

ORDINANCE NO. 225

AN ORDINANCE GRANTING TO LEE'S CABLE VISION, A SOLE PROPRIETORSHIP, ITS SUCCESSORS AND ASSIGNS, THE NON-EXCLUSIVE FRANCHISE TO USE AND OCCUPY THE STREETS, ALLEYS AND OTHER PUBLIC PLACES OF THE TOWN OF SUGAR CITY, COLORADO, FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING, AND OPERATING A COMMUNITY ANTENNA TELEVISION SYSTEM WITHIN SAID TOWN FOR A PERIOD OF FIFTEEN YEARS AND SO LONG THERAFTER AS PERMITTED BY THE ORDINANCE, REGULATING THE SAME, PROVIDING FOR COMPENSATION TO THE TOWN.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUGAR CITY:

SECTION I. In consideration of the faithful performance and observance of the conditions and reservations which are hereinafter specified, the non-exclusive franchise is hereby granted to Lee's Cable Vision and to its successors and assigns to use and occupy the streets, alleys and other public places of the Town of Sugar city, Colorado,---including the right to erect, maintain and operate towers, poles, lines, cables, wires, other apparatus and additions or alterations thereto, in, under, over, along, across, and upon the present and future streets, lanes, avenues, sidewalks, alleys, bridges, highways, rights of way and in conformance with the requirements of this ordinance---for the purpose of constructing, maintaining and operating a community antenna television system, sometimes called cable television, which shall include the right of transmission and distribution of audio, visual, electronic and electric signals or impulses and television energy, by cables and/or wires, in accordance with the laws and regulations of the United States of America, and the State of Colorado, and the Ordinances and regulations of the Town of Sugar City, Colorado, for a period of fifteen (15) years, commencing from and after the adoption of the Ordinance as required by law. The renewal of this franchise shall comply with the provisions of the Cable Act. The term "public places" as used in this Ordinance shall include all platted utility easements and reservations of utility easements.

SECTION II. Lee's Cable Vision shall maintain a cable television system capable of distributing such signals or impulses for a minimum of ten (10) television channels or their equivalent with color capability, said system to be maintained in accordance with the generally accepted standards of the community antenna television industry and the Ordinances and regulations of the Town of Sugar City. "Cable Television System" means a system composed of, without limitation, antenna, cables, wires, lines, towers, wave guides, or any other conductors, converters, equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable radio, television or other electronic or electrical signals to and from persons, subscribers and locations in the franchise area.

SECTION III. Lee's Cable Vision shall carry on its cable system all local television channels and any distant signals allowable under Federal Communication rules and regulations. The system shall be operated in accord with all rules and regulations of the Federal Communications Commission.

SECTION IV. Franchise shall maintain a business office or representative which subscribers may telephone during regular business hours without incurring added message or toll charges so that CATV maintenance service shall be promptly available. In addition, provisions shall be made by franchise for receiving and responding to service calls at all other times. Service calls will be responded to within 24 hours.

The franchisee will inform all subscribers of its complaint procedure, including telephone numbers for registering such complaint and a request to make all complaints to the franchisee first. If a complaint is made to the Town and referred from the Town to the franchisee, the franchisee will respond in writing upon the request of the Town concerning the disposition of the complaint.

SECTION V. Wherever used in this Ordinance, the word "television" shall mean a system for transmission of audio signals, or visual images or a combination thereof by means of electrical impulses.

SECTION VI. There is hereby granted the further non-exclusive right, privilege and authority to Lee's Cable Vision to lease, rent, or in any other manner obtain the use of towers, poles, lines, cables and other equipment and facilities from any corporate limits of the Town of Sugar City, including the Mountain Bell Telephone Company and the Southern Colorado Power, a division of Central Telephone and Utilities Corporation, and to use such towers, poles, lines, cables and other equipment and facilities subject to all existing and future Ordinances and regulations of the Town. The poles used by Lee's Cable Vision for its distribution system shall be those erected and maintained by the Mountain Bell Telephone Company and the Southern Colorado Power, a division of Central Telephone and Utilities Corporation, agreements can be entered into with said companies; and provided further, that if Lee's Cable Vision is unable to negotiate satisfactory agreements with respect to the same, it shall have approval of the Town as hereinafter set forth. It is the stated intention of the Town of Sugar City that all other holders of public licenses and franchises within the corporate limits of the Town shall cooperate with Lee's Cable Vision to allow its joint usage of their poles and pole-lien facilities whenever possible.

Lee's Cable Vision shall provide and keep current a map of the Town of Sugar City, showing the exact type, style and location of any and all lines, poles and other fixtures of Lee's Cable Vision with the town limits of Sugar City.

Lee's Cable Vision shall have the right to install underground coaxial cable as may be necessary for the proper construction and maintenance of the television distribution system.

Lee's Cable vision shall install cable when expanding its present system into areas yet unserved by cable or when replacing present cable systems from and after the effective date of the Ordinance.

