

ORDINANCE NO. 1059

AN ORDINANCE GRANTING A FRANCHISE TO MOUNTAIN WEST TECHNOLOGIES, INC. ON BEHALF OF ITSELF AND ITS OPERATING AFFILIATES ("MOUNTAIN WEST") TO OPERATE AND MAINTAIN A HARDWIRE TELECOMMUNICATIONS SYSTEM ("SYSTEM" OR "THE SYSTEM") IN THE CITY OF DOUGLAS, WYOMING ("CITY" OR "THE CITY").

The City hereby ordains that it is in the public interest to grant Mountain West a Franchise to operate a hardwire (not wireless) System pursuant to the terms and conditions contained herein.

FINDINGS

In review of Mountain West Technologies, the City of Douglas, Wyoming makes the following findings: Mountain West's technical ability, financial condition, legal qualifications, and character were considered and approved in a full public proceeding after due notice and a reasonable opportunity to be heard; Mountain West's plans for operating the System were considered and found adequate and feasible in a full public proceeding after due notice and a reasonable opportunity to be heard; and The Franchise granted to Mountain West by the City complies with the existing laws and regulations of the City of Douglas, Wyoming.

Section 1.) Grant of Franchise. The City hereby grants to Mountain West the non-exclusive right, privilege and authority to construct, maintain, operate, upgrade, adjust, protect, support, raise, lower, disconnect, remove and relocate its cables, poles, wires, conduits, conductors, pipes and related appurtenances ("Facilities") for its System in, under, along, over and across the present and future streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, rights of way and similar public areas of the City ("Rights-of-Way"), for the purpose of providing telecommunications services to the City's inhabitants, hereinafter "the Franchise" or "Franchise." The Franchise area is defined as the area within the legal boundaries of the City.

Section 2) Acceptance by Mountain West. Within sixty (60) days after the passage of this Ordinance by the City, Mountain West shall file a signed copy thereof with the City clerk, otherwise the Ordinance and the rights granted herein shall be null and void.

Section 3) Term. The term of this Franchise commences upon the passage of this Ordinance and continues in full force and effect for fifteen (15) years ("Initial Term"). At least thirty (30) days prior to the expiration of the Initial Term, Mountain West shall notify City of its intent to terminate the Franchise or it may elect to extend this Franchise for two (2) additional ten (10) year periods ("Renewal Term"). The Initial Term and Renewal Term may be collectively referred to as "Term." The City will not unreasonably refuse to extend the Franchise for two (2) additional ten (10) year periods if Mountain West is in compliance with the terms of this Ordinance and applicable law, and the compensation terms are acceptable to both parties. The Term shall be specifically subject to the Provisions of Term (Section 20) set forth below.

Section 4) Franchise Fee. From and after the date of Mountain West's acceptance of this Ordinance and until its expiration, Mountain West will pay to the City five percent (5%) of Mountain West's Gross Revenue (as defined in Appendix A hereto). Payment shall be made annually within sixty(60) days after the last day of the calendar year for which the payment applies during the Term of this Franchise.

Section 5) Records Inspection. Mountain West shall make available to the City, upon reasonable advance written notice of no less than sixty (60) days, such information pertinent only to enforcing the terms of this Ordinance in such form and at such times as Mountain West can reasonable make available. Subject to applicable laws, any information that is provided to the City and/or that the City reviews in camera is confidential and proprietary and shall not be disclosed or used or any purpose other than verifying compliance with the terms of this Ordinance. Any such information provided to the City shall

be immediately returned to Mountain West following review. The City will not make copies of such information.

Section 6) Non-Exclusive Franchise. The right to use and occupy the Rights-of-Way of the City shall be non-exclusive, and the City reserves the right to use the Rights-of-Way for itself or any other entity. The City, however, shall not unreasonably interfere with Mountain West's Facilities or the rights granted Mountain West herein.

Section 7) City Regulatory Authority. The City reserves the right to adopt such additional ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties consistent with applicable Federal and State law.

Section 8) Indemnification. Mountain West is required, and by the acceptance hereof, agrees to fully indemnify, defend, hold harmless, protect and save the City, its council, manager, officers, employees and agents, harmless from and against all damage, lawful claims and demands, and from any and all loss, liability, cost or expense, necessarily incurred as a result thereof, arising out of any negligent act or omission of Mountain West in the construction, removal, maintenance, operation, replacement, inspection or repair of the Facilities or in the use and operation thereof, including but not limited to attorneys' fees and costs incurred. Mountain West shall at all times comply with any lawful present or future ordinances, rules or regulations of the City relating to the manner of occupation or use, or to the repair or improvement of said streets and property. The City shall: (1) give prompt written notice to Mountain West of any claim, demand, or lien with respect to which the City seeks indemnification hereunder; and (b) permit Mountain West to assume the defense of such claim, demand, or lien. Mountain West shall not be subject to liability for any settlement made without its consent. Notwithstanding the other provisions contained herein, Mountain West shall in no event be required to indemnify the City for any claims, demands, or liens arising from the negligence or wrongful actions or inactions of the City, its officials, boards, commissions, agents, contractors and/or employees.

