

ORDINANCE NO. 986

AN ORDINANCE GRANTING TO CALIFORNIA OREGON BROADCASTING, INC.,  
dba CRESTVIEW CABLE TELEVISION, A FRANCHISE TO STRETCH WIRES,  
CABLES AND APPURTENANT STRUCTURES OVER AND UNDER THE STREETS AND  
ALLEYS OF THE CITY OF PRINEVILLE, AND TO USE THE SAME AS A CABLE  
TELEVISION PLANT SUBSCRIPTION SYSTEM FOR DISTRIBUTION TO  
SUBSCRIBER'S RESIDENCES, TO BUSINESSES, AND  
TO PUBLIC ESTABLISHMENTS

THE CITY OF PRINEVILLE ORDAINS AS FOLLOWS:

Section 1: The CITY OF PRINEVILLE, hereinafter designated as "City", does hereby grant to CALIFORNIA OREGON BROADCASTING, INC. dba CRESTVIEW CABLE TELEVISION, hereinafter designated as "Grantee", the right and privilege, authority and franchise to construct and operate a cable television plant in, over, upon and under the streets, alleys, public highways and avenues of the City of Prineville, Oregon and to maintain and use the same as a cable television plant subscription system for distribution to subscriber's homes and business establishments within the City of Prineville.

Section 2: All poles, cables, wires, and other appurtenances shall be constructed and erected in a workmanlike manner and in conformance with National Electric Safety code and all other applicable regulations.

Nothing in this Ordinance shall be construed as to prevent the city from sewerage, 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. In the event that any of the Grantee's poles, cables, wires or other appurtenances interfere with any future use that the City desires to make of its property including streets and alleys, the Grantee shall, at its own expense, promptly relocate any poles, cables, wires or other appurtenances upon being notified to do so. Any rights granted hereunder shall always be subject to the right of the public to the free use of public property, and nothing herein shall be construed as granting any right that may interrupt or infringe upon the free use by the people.

City reserves the right, prior to any construction authorized herein, to require Grantee to submit construction plans or designs to the City to be approved by the City Public Works Committee or its designee. The approval of the construction plans or designs shall be given within 30 days from the date of submittal to the City unless Grantee is notified otherwise by City. If the plans or designs are not approved and the parties cannot reach an agreement, the City Council will make the final decision on whether the plans are to be approved or disapproved.

Section 3: That all installations made under this authority granted in this franchise shall be made in such manner as to conform to any and all applicable regulations, now in force or which may be enacted in the future, for the public health, safety, and welfare of the City of Prineville and its inhabitants.

Section 4: The rights, privileges, and franchise herein granted shall cease and terminate January 1, 2002. The Grantee shall, within thirty (30) days after the effective date of this Ordinance, and its agreement, abide by any regulations herein imposed.

Section 5: Whenever it becomes necessary to temporarily

rearrange, remove, lower, or raise the aerial cables, wires or other apparatus of the Grantee, to permit the passage of any building, machinery or other objects, the said Grantee will perform said rearrangement on seven (7) days written notice from the person or persons desiring to move said building, machinery or other objects. Said notice shall bear the approval of such officials as the City may designate, shall detail the route of movement of the building, machinery or other objects, shall provide that the cost incurred by the Grantee in making such rearrangement of its aerial plant will be borne by the person or persons giving said notice and shall further provide that the person or persons giving said notice shall indemnify and save the Grantee harmless of and from any and all damages or claims of whatsoever kind or nature caused indirectly or directly from such temporary rearrangement of the aerial plant of the Grantee.

Section 6: It shall be lawful for such Grantee to make all needful excavations in any such streets, alleys, avenues, thoroughfares and public highways in the City for the purpose of placing, erecting, laying and maintaining poles and other supports or conduits for said wires, or for repairing, renewing or replacing same. Said work shall be done in compliance with the necessary rules, regulations, ordinances, or orders which may, during the continuance of said franchise, be adopted from time to time by the City or its lawfully constituted agents. Whenever the Grantee shall disturb any of the streets for the purpose aforesaid, it shall restore the same to good order and condition as soon as practicable, without unnecessary delay. If the Grantee shall fail to immediately restore the City premises to good condition, the City shall make such necessary repairs as are required and shall bill the Grantee for the reasonable costs to restore the premises, including labor of City employees. Grantee shall pay said bill within thirty (30) days from the date the bill is sent to Grantee.

