ORDINANCE NO. 80- 1

AN ORDINANCE GRANTING TO Rural Antenna Systems. Inc. ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO ERECT, MAINTAIN AND OPERATE TRANSMISSION AND SERVICE DISTRIBUTION FACILITIES AND ADDITIONS THERETO FOR THE PURPOSE OF OPERATING A COMMUNITY ANTENNA SYSTEM AND LINES OF TELEVISION COAXIAL CABLES, INCLUDING POLES, WIRES AND FIXTURES WHERE NECESSARY, UPON, ALONG, THROUGH, OVER AND UNDER THE STREETS, ALLEYS, BRIDGES AND OTHER PUBLIC PLACES OF THE CITY OF ATKINS, ARKANSAS, FOR A PERIOD OF FIFTEEN (15) YEARS AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATKINS, ARKANAS, AS FOLLOWS:

SECTION 1. In consideration of the benefits to be derived by the citizens and inhabitants of the City of Atkins, Arkansas, and a privilege license to be paid as hereinafter set out, there is hereby granted to Rural Antenna Systems Inc., hereinafter called GRANTEE, its successors and assigns, the right, privilege and authority to construct, maintain and operate a plant or plants and system for the distribution and transmission of television impulses and energy, and operation of a community antenna system and lines of television coaxial cables, including poles, wires and fixtures, wherever necessary, upon, along, through, over and under the streets, alleys, bridges and other public places of the City of Atkins, Arkansas, subject to the ordinances, rules and regulations of the City of Atkins, Arkansas, and subject to the conditions of the provisions of this ordinance, for a period of 15 years from the effective date of this ordinance.

SECTION 2. Wherever used in this ordinance, the word "television" shall mean a system for simultaneous transmission of audio signals and transient visual images by means of electrical impulses.

SECTION 3. The Grantee shall construct an All Bands System, capable of providing 5 or more channels of satisfactory television reception.

SECTION 4. The Grantee's distribution system shall conform to the requirements of the Federal Communications Commission, particularly with respect to freedom from spurious radiation.

SECTION 5. The antenna, receiving and distribution equipment shall be installed and maintained so as to provide pictures on subscribers' receivers throughout the system essentially of the same quality as those received at the antenna site and/or transmitted by the Grantee.

SECTION 6. The initial rates charged by Grantee to subscribers for the installation fee and monthly fee for the first year of operation shall be as follows:

Installation Fee.....$ 15.00
One Set.....$ 7.50 Total
Two Sets.....$ 9.00 Total
Additional Sets.....$ 1.00
Star Channel.....$ 8.00

All subsequent changes in said rate schedule shall be subject to the approval of the City Council after appropriate public hearing affording due process to all interested parties.

SECTION 7. The Grantee shall furnish free of charge no less than one service distribution connection to each public school building, to the City Hall, and to the Fire Department Station within the corporate limits of the City of Atkins, Arkansas.

SECTION 8. This right-of-way for the use and purposes herein set forth shall not be exclusive but is merely a permit allowing Grantee to use the streets, alleys and roadways of the City of Atkins, Arkansas, for the purposes herein set forth.

SECTION 9. The Grantee's transmission and distribution system, poles, wires, and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with any improvements the City may deem proper to make, or to hinder unnecessarily or obstruct the free use of the streets, alleys, bridges or other public property.

Construction and maintenance of the transmission distribution system, including house connections, shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters and such applicable ordinances and regulations of the City of Atkins, Arkansas, affecting electrical installations which may be presently in effect or may be enacted by the City of Atkins, Arkansas, in the future.

Installation and house drop hardware shall be uniform throughout the city, except that Grantee shall be free to change their hardware and installation procedure as improvements therein are developed and except where changes are permitted or required by regulations and ordinances of the City of Atkins presently in effect or which may be enacted hereafter.

