

ORDINANCE No. 397  
Passed February 28<sup>th</sup> 1905

Ord 397  
Passed  
2-28-5

An ordinance granting N. Hector, W.L. Pate, N.H. Bateman, J.F. Denny and A. Henriksen, Trustees, their successors and assigns, the right to erect, maintain and operate in the City of Albany, in all the streets, avenues and thoroughfares thereof, except First street, poles, wires and other conductors for the transmission of electricity, on the terms and conditions herein stated.

The People of the City of Albany do ordain as follows:—

Sec. 1. That N. Hector, W.L. Pate, N.H. Bateman, J.F. Denny and A. Henriksen, Trustees, <sup>their successors and assigns</sup> and they are hereby granted the right and privilege of erecting, constructing, maintaining, operating and being in, along and over all the streets, alleys, avenues and thoroughfares of the City of Albany, except First street, poles, wires and other conductors for the transmission of electricity for telephone and telegraph purposes, and to string such wires and conductor on poles or other supports above the ground; provided the said N. Hector, W.L. Pate, N.H. Bateman, J.F. Denny and A. Henriksen, Trustees, their successors and assigns, shall have the right to string or suspend said wires or conductors across the said First street at all points where streets, avenues or thoroughfares in said City of Albany cross or intersect the said First street; and provided further, that the City of Albany expressly reserves the right and power to at any time, order and direct the said N. Hector, W.L. Pate, N.H. Bateman, J.F. Denny, and A. Henriksen, Trustees, their successors and assigns, to place said wires and other conductors of electricity underground, when in the judgment of the Council of the said City of Albany, the said wires become so numerous as to so require, and the said N. Hector, W.L. Pate, N.H. Bateman, J.F. Denny and A. Henriksen, Trustees, their successors and assigns, shall comply with the terms of such order when made within two months thereafter, or all rights and privileges hereby granted shall thereupon cease.

Sec. 2. That the said N. Hector, W.L. Pate, N.H. Bateman, J.F. Denny and A. Henriksen, Trustees their successors and assigns, shall have the right to make all needful and convenient excavations, in any of the streets, alleys, avenues and thoroughfares of said City of Albany, except First street, for the purpose of erecting and maintaining poles or other



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supports for said wires and conductors for the purpose aforesaid, the location of such excavations for poles or other supports for such wires, to be subject to the approval of the committee on streets and public property of the Council of the said City of Albany, all of said poles to be of uniform size and height and neatly painted and to be put up and erected in a substantial safe and workmanlike manner, and to be so placed as not to interfere with travel on or use of the said streets, alleys, avenues and thoroughfares or with any object lawfully existing in any of said streets, alleys, avenues or thoroughfares of the said city, subject however, to the supervision and control of the Council of the City of Albany.

Sec. 3. - That whenever the said H. Hutton, W. L. Pate, N. H. Bateman, F. J. Denny and A. Henriksen, Trustees, their successors or assigns, shall disturb any of the said streets, alleys, avenues or thoroughfares of the said City of Albany, for the purpose aforesaid, they shall restore the same within within three days to as good condition as it was before it was so disturbed or broken up; and that whenever it shall be necessary in the erection of such poles or any of them to take up any sidewalk or to dig up the ground at the side or corner of any street, alley, avenue or thoroughfare of the said City of Albany, the said H. Hutton, W. L. Pate, N. H. Bateman, F. J. Denny and A. Henriksen, Trustees, their successors and assigns, shall, after such poles are erected and without delay, remove any and all debris caused or created by the erection of the said poles, and shall put such sidewalk, street, alley, avenue or thoroughfare, in as good condition as the same was before it was taken up or disturbed.

Sec. 4. - Nothing in this ordinance shall be construed so as to in any way prevent the proper authorities of said city, from repairing, grading, paving, planting or in any way repairing or altering any of said streets, alleys, avenues or thoroughfares herein mentioned.