Section 7: Whenever it becomes necessary to temporarily or permanently rearrange, remove, lower or raise the aerial or underground cables, wires, or other apparatus of the Grantee to permit the City or its lawfully constituted agents to sewer, grade, rock, pave, maintain, repair, alter, or improve any of the water lines, sewer lines, streets, alleys, avenues, thoroughfares or public highways within the City, or property owned or controlled by the City whether inside or outside the City limits, the said Grantee will perform such rearrangement on ninety (90) days written notice from the City at no expense to the City. In the event of an emergency, as determined by the City, Grantee will immediately rearrange, remove, lower or raise the cables, wires or other apparatus of Grantee as required.

Section 8: The Grantee shall indemnify and save the City free and harmless from any liability, loss, cost, damage or other 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. As a prerequisite for the herein Ordinance to become effective, said Grantee shall provide a certificate of insurance, showing premiums prepaid for a period of one year, indicating liability coverage, and naming the City as a co-insured for the following:

- a) \$50,000.00 to any claimant for any number of claims for any damage to or destruction of property, including consequential damages arising out of a single accident or occurrence.
- b) \$100,000.00 to any claimant as general and special damages for all other claims arising out of a single accident or occurrence, unless those damages exceed \$100,000.00, in which case the claimant may recover additional special damages, but in no event shall the

total award of special damages exceed \$100,000.00.

- c) \$500,000.00 for any number of claims arising out of a single accident or occurrence.

If the liability limits change as a result of amendments to ORS 30.170, then the Grantee shall obtain liability coverage to the limits as nominated in ORS 30.270 or any replacement statute.

Section 9: No assignment of this franchise shall be permitted on the part of the Grantee, without the prior written approval of the City having been obtained, which approval shall not be unreasonably withheld.

Section 10: The rights and privileges herein granted shall not be deemed exclusive, and the right is hereby reserved to the City of Prineville to grant to any other person, companies, corporations or associations similar rights.

Section 11: Upon expiration of the term herein granted, the Grantee shall have the privilege of renewal for a term of ten (10) years. To exercise this option, the Grantee must make written application for such extension not later than July 1, 1999.

Section 12: Grantee shall pay to the City of Prineville, a fee of five percent (5%) of the Grantee's gross local service receipts per month, from the cable television operation in the City, including all forms of consideration, such as lump sum payments. Gross local service receipts shall not include any fees received for advertising by the Grantee, not hookup charges, transfer charges, collection fees, or damage claim collection. Such fees shall be paid by the Grantee monthly on or before the 20th day of each month for the preceding month. Grantee shall provide to the City, reasonable access to their books and records for the basic cable rent received upon being presented by the City ten (10) days prior written demand for the production of said records for City inspection. This franchise fee shall be paid instead of an annual business license and no other business license fee shall be required.

Section 13: The City shall not at this time regulate the maximum rates and charges for which the Grantee, its successors and assigns may charge or collect for the services provided by this franchise agreement. In accordance with Federal regulations, the City Council reserves the right to reinstate, through proper Ordinance amendment procedures, rate controls covering the services offered by Grantee.

Section 14: It is further ordained that the Grantee shall not institute any rate increase without providing the City of Prineville thirty (30) days prior written notice of any rate increase prior to the implementation of any rate increase by the Grantee.

Section 15: Grantee shall provide reliable and efficient service, make repairs promptly, and interrupt service only for good cause, and for the shortest possible time. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system as much as possible. Grantee shall provide its subscribers with not less than minimum visual signal level and other signal quality requirements as may be established by the Federal Communications Commissions. Grantee shall have a procedure for the investigation and resolution of all complaints regarding the quality of service, equipment malfunctions, billing practices, procedures and problems. The City shall approve procedure for investigation and resolution of complaints.

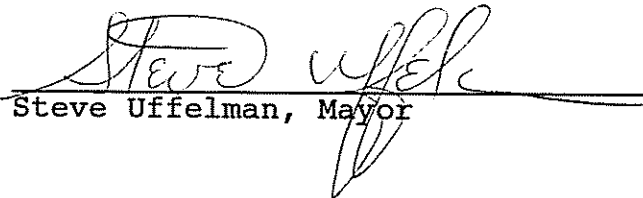
Section 16: The Grantee shall at all times, fully and faithfully perform all the terms, provisions and conditions of this franchise or grant and furnish efficient service hereunder and maintain its property in good order throughout the entire term of this grant, and upon any default by the Grantee hereunder and the continuance of such default for a period of thirty (30) days from and after receipt of notice from the City specifying such default, the 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.

Section 17: If any section, subsection, sentence, clause, phrase, word or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portions of this ordinance.


Section 18: Ordinance No. 764 is hereby repealed.

Section 19: This Ordinance shall take effect and be in full force on October 22, 1992.

PASSED by the Common Council of the City of Prineville this 22<sup>nd</sup> day of September, 1992.

  
Steve Uffelman, Mayor

Attest:

  
Henry Hartley  
City Administrator