

An Ordinance granting the Liberty Television, Inc. an Oregon corporation, a franchise to stretch wire and cable and appurtenant structure over and under the streets and alleys of the City of Albany and to maintain and use the same as a coaxial cable distribution system for television distribution to subscriber's residences and to business and public establishments for twenty years and regulating the rate of such service.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The City of Albany, hereinafter called the grantor, does hereby grant to the Liberty Television, Inc., an Oregon corporation, hereinafter called the grantee, and to its successors and assigns, the rights, privilege and authority and franchise to operate in, over, upon and under the streets and alleys, and public highways of the City of Albany and to stretch wires and cables on poles or underground or on other fixtures on all streets and alleys and to erect other appurtenances and to maintain and use the same as a coaxial cable subscription system for television signal distribution to subscribers' homes and to business establishments within the City.

Section 2: All work, erections, erection of poles and appliances and laying of wires and the operation of maintenance of the grantee's system shall be done in compliance with the necessary rules, regulation, ordinances, or orders which may, during the continuance of this franchise, be adopted from time to time by the City.

The word "necessary" as used in the paragraph, shall mean such rules, regulations, ordinances or orders as the City Council may deem necessary to protect and safeguard the health, safety and convenience of the public and any member of the public residing within the City who might be affected by any excavation work or installation of the grantee, or maintenance used and operation of its television distributing system.

Any act done by any contractor, subcontractor or by the grantee or by any agent of the grantee, shall for the purpose of this franchise, be deemed to be the act of the grantee, and all initial construction authorized herein shall be done only in accordance with a plan or design submitted to and approved by the City Council/

If at any future time the City Council requires the cable under this franchise be placed underground as part of an underground wiring system, no cost of removing or moving said cable underground shall be paid by the City of Albany.

Section 3: All poles, cables, wires, antennas or other appurtenances shall be constructed and erected in the workmanlike manner.

Nothing in this ordinance shall be construed to prevent the City from sewerage, planking, bridging, grading, altering, or otherwise improving any of the streets of the City. This ordinance shall further not be so construed as to deprive the City of any rights and privileges which it has now or which may be conferred upon it to regulate the use and control of streets. The City shall further have, at all times, the right to make use of poles of said grantee for wires, cables, or conductors for any and all city-owned wires system provided that such use does not conflict with grantee's prior occupancy.

In the event any of the grantee's poles, cables, wires or other appurtenances interfere with any future use that the City desires to make of its streets or alleys, the grantee shall, at its own expense, promptly re-locate such poles, cables, wires or other appurtenances upon being notified to do so. Whenever the grantee, its successors and assigns shall disturb any of the streets for the purpose aforesaid, it or they shall restore the same to good order and condition as soon as practicable without unnecessary delay, and failing to do so, the grantor shall have the right to fix a reasonable time limit within which such repairs and restoration of street shall be completed, and upon failure of such repairs being made by said corporation, its successors and assigns, the said City shall cause such repairs to be made at the expense of the said grantee, its successors and assigns.

Section 4: All construction hereby authorized shall conform to the requirements of the National Electric Code of the State of Oregon and the City.

Section 5: Whenever any person has obtained permission of the proper city officials to use any of the streets of said City for the purpose of moving any building, the said grantee, its successors and assigns, upon reasonable notice from such person and his paying the actual costs thereof, shall raise or remove any and all of the said wires or cables which may obstruct the moving of such building so as to allow the unobstructed passage of the same; and in the case of the failure of the said grantee, its successors or assigns, to comply with the terms of this section, the superintendent of streets, or other proper officer of the said City shall be and is hereby authorized to remove said wires at the expense of the granted, its successors and assigns.

Neither the City nor any of its employees shall be held liable for the consequence of any act done in connection with the moving of said building or rearrangement of wires or for the cost of rearranging the wires.

Section 6: In case it shall be necessary to cut or remove any of the said wires, cables or other appurtenances or equipment of the said grantee in order to get fire ladders or other apparatus to a building during a city conflagration, the said City shall not be liable for any damage done to such wires, cables or conductors or equipment.

Section 7: The rights and privileges herein granted shall not be deemed exclusive and the right is hereby reserved to the City to grant to any other persons, companies, corporations, or associations, similar rights.