SECTION 10. In the maintenance and operation of the television transmission and distribution system of Grantee in the streets, alleys and other public places, and in the course of any new construction or addition to the facilities of the Grantee, the Grantee shall proceed as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or other public places, made by the Grantee in the course of its operations, shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which during periods of dusk and darkness shall be clearly designated by red warning lights.

Whenever the Grantee shall take up or disturb any pavement, sidewalk or other improvement of any street, avenue, alley or other public place, the same shall be replaced and the surface restored in as good condition as before entry within forty-eight hours after completion of the Grantee's work. Upon failure of the Grantee to make such restoration within such time, or to begin such restoration within such time if the restoration cannot reasonably be completed within such time, or upon the Grantee's delay of more than 24 hours in the continuation of restoration previously begun, the City may serve upon the Grantee notice of the City's intent to cause the restoration to be made, and, unless the Grantee within 24 hours after receipt of such notice shall begin or resume the proper restoration to be made, the City may cause the proper restoration to be made, including the removal of excess dirt, and the expense

of same shall be paid by the Grantee upon demand by the City.

The Grantee shall at all times comply with any and all rules and regulations which the City has made or may make to apply to the public generally with reference to the removal or replacement of pavements and to excavations in streets and other public places, not inconsistent with its use for the purposes contemplated by this ordinance.

SECTION 11. Whenever the City of Atkins finds that the construction of any of its streets and properties require the relocation of any part of Grantee's system, the City of Atkins may order the Grantees to relocate the Grantee's properties therefor, and such shall be done at the sole expense of the Grantee.

SECTION 12. The distribution system of the Grantee to be hereinafter installed shall not be abandoned, either in whole or in part, without the consent of the City Council of the City of Atkins. In the event of the failure of the Grantee to render community television service in the City of Atkins, as contemplated and provided for by this ordinance within a period of 12 months from the effective date of this ordinance, the City Council of the City of Atkins shall have the right, on reasonable notice to the Grantee, to declare this ordinance and the rights granted thereunder forfeited; provided, however, failure to comply with this stipulation by reason of cause or causes beyond the reasonable control of the Grantee, which could not be anticipated at the time of their acceptance by the Grantee, shall not be sufficient ground to declare a forfeiture; provided, however, that

Grantee shall be required to extend its systems into any areas of the city annexed after the effective date of this ordinance, in the event that any residence or business shall be located in said area or shall thereafter become located in said area.

SECTION 13. The Grantee shall indemnify and hold the City harmless at all times during the term of this grant from and against all claims for injury or damages to persons or property both real and personal caused by the construction, erection, operation or maintenance of any structures, equipment, appliance or products authorized or used pursuant to authority of this ordinance.

The Grantee, upon receipt of due notice in writing from the City, shall defend at its own expense any action or proceedings against the City of Atkins in which it is claimed that the injury or damage arose from the Grantee's activities in the construction or operation of its television system; and in the event of a determination of liability, shall indemnify the City. More particularly the Grantee, its successors and assigns, do hereby agree to indemnify and hold harmless the City of Atkins from any and all liability, claim, demand or judgment growing out of any injury to any person or property as a result of the violation or failure on the part of the Grantee, its successors and assigns, to observe its proper duty or because of negligence in whole or in part arising out of the construction, repair, extension, maintenance or operation of its distribution lines, amplifiers or equipment of any kind or character used in connection with this permit.

SECTION 14. Upon termination or forfeiture of this grant, in accordance with any of its terms, the Grantee shall, within a reasonable time, remove its poles, cables, wires and appliances from the city streets, lanes, avenues, sidewalks, alleys, bridges, highways, other public places and from the premises of Grantee's customers within the city and subsequent additions thereto.

In the event of failure of the Grantee to perform the obligation of the first sentence of this Section, the City shall have the right to make a written demand on the Grantee to proceed to carry out the removal of such equipment and, if within 30 days from the date of such demand Grantee shall fail to proceed with such removal expeditiously, the City shall have the right to remove same and retain it as the city's property, without accounting therefor to the Grantee, and the expense of such removal shall be charged to and paid by the Grantee, without credit for the value, if any, of the equipment removed by the city.

