

ORDINANCE No. 617

AN ORDINANCE GRANTING TO THE STAYTON COOPERATIVE TELEPHONE COMPANY, AN OREGON CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO ERECT AND MAINTAIN A TELEPHONE SYSTEM AND TO EXERCISE THE PRIVILEGE OF OPERATING A TELEPHONE COMMUNICATIONS SYSTEM WITHIN THE CITY OF STAYTON, STATE OF OREGON, THE TERM THEREOF, THE MODE OF ACCEPTANCE OF SAID GRANT BY SAID COMPANY, AND MANNER OF ASSIGNMENT BY SAID COMPANY OF ITS RIGHTS THEREUNDER

THE CITY OF STAYTON ORDAINS AS FOLLOWS:

Section 1.

There hereby is granted by the City of Stayton, State of Oregon, to the Stayton Cooperative Telephone Company, an Oregon corporation, its successors, affiliates, subsidiaries and assigns, hereinafter called the "Grantee," the right and privilege to construct, maintain and operate upon and under and along any and all of the streets, alleys and/or public highways within said City, poles, wire, transformers and other equipment and fixtures thereon or thereunto attached for a telephone communication system and to sell to persons using said system the service to be made available.

Section 2.

This Franchise is not exclusive and shall not be construed as a limitation on the City, should the City, during the franchise: (1) Grant rights of franchises for such purposes to other persons or corporations, similar or different from those granted by this Ordinance; (2) Construct, install, maintain or operate a like service or utility.

Section 3.

Whenever it becomes necessary to temporarily rearrange, remove, lower or raise the poles, wire or other equipment or apparatus of the Grantee to permit the passage of any building, machinery or other objects, such Grantee will perform such rearrangement within thirty (30) days from the receipt of written notice from the person, firm or corporation desiring to move said building, machinery or other objects. Said notice 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 temporary rearrangements of its plant facilities shall be borne by the person, firm or corporation giving such notice; and shall bear the approval of the City Council, or such other official of the City of Stayton as may be designated by said City Council for said purpose; provided, that whenever said City shall give notice of its desire to move any building, machinery or other objects, either in its governmental or propriety capacity, such temporary rearrangement of the aerial plant of the Grantee shall be made by said Grantee without cost to said City.

Section 4.

In consideration of the rights, privileges and franchises hereby granted, said

Grantee shall provide to said City and its inhabitants telephone service during Twenty four (24) hours each day, sufficient and adequate for the needs of said City, and its inhabitants, subject, however, to unavoidable interruptions, strikes, and breakdowns of plant and equipment.

Section 5.

The location and methods of installation and maintenance of all facilities of the Grantee, shall be placed so they do not interfere unreasonably with the use by the City and the public of the streets, bridges and public places and in accordance with any specifications adopted by the City governing the location of the facilities, provided that the specifications adopted by the City do not exceed the limitations set forth by the National Safety Code, latest edition.

Section 6.

The City may require, when reasonably necessary in the public interest, the reasonable relocation of the facilities maintained by the Grantee in the streets of the City, the Company shall, upon written notice from the City, or its properly constituted authorities, meet with City representatives and agree in writing to a plan and certain date to relocate such facilities, and if the company fails, neglects or refuses to do so, the City, by its properly constituted authorities may relocate the same at the expense of the Grantee. When such relocation is required for the convenience or benefit of any person, governmental agency or instrumentality including the City, Grantee shall be entitled to reimbursement for the reasonable cost thereof from such person, agency or instrumentality, excepting the Grantee shall not be reimbursed for relocation of aerial plant for the convenience of the City.

Section 7.

The Grantee shall indemnify and save harmless the City and its officers, agents, and employees from any and all loss, cost and expense arising from damage to property and/or injury to, or death of, persons due to any wrongful or negligent act or omission of the Grantee, its agents or employees in exercising the rights, privileges and Franchise hereby granted.

Section 8.

The facilities of the Grantee shall at all times be maintained in a safe, substantial and workmanlike manner. For the purpose of carrying out the provisions of this section, the City may provide such specifications relating thereto as may be necessary or convenient for the public safety or the orderly development of the City. The City may amend and add to such specifications from time to time.

Section 9.

The Grantee shall file with the City maps showing the location of any construction, extension or relocation of any of its underground facilities in the streets of the City and shall obtain from the City approval of the relocation and plans prior to the commencement of the work.

Section 10.

The rights, privileges and franchises herein granted shall continue and be in force for 15 years from the effective date of this Franchise Agreement.

Section 11.

This Ordinance, after passage by the Council, shall take effect and be in force from the date of approval of the Mayor, and said Grantee shall, within thirty (30) days from the date of this Ordinance shall take effect, file with the Administrator of the City of Stayton its written acceptance of all the terms and conditions thereof.

No assignment of the rights of the Grantee and to this Franchise shall be effective unless the assignee thereof shall, within sixty (60) days after such assignment, file notice thereof in writing with the Administrator of the City of Stayton setting forth the date of assignment and the name of the assignee thereof, and unless the Common Council shall approve said assignment.

Section 12.

The Grantee shall maintain on file, at an office in Oregon, maps and operational data pertaining to its operations in the City. The City may inspect the maps and data at any time during business hours. Upon reasonable request of the City, the Grantee shall furnish to the City without charge and on a current basis, maps showing the location of the cables, lines or other facilities of the Grantee in the City.

Section 13.

As consideration for this Franchise, the Stayton Cooperative Telephone Company shall pay the City of Stayton an amount of money each month equal to 3% of the gross Local Service Revenues less net uncollectables. To be reviewed by City Council every five years.

Section 14.

Upon the willful failure of the Grantee, after 60 days notice and demand in writing, to perform promptly and completely each and every term, condition, or obligation imposed on it under or pursuant to this Ordinance, the City may terminate this Franchise subject to Grantee's right to a court review of the reasonableness of such action.

Section 15.

It is hereby adjudged and declared that existing conditions are such that this Ordinance is necessary for the immediate preservation of the public peace, health and safety of the City of Stayton and an emergency is hereby declared to exist and this Ordinance shall take effect when signed by the Mayor.

Section 16.

Ordinance No. 393 passed by the Council and approved by the Mayor on June 15, 1970, is hereby repealed.

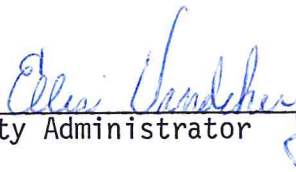
PASSED BY THE COMMON COUNCIL THIS 5th DAY OF August, 1985.

Signed by the Mayor this 9 day of Aug., 1985.



Mayor

ATTEST:



City Administrator