Sec. 5. - In consideration of the rights and privileges herein granted, the said city, by its authorized officers, shall have the right, free of charge, to suspend upon the poles placed by the said H. Hutton, W. L. Pate, N. H. Bateman, F. J. Denny and A. Henriksen, Trustees, their successors or assigns, in the streets, alleys, avenues, and thoroughfares aforesaid, any and all wires which it may require for fire alarm or police service and shall have, free of charge the use of all the telephone



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and telegraph lines of the said H. Hector, W. T. Pate, N. H. Bateman, J. J. Denny and A. Henriksen, Trustees, their successors and assigns, for city official business, passing into or through said city during the term of the rights and privileges hereby granted.

Sec. 6:— That whenever any person has obtained permission of the proper city officials, to use any of the streets of the City of Albany for the purpose of removing any building, of the said H. Hector, W. T. Pate, N. H. Bateman, J. J. Denny and A. Henriksen, Trustees, their successors or assigns upon twenty-four hours' notice from such person, shall remove or raise any of the said wires which may obstruct the removal of such building, so as to allow the free passage of the same; such notice shall be in writing and may be served by any person competent to be a witness in a civil action against the said H. Hector, W. T. Pate, N. H. Bateman, J. J. Denny and A. Henriksen, Trustees, their successors or assigns, upon their representative or agent, and in case of their refusal or failure to comply with the terms of such notice, the Superintendent of Streets or other proper officer of the city shall raise or remove said wires at the expense of the said H. Hector, W. T. Pate, N. H. Bateman, J. J. Denny and A. Henriksen Trustees, their successors or assigns.

Sec. 7:— That in case it shall be necessary to cut any of the wires or other conductors of electricity of the said H. Hector, W. T. Pate, N. H. Bateman, J. J. Denny, and A. Henriksen, Trustees, or assigns, in order to get fire ladders or apparatus to a building during a city conflagration, the city shall not be liable for the repairs to such wires or other conductors of electricity.

Sec. 8:— The rights, privileges and franchises herein granted shall continue and be in full force for the period of ten years, from the passage of this ordinance.

Sec. 9:— That before the said H. Hector, W. T. Pate, N. H. Bateman, J. J. Denny and A. Henriksen, Trustees their successors and assigns, shall be allowed to lay any of their wires in the limits of said city, or shall make any excavations or set any poles mentioned in this ordinance, within the limits of said city, the said H. Hector, W. T. Pate, N. H. Bateman, J. J. Denny and A. Henriksen, Trustees, their successors or assigns shall file their acceptance



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in writing with the Recorder of said City of all the stipulations and conditions imposed by this ordinance, and they shall commence work upon their said telephone system within six months from the date of the approval hereof or this ordinance shall be null and void.

Sec. 10:— Nothing in this ordinance shall be construed to prevent the said City of Albany from granting telephone franchises and privileges to other persons, firms or corporations as the City may see fit.

Sec. 11:— This franchise is granted upon the express condition that the same shall not in any way be sold, assigned, transferred, or in any way mortgaged, or incumbered or leased or disposed of, without the consent of the Council of the City of Albany expressed by ordinance duly passed; and any attempt to sell, assign or transfer, or mortgage, incumber, lease or dispose of the same without the consent of the Council of the City of Albany expressed in the manner aforesaid, shall work a forfeiture of this franchise and all rights under this ordinance.

Sec. 12:— This ordinance shall be in full force and effect from and after its approval by the Mayor.

Approved this 28<sup>th</sup> day of Feb'y, 1905

W. H. Davis

Mayor of the City of Albany Ore.

Attest: J. S. Van Winkle  
Recorder of the City of Albany.



## City Recorder's Certificate.

STATE OF OREGON.  
COUNTY OF LINN.

I, J. S. VAN WINKLE, Recorder of the City of Albany, in Linn County, and State of Oregon, do hereby certify that the foregoing ~~and annexed copy of~~

Ordinance No. 397

has been by me carefully compared with the original Ordinance bill No. 424

now on file in my office, and that it is a true and correct copy of all and the whole of said

Ordinance bill No. 424 as passed by the City Council of the City of Albany, Oregon, Feb'y, 28<sup>th</sup> 1905

Witness, my hand and official signature and the seal of the City of Albany, this

28<sup>th</sup> day of February, 1905

J. S. Van Winkle  
Recorder of the City of Albany.