SECTION VII. Lee's Cable Vision shall not engage in the business of selling, renting or leasing television sets or receivers, except such equipment and receivers owned by Lee's Cable Vision which make use of signals transmitted by its system, nor shall Lee's Cable Vision, its subsidiaries or parent corporation engage in servicing of receivers owned or leased by its subscribers or the sale of parts for the same. Lee's Cable Vision and its employees shall not require nor attempt to direct its subscribers to deal with any particular firm or person in regard to sale, service, rental or leasing of television receivers or radio receivers of television or radio receiver related parts and accessories.

SECTION VIII. The transmission and distribution system of Lee's Cable Vision shall be located, directed, and maintained so as not to endanger or interfere with the lives of persons or to interfere with new improvements the Town may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alley, bridges,

or other public property. Construction and maintenance of the transmission distribution system shall be in accordance with the provision of the National Electrical Safety Code prepared by the Nation Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters and such applicable Ordinances and regulations of the Town of Sugar City affecting electrical installations, which may be presently in effect, or changed by future ordinances, and the Board of Trustees of the Town or its designated officials shall ascertain that such standards have been maintained and inspected by duly qualified state inspection personnel, if such inspection is required by local, state, or federal rules, regulation, ordinances, or statutes.

All installations of equipment shall be of permanent nature, durable and installed in accordance with good engineering practices and of sufficient height or depth to comply with all existing Town regulations, Ordinances, and State laws so as not to interfere in any manner with the rights of the public or of any individual property owner and shall not unreasonably interfere with the travel and use of public places by the public and during the construction, repair, or removal thereof, shall not unreasonably obstruct or impede traffic.

In the event that a change is made in the grade, width, or location of public streets, alleys, avenues, rights of way or necessitate the removal of any poles, wires, transmission, or distribution lines to conform to the change of grade, Lee's Cable Vision shall make the necessary changes in its equipment at its own expense, upon due notice from the Board of Trustees of the Town of Sugar City or its designated official to do so.

In the maintenance and operation of its television transmission and distribution system in the public streets, alleys, avenues, and other public places and in the course of any new construction or addition to its facilities, Lee's Cable Vision shall proceed so as to cause the least possible inconvenience to the general public.

All work in any way necessitated by the business of Lee's Cable Vision, which may involve the opening, breaking up or tearing up of a portion of a street, sidewalk, or other part of any Town-owned or Town-controlled property, shall be done and repaired in manner approved by the Board of Trustees of the Town of Sugar City, or their designated official. Lee's Cable Vision shall save the Town harmless against all loss or damage to any person or property caused by the construction, laying, maintenance or operation of any of its lines or other undertakings under the authority of this Ordinance. Nothing herein shall be construed as a requirement that the Town of Sugar City conduct an excavation or repair on behalf of or as agents for Lee's Cable Vision.

SECTION IX. Public Service Broadcasting.

A. Lee's Cable Vision shall furnish without charge one cable connection with basic CATV service, without installation, maintenance or multiple set charges in one public building to be designated by the Board of trustees within 30 days following the start of service with Sugar City.

SECTION X. Lee's Cable Vision shall at all times keep in effect the following types of insurance coverage:

A. Workmen's Compensation upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the Town of Sugar City in the statutory amount;

B. Property damage liability insurance to the extent of Fifty Thousand Dollars (\$50,000) as to any person and One Hundred Thousand Dollars (\$100,000) as to any one accident, and personal injury liability insurance to the extent of Three Hundred Thousand Dollars (\$300,000) as to any one person and Five Hundred Thousand Dollars (\$500,000) as to any one accident.

C. General liability insurance to the extent of Five Hundred Thousand Dollars (\$500,000).

Lee's Cable Vision shall indemnify, protect and save harmless the Town from and against losses and physical damage to property and bodily injury or death to person, including payments made under any Workmen's Compensation Law which may arise out of or be caused by the erection, maintenance, presence, use of, removal of said distribution system within the Town of by any act of Lee's Cable vision, its agents or employees. Lee's Cable Vision shall carry insurance in the above-described amounts to protect the parties hereto from and against all claims, demands, action, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. All insurance required shall be and remain in full force and effect for the entire life of this franchise. A certified copy of said policy or policies of insurance shall be filed annually in the office of the town Clerk of the Town of Sugar City.

SECTION XI. During the term of this franchise granted hereby the Town of Sugar City shall allow Lee's Cable Vision to use the necessary space on its water tower for erection and necessary maintenance of the receiver antenna and a parcel of ground adjacent thereto for erection and maintenance of a satellite antenna and a 8' X 12' headend building. The placement of the above described antenna and building will be as directed by the Town's board of trustees or its designated agent.

SECTION XII. As an additional consideration at the granting of this franchise agreement and the franchisee's use of the water tower and the adjacent premises for the correction and maintenance of the antenna and head house, Lee's Cable Vision shall pay to the Town of Sugar City the sum of \$100.00 annually on or before January 15, of each year hereafter.