Grantee shall execute and deliver to the city a surety bond to be approved by the City Attorney, issued by a corporate surety doing business in the State of Arkansas in the penal sum of $5,000.00, conditioned for the prompt removal of such equipment; provided, however, that in the event such a bond is required and executed to the companies owning the poles used for the Grantee's distribution system, no further bond shall be required by the city.

SECTION 15. If the Grantee shall fail to comply with any of the provisions of this grant, or default in any of its obligations except for causes beyond the reasonable

control of the Grantee, as provided for in Section 12 hereof, and shall fail, within 90 days after written notice from the city to correct such default or noncompliance, the city shall have the right to repeal this ordinance and all rights of the Grantee hereunder.

SECTION 16. As expeditiously as reasonably possible after receipt of subscriber complaints regarding cable television operations, Grantee shall investigate such complaints and resolve them to the extent reasonably possible, and agents shall be available in the city for such purposes. The Mayor of the City of Atkins has primary responsibility for the continuing administration of the Grantee's rights and privileges herein, and of the reasonable implementation of the foregoing complaint procedures. Notice of the foregoing will be given by the Grantee to each new subscriber at the time of the initial regular subscription to the cable system.

SECTION 17. When a customer's service is reported or found to be interrupted, it shall be restored as promptly as possible, but in the event it remains out of order through no fault of the customer, in excess of 24 consecutive hours, after knowledge by the company of the interruption, the company will refund the prorata part of that month's charges for the period of days during which the service was not provided. This refund may be accomplished by a credit on a subsequent bill for cable service.

SECTION 18. In the event the television service or the community antenna system shall be interrupted or fail to function, by reason of an act of God, accident or cause otherwise beyond the control of the Grantee, the Grantee shall restore the service in a reasonable time and such

interruption shall not constitute a breach of this ordinance.

SECTION 19. There is hereby granted the further right, privilege and authority to the Grantee to lease, rent, or in any other manner obtain the use of such towers, poles, lines, cables and other equipment and facilities from any and all holders of public licenses and franchises within the corporate limits of the City of Atkins, and use such towers, poles, lines, cables and other equipment and facilities, subject to all the existing and future ordinances and regulations of the City of Atkins.

SECTION 20. The Grantee shall pay, and, in consideration of the granting of this permit and authority, agree to pay to the City of Atkins as a permit fee and as compensation for the rights and privileges enjoyed hereunder, a sum equal to three percent (3%) of gross subscriber revenues received by the Grantee in the operation of said system each year or portion of a year during which the system is in operation. Payment shall be made quarterly, and shall be due and payable not later than 30 days after the last day of each calendar quarter. The city shall have all reasonable rights of inspection and audit of the Grantee's books and records.

The payments herein provided for shall not be in lieu of any business or occupation licenses or taxes, and shall not be in lieu of ad valorem taxes assessed with respect to real or personal property of the Grantee by the city.

SECTION 21. The Council has examined Grantee's legal, character, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements, and it hereby grants this ordinance, at a regular meeting of the City Council on the 12 day of February, 1980.

SECTION 22: It is intended that the provisions of this ordinance shall comply fully with the rules and regulations

of the Federal Communications Commission including Section 76.31 thereof as amended. Any modifications or amendments of the provisions of said Section 76.31 shall be incorporated herein within one year of the adoption of such modification or amendment.

SECTION 23. The Grantee shall pay the city the cost of publishing this ordinance according to law.

SECTION 24. All ordinances or parts of ordinances in conflict with this ordinance or any provision hereof, are hereby repealed.

SECTION 25. This ordinance shall become effective upon and after its passage and publication, this 12 day of February, 1980.

CITY OF ATKINS, ARKANSAS

BY: _____
MAYOR

ATTEST:

_____
CITY CLERK