, termination, reconnection or installation of equipment of lines necessary to commence rendering service to any customer. The permit fee shall be determined quarterly and shall be paid within 3 days of the end of each calendar quarter. The permit fee is in lieu of all occupancy and license taxes and all other special taxes, assessments or excises upon the property or facilities of Permittee, or other levies which might be imposed as a franchise tax, occupancy tax, license tax, permit charge or for the inspection

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of any of Permittee's property or facilities, or otherwise.

Section 10. If after the effective date hereof Permittee shall be granted a permit, license or other type of authorization to construct, maintain and operate a cable television system in Adams County, Arapahoe County, Jefferson County or the City and County of Denver, Permittee shall promptly give written notice to the City Attorney of the grant of such permit and the precise terms of the fee, if any, required to be paid to the governmental unit granting such permit. The City may by written notice delivered to Permittee within 30 days after receiving notice of each such Permit, elect to be paid, in lieu of the permit fee specified herein, whatever fee is specified in such permit to be paid to the governmental unit granting such permit. Upon making such election, the permit fee specified herein shall automatically become identical to that set forth in the permit to which the election relates.

Section 11. Upon paying the permit fee, Permittee shall deliver to the City a statement of its gross subscription receipts. For a period of six months thereafter the City shall have access to Permittee's financial records relating to its gross receipts during normal working hours for the purpose of verifying such receipts.

Section 12. If the Permittee has not acquired an extension or renewal of this permit or other authority to continue its operation, Permittee shall within one year of the expiration hereof remove its facilities from the city streets and cease operations therein.

Section 13. If any provision of this ordinance or the application thereof to any person or circumstance, is held invalid, such invalidity shall not effect other provisions of this ordinance. The several provisions of this ordinance are severable.

Section 14. Without the prior consent of the City Council, Permittee shall not charge its customers within the City Limits of the City of Golden a fee for its services which is greater than the lowest fee for its services in the counties of Adams, Arapahoe, Jefferson, and

the City and County of Denver, Colorado.

Section 15. Permittee shall, without charge, provide an outlet in every public school, parochial school, college, police station, fire station, city hall, and library within the City Limits of the City of Golden, Colorado.

Section 16. By reason of the fact that the County of Jefferson, Colorado, has granted similar authority to the permittee and the Permittee is now preparing its application to present to the Federal Communications Commission covering the Jefferson County Permit, and the City Council of the City of Golden desires that the City be included in the aforementioned application, it is hereby declared that an emergency exists; that this ordinance is necessary to the immediate preservation of the public peace, health and safety, and it shall be in full force and effect five days after its final publication.

Introduced, read and ordered published this 13th day of July, 1967.

Adopted and approved and ordered published this 10th day of August, 1967.

Charles L. Oudge, Mayor

ATTEST:

Grace V. Pike, City Clerk

Approved as to form:

Frederick J. Patridge,

Acting City Attorney

I Grace V. Pike, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing ordinance was introduced and read at a regular meeting of the City Council of said City held on the 13th day of July, 1967, and by order of said City Council was published as a proposed ordinance as the law directs, and for more than ten days prior to its passage in the Golden Outlook, legal newspaper; and that on the 10th day of August, 1967, the said ordinance was read and passed by the City Council aforesaid, the said meeting being a regular meeting of said City Council, and ordered published in aforesaid newspaper as the law directs.

Witness my hand and official seal of the City of Golden, Colorado, this 11th day of August, 1967.

ATTEST:

Grace V. Pike, City Clerk

Published in Golden Outlook August 18, 1967.