SECTION XIII. Lee's Cable Vision shall proceed as soon as possible and within 120 days from the date of this Ordinance with due diligence to obtain all necessary permits and authorizations which are required in the conduct of this business, including agreements with other franchisees or licensees within the Town, such as joint use agreements or microwave carrier licenses to be granted by duly constituted regulatory agencies.

SECTION XIV. Installations and operations of the system shall be maintained so as not to interfere with television reception already in existence within the Town and Lee's Cable Vision shall carry all commercial and educational signals of stations serving the Town of Sugar city as established by the Federal Communications Commission via off-the-air- pickup.

In the event the cable system interferes with television reception already in existence within the Town, Lee's Cable Vision shall, as soon as possible, make all necessary adjustments, repairs, or modifications to eliminate said interference. All such adjustments or modifications and repairs shall be made solely at the expense of Lee's Cable Vision.

SECTION XV. Lee's Cable Vision shall have no recourse whatsoever against the Town for any loss, costs, expense or damage arising out of any provision or requirement of this Ordinance or its enforcement.

SECTION XVI. Lee's Cable Vision is subject to all requirements of the Town Ordinances, rules, regulations and specifications of the Town, including but not limited to those concerning street work, street excavation, use, removal, and relocation of property within a street or right-of-way.

SECTION XVII. There is hereby reserved to the Town of Sugar City every right and power which is required to be herein reserved or provided by any statute or Ordinance of the Town, and Lee's Cable Vision by its acceptance of the franchise granted hereunder, agrees to be bound thereby and to comply with any action or requirement of the Town in its exercise of such franchise.

SECTION XVIII. In the event that the use of any part of the system is discontinued for any reason, other than acts of God or action or inaction of any federal or other governmental agency, or as the result of a strike for a continuous period of twelve (12) months, or in the event such system or property has been installed in any street, right-of-way or public place without complying with the requirements of this Ordinance, or the franchise granted hereunder has been terminated, cancelled or has expired, Lee's Cable Vision shall promptly remove from the streets and public places all such property and poles of such system, other than any which the Town may permit to be abandoned in place. In the event of such removal, Lee's Cable Vision shall promptly restore the streets, right-of-way or other areas from which such property has been removed to a condition reasonably satisfactory to the Town.

SECTION XIX. A) The services provide by Lee's Cable Vision under this franchise shall be made available by it to all points within the corporate limits of the Town of Sugar City as they may be established during the term of this franchise as permitted by contracts negotiated with franchised public utility systems within the Town; provided that Lee's Cable Vision shall not be required to make any extensions for the purpose of providing service when any of the following conditions exist:

1. Where service is not desired in the area.
2. Where the extension will require the installation of more than 100 feet of distribution cable for each potential customer to be served.
3. Where customer density is less than 300 feet of distribution cable per customer, a special negotiated hook-up will be required by Lee's Cable Vision and will be payable by the resident of the more remote home or dwelling unit. In no case will this hook-up feed exceed the amount of \$500 per customer without special prior approval from the Sugar City Town Board of Trustees.

SECTION XX. Lee's Cable Vision shall maintain on file with the Town a schedule, setting forth all rates or charges to be made to subscribers for CATV service, including, but not limited to, connection charges, service charges, and surcharges.

SECTION XXI. Lee's Cable Vision shall not sell, transfer, or assign any right under this franchise to any other person, firm, corporation or entity without the express written consent of the town Board. such consent by the Board shall be given

unless the Board deems the proposed assignee to be unfit to fulfill the terms of this franchise. The Board shall have the right to require financial information or other verifications of the proposed assignee.

Exempted from this approval requirement shall be mortgaging hypothecating, or assigning of rights to the cable system or pledge of stock by Lee's Cable Vision for the purpose of financing.

The Board shall further have the right to approve a transfer fee of not more than \$500.00 for said transfer.

SECTION XXII. In the event the Town is required to enforce the terms and conditions of this franchise by court action or otherwise, Lee's Cable Vision shall be required to reimburse the Town its expenses including reasonable attorney fees if the Town prevails in its attempt to enforce this franchise.

Lee's Cable Vision shall further be required to reimburse the town, up to \$250.00, for its administrative costs including consultation fees and publication costs for any renewal of this franchise.

SECTION XXIII. If any section, sentence, clause or phrase of this Ordinance is for any reason declared to be illegal, invalid, unconstitutional, or void, all sections thereof not so held shall be and remain in full force and effect.

First reading	July 10, 1989
Published	July 20, 1989
Second reading	August 14, 1989

Introduced, read in full, passed, adopted, approved, and ordered published this 10th day of July, 1989.

BOARD OF TRUSTEES OF THE TOWN OF SUGAR
CITY, SUGAR CITY, COLORADO

By Rayl R. Morgan
Mayor

ATTEST:

Gayle Hibbs
Clerk