

ORDINANCE NO. 175

AN ORDINANCE AMENDING CHAPTER 14, OF THE TOWN CODE OF THE TOWN OF MEAD, BY ADDING A NEW SECTION 2 TO PROVIDE FOR THE REGULATION OF FIBER OPTIC CABLE INSTALLATION IN THE TOWN, PROVIDING A PENALTY, AND DECLARING AN EMERGENCY.

WHEREAS, various communications are now being carried on by means of fiber optic cable and said communications are increasing as the industry prepares for the future; and

WHEREAS, said fiber optic cables are fragile and must be buried within the Town of Mead, including upon and beneath public rights-of-way; and

WHEREAS, it is in the Town's best interest and that of the public to regulate and control said installation for reasons of safety, convenience to the public, and minimal disruption to the fiber optic cable communications themselves; and

WHEREAS, additional revenues are needed to defray the costs of operating Town services, including, but not limited to, the regulation of fiber optic cable communications and the incursions within the Town caused thereby;

NOW THEREFORE, BE IT ORDAINED, by the Board of Trustees of the Town of Mead, Colorado:

Section 1. Chapter 14 of the Town Code of the Town of Mead is hereby amended by adding a new Section 2, Titled Fiber Optic Cable Licensing and Regulation, to read as follows:

"SECTION 2. FIBER OPTIC CABLE LICENSING AND REGULATION

14-2-1. Authority to Issue Licenses. The Town Clerk is hereby authorized to issue licenses and permits for the installation of fiber optic cables within the Town. All such installations shall be governed by the provisions of this Section and shall require a license or permit pursuant hereto.

14-2-2. Licenses Issued, Conditions. The Town Clerk may issue such licenses to any person, firm or corporation, private or public, upon such terms and conditions as he shall reasonably determine and such license agreement shall provide for the following:

2.1 All construction shall comply with and conform to the standards formulated by the Town.

2.2 The Town shall have the right at all times to maintain, install, repair, remove or relocate the facilities or installations within the Town's right-of-way. The Town reserves the exclusive right to control all easements and installations.

- 2.3 In the event that any use by the licensee should interfere with any future use of the right-of-way by the Town, the licensee shall, upon request and at his sole expense, relocate, rearrange or remove its installation so as not to interfere with such use.
- 2.4 Any repair or replacement of any city installation made necessary in the opinion of the Town for any reason shall be made at the sole expense of the licensee.
- 2.5 All rights and privileges granted in any license issued hereby shall be subject to prior agreements, licenses, and/or grants, recorded and unrecorded, and it shall be the licensee's sole responsibility to determine the existence of said documents or conflicting uses or installations.
- 2.6 The licensee shall contact and fully cooperate with the Town to eliminate or minimize interference with any lawful, usual or ordinary use of the public right-of-way.
- 2.7 The licensee shall not place, nor allow to be placed, any equipment without the approval as to location and means of installation, including means of construction, of the Town.
- 2.8 The licensee shall assume all risks incident to the installation.
- 2.9 All licensees, by acceptance of their license, expressly assume full and strict liability for any and all damage of any nature to persons or property caused by their installation.
- 2.10 The licensee shall indemnify and save harmless the Town, its officers and employees, against any and all claims, damages, actions or causes of actions and expenses to which it or they may be subject by reason of said installation being within and across the premises of the Town or by reason of any work done or omission made by the licensee, its agents or employees in connection with the construction, replacement, maintenance or repair or said installation.
- 2.11 The licensee expressly agrees that in the case of licensee's breach of any of the provisions set out in this Section, the Town may, at its option, have specific performance therefor or sue for damages resulting from said breach.

14-2-3. Annual License and Term of License. Each licensee shall pay a license fee of one dollar (\$1.00) per lineal foot of cable or other installation within the Town, unless such cable or other installation is on or beneath the public right-of-way, in which case the license fee shall be two dollars (\$2.00) per lineal foot. Said fee shall be for each calendar year or part thereof for which a license is held or during which installation, or planning therefore, shall be conducted within the Town.

Said license fee shall be in addition to any and all other fees or taxes provided for under this code. The license issued hereunder shall be for a period of one year or fraction thereof and shall expire on the last day of December of each year.

14-2-4. Penalty Clause. If any person, or officer, agent, manager or director of any entity subject to the provisions of this Section shall fail, neglect or refuse to obtain the license required by this Section, said person, officer, agent, manager or director, shall, upon conviction thereof be subject to a fine of not more than three hundred dollars (\$300.00) and/or be subject to a term of imprisonment in the County jail of not to exceed ninety (90) days, provided that each day after said license shall be delinquent during which the said person, officer, agent, manager or director shall so fail, neglect or refuse to obtain said license shall be considered a separate and distinct offense."

Section 2. Validity. The provisions of this ordinance are hereby declared to be severable and if any section, provision or part thereof shall be held unconstitutional or invalid, the remainder of this ordinance shall continue in full force and effect, it being the intent of the Board of Trustees that this ordinance would have been adopted even if such unconstitutional or invalid matter had not been included herein. It is further declared that if any section, provision or part of this ordinance or the application thereof to any person or circumstances, if held invalid, the remainder of this ordinance and the application thereof to other persons or circumstances shall not be affected thereby.

Section 3. Necessity and Declaring an Emergency. In the opinion of the Board of Trustees of the Town of Mead, this ordinance is necessary for the immediate preservation and protection of the health, safety, welfare and property of the inhabitants and owners of property in the Town of Mead.

Section 4. Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF MEAD
THIS 10th DAY OF APRIL, 1989, AND ORDERED TO BECOME EFFECTIVE
IMMEDIATELY UPON ADOPTION.

PUBLISHED IN FULL IN "THE LONGMONT TIMES-CALL" ON THE 17th DAY
OF April, 1989.

Harvey O. Potts
MAYOR
TOWN OF MEAD

ATTEST:

Bertina Willden
Town Clerk

TOWN OF MEAD

CONSTRUCTION REQUIREMENTS FOR THE INSTALLATION OF
FIBER OPTICS CABLE IN THE TOWN OF MEAD

1. All fiber optics cable shall be placed in the appropriately sized fiber optics conduit.
2. All fiber optics conduit shall be encased with a minimum of four (4) inches of Class A concrete (5-sack mix).
3. There shall be a minimum of 36 inches of cover placed above the concrete encase unless otherwise approved by the Town.
4. Backfill under asphalt surfaces shall consist of a two (2) sack sand slurry to pavement grade. Final three (3") inches, or as specified by the Town, shall be asphalt concrete in accordance with Town specifications.
5. Backfill in other locations shall be as approved by the Town.
6. A six (6") inch wide F.O. warning tape shall be placed twelve (12") inches from the surface of the trench backfill.
7. An eight (8) gauge vinyl-coated trace wire shall be install for the full length of the installation.
8. The center of the F.O. conduit shall be located a minimum of ten (10') feet from any existing water main, sanitary sewer main, or storm sewer main.
9. The fiber optics conduit installation shall provide for a one (1') foot minimum clearance from any crossed lines, i.e., water, sewer, etc.
10. The edge of trench shall be located a minimum of two (2') feet from any curb and gutter lip or four (4') feet from a curblin.
11. At any irrigation ditch crossings, a copy of a signed license agreement with the irrigation ditch company will be required.
12. Prior to the installation of the fiber optics, a street cut permit will be needed to be obtained from the Town.
13. Prior to the issuance of a street cut permit, a license agreement signed by a representative of the company requesting the installation shall be approved by the Town.