

ORDINANCE NO. 5470

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE CHAPTER 3.20, SECTIONS 3.20.010, 3.20.060, AND 3.20.110; AND DECLARING AN EMERGENCY.

WHEREAS, Pacific Northwest Bell is no longer operating under that business name; and

WHEREAS, Qwest has requested to extend the franchise agreement originally under the name of Pacific Northwest Bell; and

WHEREAS, Electric Lightwave, Inc. is not operating within the city,

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

The Albany Municipal Code Chapter 3.20 sections 3.20.010, 3.20.060, and 3.20.110 are amended to read as follows:

Chapter 3.20
~~PACIFIC NORTHWEST BELL AND ELECTRIC LIGHTWAVE, INC.~~ QWEST TELEPHONE
FRANCHISE

3.20.010: Granted

There is hereby granted by the City of Albany, hereinafter referred to as "City", to ~~Pacific Northwest Bell telephone Company and Electric Lightwave, Inc.~~ Qwest their successors and assigns, hereinafter each referred to as "Grantee", the right and privilege to do a general communication business within the City and to place, erect, lay, maintain and operate in, upon, over and under streets, alleys, avenues, thoroughfares, and public highways, places and grounds within the City, poles, wires and other appliances and conductors for all telephone, telegraph and other communication purposes. Such wires and other appliances and conductors may be strung upon poles or other fixtures above ground, or at the option of the Grantee, its successors and assigns, may be laid underground, and such other apparatus may be used as may be necessary or proper to operate and maintain the same. Notwithstanding the foregoing, the City Manager or his/her designee shall have the authority to prescribe which public ways will be used and the location of communications facilities within the public way as may be reasonably necessary to minimize public inconvenience.

3.20.060 Payment

Effective ~~July 1, 1990~~, **July 1, 2000**, and until the franchise's expiration, said Grantee shall pay to the City monthly, seven percent of its gross revenues derived from exchange access services, as defined in ORS 401.710, within the corporate limits of the City, less net uncollectibles. This franchise fee shall be deposited in the U.S. mail, postage prepaid, addressed to the ~~Finance Director~~ **Assistant City Manager/Administrative Services Director** of the City and postmarked on or before the last business day of the month following the month for which the payment is due. If a payment is not mailed by the date set forth above, the payment shall be deemed delinquent and shall accrue interest at the rate of nine percent per annum from the date of the applicable reporting period. The franchise payments made by the Grantee will be accepted by the City from the Grantee, also in payment of any separate fees that are imposed by the City on Grantee for street openings, construction inspection or maintenance of fixtures or facilities. However, Grantee shall not deduct charges and penalties imposed by the City for noncompliance with charter provisions, ordinances, resolutions, or permit conditions from the franchise fee required by this chapter.

3.20.110 Continuation - Termination.

The rights, privileges and franchise herein granted shall continue and be in force until ~~June 30, 2000~~, **June 30, 2003** except that it is understood and agreed that either party may at any time terminate or renegotiate this agreement upon six months' notice in writing.

Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, safety, and health of the citizens of the City of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by Council: January 24, 2001

Approved by Mayor: January 24, 2001

Effective Date: January 24, 2001



Mayor

ATTEST:



City Recorder