Section 9) Insurance Requirements. Mountain West will maintain in full force and effect for the Term of the Franchise, at Mountain West's expense, a comprehensive liability insurance policy written by a company authorized to do business in the State of Wyoming protecting it against liability for loss, personal injury, and property damage occasioned by the operation of the Facilities by Mountain West. Such insurance will be in an amount not less than \$1,000,000 per occurrence. Mountain West will also maintain Workers' Compensation coverage throughout the Term of this Franchise as required by state law. Mountain West shall issue a certificate of insurance to the City annually upon its renewal.

Section 10.) Plan. Design. Construction and Installation of Mountain West's Facilities.

- 10.1)** All Facilities under authority of this Ordinance shall be used, constructed, and maintained in accordance with applicable law.
- 10.2) Maps.** Mountain West shall file as-built maps and/or drawings with the City, in a form reasonably prescribed by the City, including electronic formats that can be imported into the City's Geographical Information System ("GIS"). Mountain West shall provide as-built maps and/or drawings to City staff, when specifically requested, that are accurate to within three (3) feet. Initial Facilities plans shall be filed within thirty (30) days of the effective date of this Ordinance and shall be updated upon completion of any significant additions to Mountain West's Facilities in the City. Information, if confidential, shall be marked as such and maintained as confidential as permitted under applicable law.
- 10.3)** Mountain West shall, prior to commencing new construction or major reconstruction work in Rights-of-Way or other public places, apply for a permit from the City, which permit shall not be unreasonably withheld, conditioned or delayed, and for which all required permit fees shall be imposed. Mountain West will abide by all applicable ordinances and reasonable rules, regulations and requirements of the City consistent with applicable law, and the City may inspect the manner of such work and require remedies as may be reasonably necessary to assure compliance. Notwithstanding the foregoing, Mountain West shall not be obligated to obtain a permit to perform emergency repairs to its Facilities.

- 10.4)** To the extent practical and consistent with any permit issued by the City, all Facilities shall be located so as to cause minimum interference with the Rights-of-Way and shall be constructed, installed, maintained, renovated or replaced in accordance with applicable rules, ordinances and regulations of the City. Mountain West's installation, construction, operation, or maintenance of the Facilities shall not interfere with or hinder the City's installation, construction, maintenance, or operation of any public works, public improvements, or other publicly-owned facilities or systems. To the extent practical, Mountain West shall confer with City on the location of all Facilities placed within the Rights-of-Way prior to installation.
- 10.5)** If, during the course of work on its Facilities, Mountain West causes damage to or alters the Rights-of-Way or other public property, Mountain West shall replace and restore such Rights-of-Way or public property at Mountain West's sole cost and expense to the condition that existed immediately prior to such damage or alteration and to the satisfaction of the City of Douglas. In addition, any asphalt that is replaced cannot be bagged pothole mix. In the event the City is required to repair the damage Mountain West shall pay all costs incurred including, but not limited to, the wages of the City's employees.
- 10.6)** Mountain West shall have the right to excavate the Rights-of-Way subject to reasonable conditions and requirements of the City. Before installation of new underground facilities or replacing existing underground facilities, each shall first notify the other party of such work and allow the other party, at its own expense, to share the trench for laying of its own facilities therein, provided that such action will not unreasonably delay project completion.
- 10.7)** Nothing in this Ordinance shall be construed to prevent the City from constructing, maintaining, repairing, or relocating its sewers, streets, water mains, sidewalks, or other public property. However, before commencing any work within a Rights-of-Way that may affect Mountain West's Facilities, the City shall give written notice to Mountain West, and all such work shall be done, insofar as practicable, in such a manner as not to obstruct, injure, or prevent the free use and operation of Mountain West's Facilities.
- 10.8)** In areas where all other utility lines are placed underground Mountain West shall construct and install its Facilities underground. In areas where one or more public utilities are aerial, Mountain West may construct and install its Facilities aerially, or above ground Mountain West shall notify the City at least five (5) working days before construction or installation starts.
- 10.9)** Mountain West shall not attach to, or otherwise use or commit to use, any pole owned by the City until a separate pole attachment agreement has been executed by the parties.

