

ORDINANCE #541

AN ORDINANCE RESCINDING AND REVOKING THE FRANCHISE RIGHTS GRANTED TO J&N CABLE SYSTEMS, INC. IN ORDINANCE #433 TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE TOWN OF YACOLT, AND AUTHORIZING COLLECTION ACTION AGAINST THE COMPANY.

Whereas, the Town Council on November 15, 2004, adopted Ordinance #433 through which the Town entered a non-exclusive franchise agreement with J&N Cable Systems, Inc., (*“the Company”*), to construct, operate and maintain a CATV system in the Town;

Whereas, Section 16 of Ordinance #433 reserved to the Town the right to rescind and revoke the rights granted in Ordinance #433 for a substantial violation by the Company or non-compliance with any of the obligations and requirements of the Company, provided that said violation(s) or non-compliance remained uncorrected after thirty (30) days written notice;

Whereas, the Town served written notice to the Company on April 13, 2016, of substantial violations and non-compliance with the obligations and requirements of the Company under the franchise agreement, Ordinance #433;

Whereas, the Company has not corrected the violations and non-compliance though the time-period by which the Company was required to correct the violations and non-compliance has expired;

Whereas, the Town Council believes that it is in the best interests of the citizens of the Town of Yacolt to authorize the Mayor, in his/her discretion, to pursue collection action including litigation against the Company in order to determine and collect any amounts due to the Town from the Company; and,

Whereas, the Town Council of the Town of Yacolt is in regular session this 16th day of May, 2016, and all members of the Town Council have had notice of the time, place, and purpose of said meeting:

NOW THEREFORE, be it ordained by the Town Council of Yacolt, Washington:

Section 1 - Franchise Rights of the Company Rescinded and Revoked: The franchise rights of J&N Cable Systems, Inc., its successors and assigns, as granted by the Town of Yacolt in Ordinance #433, adopted November 15, 2004, entitled “An Ordinance granting a Franchise to J & N Cable Systems, Inc., its Successors and Assigns, to Construct, Operate, and Maintain a Cable Television System in the Town of Yacolt, Setting Forth Conditions Accompanying the Grant of Franchise, and Providing for Town Regulation and Use of the Cable Television System”, of the Town of Yacolt, Washington, Increasing Utility Tax from 5.3% to 6%”, are hereby rescinded and revoked.

Section 2 - Authorization to Pursue Collection Actions: The Mayor of the Town of Yacolt is hereby authorized to demand, file, initiate, prosecute, and otherwise pursue any negotiation, collection action, or formal litigation against the Company without further consent or action by the Town

Council, in order to seek compensation for damages due to the Town of Yacolt, and to pursue any other rights and remedies available to the Town under the law, equity, and Ordinance #433.

Section 3 - Reservation of Settlement Authority: The Town Council reserves authority to approve any settlement or other final disposition of any claim or litigation initiated by the Mayor pursuant to this Ordinance.

Section 4 - Savings Clause: All rights and remedies available to the Town of Yacolt under Ordinance #433 and by law shall remain in full force and effect as of and following the effective date of this Ordinance.

Section 5 - Severability: If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, the remaining portion of this Ordinance shall remain in full force and effect.

Section 6 - Effective Date: This Ordinance shall take effect immediately upon adoption and publication of the following summary, according to law.

Town of Yacolt - Summary of Ordinance #541

The Town Council of the Town of Yacolt adopted Ordinance #541 at its regularly scheduled Town Council meeting held on May 16, 2016. The content of the Ordinance is summarized in its title as follows:

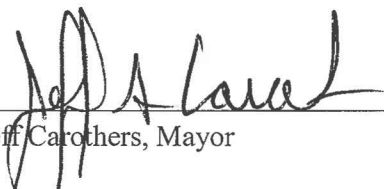
“An Ordinance Rescinding and Revoking the Franchise Rights Granted to J&N Cable Systems, Inc. in Ordinance #433 to Construct, Operate, and Maintain a Cable Television System in the Town Of Yacolt, and Authorizing Collection Action Against the Company.”
The effective date of the Ordinance is May 25, 2016.

A copy of the full text of the Ordinance will be mailed upon request to the undersigned at the Town of Yacolt Town Hall, P.O. Box 160, Yacolt, WA 98675: (360) 686-3922.

Published this 25th day of May, 2016.
Cindy Marbut, Town Clerk/Treasurer

PASSED by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this 16th day of May, 2016.

TOWN OF YACOLT



Jeff Carothers, Mayor

Town of Yacolt
Ordinance #541

Attest:

Cindy Marbut
Cindy Marbut, Town Clerk/Treasurer

Approved as to Form:

David W. Ridenour, Town Attorney

Ayes:	<u>Wallway, Tester, Hancock, Myers</u>
Nays:	<u>0</u>
Absent:	<u>0</u>
Abstain:	<u>0</u>

TOWN CLERK'S CERTIFICATION

I hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance #541 of the Town of Yacolt, Washington, entitled "An Ordinance Rescinding and Revoking the Franchise Rights Granted to J&N Cable Systems, Inc. in Ordinance #433 to Construct, Operate, and Maintain a Cable Television System in the Town Of Yacolt, and Authorizing Collection Action Against the Company", as approved according to law by the Town Council on the date therein mentioned. The Ordinance has been published or posted according to law.

Attest:
Cindy Marbut
Cindy Marbut, Town Clerk/Treasurer

Published:	<u>5-24-16</u>
Effective Date:	<u>5-24-16</u>
Ordinance Number:	<u>541</u>