

## ORDINANCE NO. 2471

AN ORDINANCE GRANTING TO ALBANY T-V DISTRIBUTING CORPORATION, AN OREGON CORPORATION, A FRANCHISE TO STRETCH WIRES AND CABLES AND APPURTENANT STRUCTURES 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 SUBSCRIBERS' RESIDENCES AND TO BUSINESS AND PUBLIC ESTABLISHMENTS FOR TWENTY YEARS, AND REGULATING THE RATES 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 Albany T-V Distributing Corporation, an Oregon corporation, and to its successors and assigns, the right, privilege, and authority and franchise to operate in, over, upon, and under the streets, alleys, and public highways of the City of Albany and to stretch wires and cable on all streets and alleys and to erect antennas or other appurtenances thereon 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 of Albany.

Section 2: The construction authorized herein shall be done only in accordance with a plan or design submitted to and approved by the City Council of the City of Albany.

Section 3: All poles, cables, wires, antennas or other appurtenances shall be constructed and erected in a workmanlike manner. Nothing in this ordinance shall be construed to prevent the city from sewer- ing, 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 or 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 the poles of said grantee for the wires, cables, or conductors for any and all city-owned wire systems provided that such use does not conflict with grantee's prior occupancy. In the event any of the grantee's poles, cables, wires, antennas, or other appurtenances interfere with any future use that the City of Albany desires to make of its streets or alleys, the grantee shall, at its own expense, promptly relocate any such poles, cables, wires, antennas, or other appurtenances upon being notified so to do.

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

Section 5: The rights and privileges herein granted shall not be deemed exclusive and the right is hereby reserved to the City of Albany to grant to any other persons, companies, corporations, or associations similar rights.

Section 6: The rights, privileges, and franchise herein granted shall cease and terminate twenty (20) years after the effective date of this ordinance.

Section 7: The grantee shall indemnify and save the City free and harmless from any 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 promptly repair all damage done to streets, alleys, or other city structures by grantee.

Section 8: The grantee shall pay to the City of Albany, not later than the tenth day of February each year, an amount equal to the hereinafter set forth percentages of the gross income received for services rendered in the City of Albany for which any part of the rights exercised under this franchise are used, to-wit:

- One percent of such gross income for the calendar years 1953, 1954, and 1955;
- Two percent of such gross income for the calendar years 1956 and 1957;
- Three percent of such gross income for the calendar year 1958 and all subsequent years during the life of this franchise.

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

Section 9: Grantee shall, within thirty days after the effective date of this ordinance, file with the City Recorder written acceptance of this franchise and the terms imposed.

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Section 10: The maximum rates and charges which the grantee, its successors or assigns, can charge or collect for services rendered or performed pursuant to this franchise are as follows:

a. For installation and connection of its services to a private residence, One Hundred Fifty Dollars (\$150.);

b. For installation and connection of its services to a commercial establishment, Two Hundred Dollars (\$200.);

c. For furnishing television signals to private residences, Three and 60/100 Dollars (\$3.60) per month;

d. For furnishing television signals to commercial establishments, Eight Dollars (\$8.) per month.

The Council of the City of Albany reserves the right, from time to time to change, alter, regulate, and fix the rates or charges which the grantee or its successors or assigns can charge or collect hereunder during the life of this franchise.

Section 11: The grantee shall at all times fully and faithfully perform all the terms, provisions, and conditions of this franchise or grant and furnish efficient service hereunder and maintain its property in good order and repair throughout the entire term of the grant, and upon any default by the grantee hereunder and the continuance of such default for a period of thirty (30) days from and after the receipt of notice from the council of the City of Albany specifying such default, said City of Albany 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.

Section 12: At the expiration of the term of this franchise, the City of Albany, at its election and upon the payment therefor of a fair valuation thereof, may purchase and take over to itself the property of the said Albany T-V Distributing Corporation, its successors and assigns, in its entirety and which may be situated on, in, above, or under the streets and public places of said City and used in connection therewith, within the corporate limits of said City, and should the City of Albany, upon the termination of this franchise, exercise such right of purchase, the said property of said company, its successors and assigns, in its entirety shall be and become the property of the City of Albany upon the passage, approval, and publication of an ordinance duly enacted authorizing the same, and upon the City of Albany paying to the said Albany T-V Distributing Corporation, its successors and assigns, the valuation thereof. Such valuation shall be of all appurtenances, appliances, equipment, wires, cable, coaxial cable, antennas, leaseholds, buildings, stores, and furniture and fixtures suitable and used by the company for its purposes within said City of Albany under this franchise, basing such appraisement upon the fair market value of the property as it is then located, ready for actual use; and such valuation shall be arrived at by the City of Albany appointing one appraiser, Albany T-V Distributing Corporation, its successors or assigns, appointing one appraiser, and such two appraisers appointing a third appraiser, which appraisers shall have the power and authority to employ expert valuers to aid them in arriving at the value of said property.

Section 13: The grantee shall not sublet or assign this franchise or any of the rights or privileges granted herein without the consent of the City of Albany expressed by Ordinance duly passed.

Section 14: 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 six months from the effective date of this ordinance.

Passed by the Council 4-8-53

Approved by the Mayor 4-8-53

ATTEST:

E. J. Fortmiller  
Recorder

Charles B. McCann  
Mayor