Section 11.) Relocation of Facilities.

- 11.1)** Relocation for the City. Mountain West shall, upon receipt of advance written notice of not less than sixty (60) days, protect, support, adjust, raise, lower, temporarily disconnect, relocate, or remove any Mountain West property located in Rights-of-Way when required by the City consistent with its police powers. Mountain West shall be responsible for any costs associated with these obligations.
- 11.2.)** Relocation for a Third Party. Mountain West shall, at the request of any person holding a lawful permit issued by the City, protect, support, adjust, raise, lower, temporarily disconnect, relocate or remove any Mountain West property located in the Rights-of-Way, provided that the cost of such action is borne by the third party requesting it, and Mountain West is given advance written notice of not less than sixty (60) days. In said situation, Mountain West will require advance payment of the costs.
- 11.3)** Alternatives to Relocation. Mountain West may, after receipt of written notice requesting a relocation of Facilities, submit to the City written alternatives to such relocation. Such alternatives shall include the use and operation of temporary transmitting facilities in adjacent Rights-of-Way
- 11.4)** The City shall promptly evaluate such alternatives and advise Mountain West in writing if one or more of the alternatives are suitable. If requested by the City, Mountain West shall promptly submit additional information to assist the City in such evaluation. The City shall give each alternative proposed by Mountain West full and fair consideration. In the event the City determines there is no reasonable alternative, Mountain West shall relocate the components of the System as otherwise provided herein. Notwithstanding the foregoing, Mountain West shall in all cases have the right to abandon the Facilities.

Section 12.) Vegetation Management. Mountain West shall have the authority, but not the obligation, to trim trees and other natural growth in the Rights-of-Way in order to access and maintain its Facilities in

compliance with applicable law and industry standards. This right shall in no way impose a duty on Mountain West; instead, this right gives permission to Mountain West should Mountain West elect to conduct such activities from time-to-time in order to access and maintain its Facilities.

Section 13.) Renewal. At least one hundred twenty (120) days prior to the expiration of this Ordinance, Mountain West and the City shall either agree to extend the Term or use best faith efforts to renegotiate a replacement Franchise agreement.

Section 14.) Revocation of Franchise for Non-Compliance.

In the event the City believes that Mountain West has not complied with the terms of this Ordinance, the City shall informally discuss the matter with Mountain West. If these discussions do not lead to resolution of the problem, the City shall notify Mountain West in writing of the exact nature of the alleged noncompliance.

- 14.1)** Mountain West shall have (30) days from receipt of the written notice described in subsection **14.2)** to either respond to the City, contesting the assertion of non-compliance, or otherwise initiate reasonable steps to remedy the asserted non-compliance issue, notifying the City of the steps being taken and the projected date that the steps will be completed.
- 14.3)** In the event that Mountain West does not comply with subsection **14.2,** above, the City shall schedule a public hearing to address the asserted non-compliance issue. The City shall provide Mountain West at least thirty (30) days prior written notice of and the opportunity to be heard at the hearing.
- 14.4)** Subject to applicable federal and state law, in the event the City, after the hearing set forth in subsection **14.3,** determines that Mountain West is non-compliant with this Ordinance, the City may:
- (A) Seek specific performance of any provision which reasonably lends itself to such remedy, as an alternative to damages; or
 - (B) Commence an action at law for monetary damages or equitable relief; or
 - (C) In the case of substantial non-compliance with a material provision of the Ordinance, seek to revoke the Franchise in accordance with subsection **14.4,** below.
- 14.5)** Should the City seek to revoke the Franchise after following the procedures set forth above, the City shall cause to be served upon Mountain West, at least ten (10) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise. At the designated hearing, the City shall give Mountain West an opportunity to state its position on the matter, after which the City shall determine whether or not the Franchise shall be revoked.

The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce its rights under this Ordinance in lieu of revocation.

14.6) Notwithstanding the foregoing provisions in this **Section 15,** Mountain West does not waive any of its rights under applicable law.

Section 15.) No Waiver of Rights. Neither the City nor Mountain West shall be excused from complying with any of the terms and conditions contained herein by any failure of the other, or any of its officers, employees or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions. Each party expressly reserves any and all rights, remedies, and arguments it may have at law or equity, without limitation, and to argue, assert, and/or take any position as to the legality or appropriateness of any provision in this Ordinance that is inconsistent with federal or state law, as may be amended.

Section 16.) Transfer of Franchise. Mountain West's right, title or interest in the Franchise shall not be sold, transferred or assigned, or otherwise encumbered without notice to the City, except when said sale, transfer, assignment, or encumbrance is to an entity controlling, controlled by, or under common control with Mountain West, or for transfers in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of Mountain West in the Franchise or Facilities to secure indebtedness provided the City before any sale, transfer or assignment must consent. The City cannot unreasonably withhold its consent.