Section 8: The rights, privileges, and franchise herein granted shall cease and terminate twenty (20) years after the effective date of this ordinance.

Section 9: Grantee shall indemnify and save the City free and harmless from any and all liability, loss, cost, damage or expense from accident or damage, either to itself or to persons or property of others which may occur by reason of the exercise of the rights and privileges herein granted: and shall, for the purpose of carrying out the provisions of this section, and prior to commencing construction of any kind, have in full force and effect, and file evidence thereto with the city recorder, a good and sufficient policy (or policies) covering bodily injury with limits of \$200,000 personal injury each person, limits of \$50,000 each accident and \$100,000 aggregate with said policy (or policies) to be executed by an insurance company (or companies) authorized and qualified to do business in the State of Oregon and conditioned to indemnify and save harmless the City from and against any and all claims, actions, suits, liability loss, cost, expense or damage of any kind or description which may accrue to or be suffered by the City or by anyone by reason of the erection, construction, reconstruction, relocation, replacing, readjustment, repair, maintenance or operation of the coaxial cable and appurtenances thereto, or by reason of anything that has been done or may be done by the grantee thereunder which may in anywise cause liability by reason thereof.

Section 10: The grantee shall pay to the City, not later than the 10th day of February each year, an amount equal to the hereinafter set forth percentage of the gross income received in service rendered in the City for which any part of the rights exercised under this franchise are used, to wit:

Three per cent (3%) of the gross revenues of the grantee during the term of this franchise.

This annual payment shall be based on the gross income of the twelve (12) months preceding December 31 of each year. There shall not be included in gross income those sums received by grantee for installation, construction or connection work. All payments made hereunder by the grantee to the City shall be offset credited against any other license, or excise or privileges taxes imposed by the City against grantee.

Section 11: Grantee shall, within thirty (30) days after the effective date of this ordinance, file with the city recorder written acceptance of this franchise and the terms imposed.

Section 12: Said grantee shall have the right to charge and collect reasonable compensation from all persons and corporations to whom said electronic transmission service shall be furnished (including installation charges), subject to the rules and regulations of legally constituted regulatory bodies of the state or federal governments. The charges made for a subscriber's service, including installation and connection work, shall be subject to review by the Council, on request. Before any new increased rate schedule is put into effect, the City Council shall review the proposed rates at a public hearing, which hearing shall be held after publication of notice at least ten days prior. After the hearing, the Council must approve the proposed rate schedule prior to its adoption by the company. The rate schedules shall be reviewed by the Council with the objective of approving rates which would provide a fair and reasonable rate of return to the company. The Council, after a study and consideration of national figures pertaining thereto and as affected by local conditions in the local system, may grant or deny the proposed rate change.

Section 13: The grantee shall at all times fully and faithfully perform all the terms, provisions, and conditions of this franchise and grant and furnish efficient service hereunder and maintain its property in good order and repair throughout the entire term of the grantee and upon default by the grantee hereunder of any of the provisions of this franchise or upon the failure of the grantee to comply with any of the rules, regulations, or order of the grantor and the continuance of such default or failure for a period of thirty days from such default, said City may by ordinance and for good cause shown, forfeit this grant or franchise and all further rights of the grantee, its successors or assigns, hereunder and in case of said forfeiture, the grantee shall have 120 days to remove all of its wires, cables or other appurtenances from said streets and alleys and any not so removed within said time shall become the property of the grantor.

Section 14: The grantee shall furnish without charge to the grantor at a place designated (within the corporate limits of the grantor) by the grantor, one outlet that is equivalent to the service the grantee shall be furnishing to private residences.

Section 15: The rights and privileges hereby granted shall cease and terminate and this ordinance shall be of no further force and effect unless grantee complies with the provisions of Section 2 of this ordinance and starts actual construction in accordance with said plan within one year from the date of the pole line agreement with Pacific Power & Light Company and Pacific Northwest Bell Telephone Company.

Section 16: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity or constitutionality of the remaining portions thereof.

Passed by the Council: February 9, 1966

Approved by the Mayor: February 9, 1966

Russell W. Snipp
Mayor

Effective Date: March 11, 1966

ATTEST:

Ernest W. Lham
City Recorder