Section 17.) Amendment. At any time during the Term of the Franchise, the City, through its governing body, or Mountain West, may propose an amendment or addendum to this Franchise by giving thirty (30) days written notice to the other of the proposed amendment or addendum desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment. No amendment may be adopted without mutual written agreement of the Parties.

Section 18.) Force Majeure. Mountain West shall not be held in default under, or in non-compliance with, the provisions of this Ordinance, nor suffer any enforcement or penalty relating to non-compliance or default (including revocation of the Franchise), where such non-compliance or alleged faults occurred or were caused by riot, war, earthquake, flood, unusually severe rain or snow storm, tornado or other catastrophic act of nature or judicial order or regulation or fiber cut or other damage or event that is reasonably beyond Mountain West's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor its utility poles on which Mountain West's Facilities and/or equipment is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary and delays caused by limited access to easements, poles or streets.

Section 19.) Provisions of Term. If, after the effective date of this Ordinance, should there be any enactment or promulgation of any federal or state law, regulation or order, or a decision of a court of competent jurisdiction that significantly changes Mountain West's or the City's rights or obligations under this Ordinance, or that pertains to any of the terms or provisions herein, including, but not limited to, the imposition, payment, collection or treatment of the franchise fees payable hereunder, then Mountain West and the City, by providing written notice to the other party, each shall have the right to request that affected portions of this Ordinance be amended or that there be an addendum hereto. The parties shall commence good-faith negotiations within sixty (60) days of such notice and endeavor to conclude such negotiations within ninety (90) days. Any amendment or addendum agreed to by the parties shall become effective upon the passage and acceptance of such amendment or addendum. In the event that an amendment or addendum cannot be agreed upon pursuant to the terms of this section, either the City or Mountain West may file an action with any court or agency with competent jurisdiction to conform the Franchise to the new law, regulation or order.

Section 20.) Notices. Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof or (b) within two (2) business days after such notice is deposited with the United States Postal Service, postage prepaid, certified, and addressed to the parties as set forth below:

The City of Douglas 101 N. Fourth St.
P.O. Box 1030
Douglas, WY 82633

Mountain West Technologies, Fiber Administrator 851 Werner Court, Suite 100 Casper, WY 82601

Section 21.) Publication Costs: Mountain West shall pay all publication costs associated with the adoption of this ordinance.

Section 22.) Severability. If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority, including any federal or state regulatory authority having jurisdiction thereof, or unconstitutional, illegal or invalid by any court of common jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the Term of the Franchise or any renewal or renewals thereof.

Section 23.) Sovereign Immunity/Governmental Claims. The City does not waive its sovereign immunity or its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement. Any actions or claims against the City

under this Agreement must be in accordance with and are controlled by the Wyoming Governmental Claims Act, W.S. 1-39-101 et seq. (1977) as amended.

Section 24.) Interpretation. The Parties hereto agree that (i) the laws of Wyoming shall govern this Agreement; (ii) any questions arising hereunder shall be construed according to such laws; and (iii) this Agreement has been negotiated and executed in the State of Wyoming and is enforceable only in the courts of Wyoming and the Eighth Judicial District.

Section 25.) Entire Agreement. This Ordinance contains the full, complete, and integrated statement of each and every term and provision agreed to by and among the Parties and supersedes any prior writings or agreements (written or oral) between or among the Parties, which prior agreements may no longer be relied upon for any purpose. This Ordinance shall not be orally modified in any respect and can be modified only by the written agreement of the Parties and subsequent amendment of this Ordinance as required by law.

PASSED AND APPROVED ON FIRST READING this 8th day of December, 2025.

PASSED AND APPROVED ON SECOND READING this 12th day of January, 2026.

PASSED, APPROVED AND ADOPTED ON THIRD AND FINAL READING this 26th day of January, 2026.



Ron McNare, Council President

Attest:

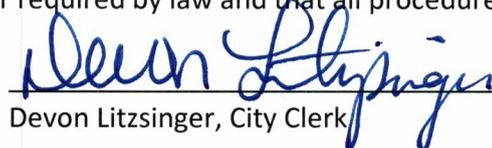


Devon Litzsinger, City Clerk

Published: February 4, 2026

ATTESTATION

I, Devon Litzsinger, the Clerk of the City of Douglas, Wyoming, do hereby attest and state that the above ordinance was published/posted in the manner required by law and that all procedures required by Wyoming State law were complied with.



Devon Litzsinger, City Clerk