

AN ORDINANCE ACCEPTING A FRANCHISE OF THE TOWN OF NEW ASTORIA TO LAY, CONSTRUCT AND MAINTAIN WATER PIPE LINES UPON CERTAIN STREETS OF SUCH TOWN, AND AUTHORIZING THE MAYOR AND AUDITOR AND THE POLICE JUDGE TO EXECUTE THE ACCEPTANCE, AND DECLARING AN EMERGENCY.

WHEREAS, The Town of New Astoria, on the 6th day of July, 1945, passed and adopted an ordinance in the following words and figures, to-wit:

"AN ORDINANCE GRANTING A FRANCHISE TO THE CITY OF WARRENTON TO LAY AND CONSTRUCT WATER PIPE LINES UPON CERTAIN STREETS OF THE TOWN OF NEW ASTORIA.

"THE TOWN OF NEW ASTORIA DOES ORDAIN AS FOLLOWS:

SECTION 1: That the privilege, right and franchise is hereby granted for the period of 20 years to the City of Warrenton to lay and maintain water mains and water pipes on and over and in the following described streets of the Town of New Astoria, to-wit:

"From the Eastern boundary line of the Town of New Astoria at the intersection of Railroad Avenue and East First Avenue; thence West along East First Avenue to Park Avenue; thence North along Park Avenue to its intersection with Pacific Avenue; thence west along Pacific Avenue to the East boundary line of the United States Military Reservation in which Fort Stevens is located and in addition to the above all such streets as the City of Warrenton shall have laid its water pipe lines on within three years from the date of the approval of this ordinance or within three years from the date that the same shall become effective in case the same should become effective without being approved.

SECTION 2; Said right and franchise shall consist of the right of laying said water mains in and along said streets and of maintaining the same and of making all necessary taps and connections with the same. Said water pipes shall be laid at a sufficient depth underground so as not to interfere with the improvement or grading of any of the streets of said Town of New Astoria.

SECTION 3: The said grantee by this franchise shall exercise due care in laying said pipe lines, and maintain all necessary lines and all excavations, and place suitable barriers and warnings so as to prevent injury to any person or persons upon the streets, and shall have the Town of New Astoria harmless on account of damage or injury to any person or persons on account of laying and maintaining said water pipe lines. The said grantee shall also replace all excavations and refill all trenches that it may make in laying said pipe lines, and in case it shall at any time dig any trench in any street for the purpose of repairing the same, it shall at its own expense and as expeditiously as possible refill said trenches so that the street or streets will be in as good condition as the same were before such excavations were made.

SECTION 4: That the excavations for the purpose of constructing and maintaining said pipe line shall be subject to such reasonable rules and regulations as the said Town of New Astoria may from time to time establish by ordinance.

SECTION 5: That the right and franchise hereby granted is non transferable but is to the City of Warrenton alone and any transfer or assignment thereof to any person, firm or corporation shall of itself work a forfeiture of this franchise and repeal this ordinance without any further notice or proceedings on the part of the grantor, provided a mere change of the corporate name of the City of Warrenton shall not affect this ordinance in any way.

SECTION 6: That all rights and privileges of using the water mains and pipe lines laid in said Town by the City of Warrenton shall be enjoyed by the citizens of the Town of New Astoria in common with and on the same terms and conditions, as the same are used, and enjoyed, by the citizens of the City of Warrenton, and the same rates for the use of water shall be charged in the Town of New Astoria as are charged for like service, of all descriptions in the City of Warrenton.

SECTION 7: The grantee hereunder by the acceptance of this franchise undertakes and guarantees to supply at all times during its continuance water to any and all of the citizens and residents of the Town of New Astoria, whenever it is practicable to do so, and in case of damage to or breakage of, the mains supplying said Town of New Astoria; will repair the same as expeditiously as possible and water shall be flowing through said mains within two years of the acceptance of this franchise.

SECTION 8: That the mains laid in the streets of the Town of New Astoria shall not be less than six inch mains and shall be provided with six (6) fire plugs with tees and valves for Hydrants whose inlets shall not exceed four (4) inches in diameter with two outlets not exceeding 2 1/2 inches, with Pacific Coast Standard threads which shall be placed under the intersection of Smith-Ford and Park Streets with First Avenue and Henrietta, Jackson and Willow Streets, with Pacific Avenue. On the West side of each of said Streets except Park Street, and no change shall be made in the location of said hydrants without the mutual consent of both parties hereto, which plugs the Town of New Astoria shall be allowed to tap whenever necessary for fire protection for said Town or the inhabitants thereof, but shall provide and maintain its own hydrants which shall be used for fire protection only.

SECTION 9: As a part of the consideration for the granting of this franchise the Town of New Astoria is hereby granted the right and option to construct and maintain its own distribution system for water in said Town, and whenever said system shall be so constructed the City of Warrenton will sell to the Town of New Astoria water for the use of its citizens at wholesale rates such rates to be determined by a Board of Arbitration, one member of said board to be selected by each party, and in case of a disagreement said members to choose a third; the decision of a majority of said board to be final and binding on both parties hereto; the expense of such arbitration to be borne equally by both parties hereto;

SECTION 10: The Town of New Astoria agrees to pass and maintain on its ordinance books a substantial duplicate of any and all ordinance or ordinances governing rates, charges, and provisions for the use of water, hydrants, and tapping of mains and giving to the City of Warrenton and its officers the same powers for the collection of water rates and enforcement of penalties as shall be passed and maintained by the City of Warrenton for like purposes, at any and all times during the continuance of this franchise PROVIDED that the City of Warrenton shall not be compelled to maintain more than one main pipe in the Town of New Astoria.

SECTION 11: Any change in the name of the Town of New Astoria shall automatically operate to change the name of the Town whenever and wherever it occurs in this ordinance, whenever such change of name shall take effect in said Town of New Astoria.

SECTION 12: The right and privileges herein granted shall be enjoyed by the grantee for a period of 20 years and shall be subject to such reasonable rules and regulations as shall from time to time be established by the Town of New Astoria

by ordinance which rules and regulations shall be no more burdensome than such as are established by the City of Warrenton. This franchise shall become effective upon the acceptance of the same in writing by the City of Warrenton.

Passed by the Common Council this 6th day of July, 1915.

Approved this 6th day of July, 1915.

Frank Cunningham, Mayor

Attest:

T. S. Jewett, Auditor and Police Judge."

THEREFORE, THE CITY OF WARRENTON DOES ORDAIN AS FOLLOWS:

Section 1. That said ordinance of the Town of New Astoria is in all respects approved and accepted.

Section 2. That the Mayor and the Auditor and Police Judge of the City of Warrenton be, and they hereby are, authorized and directed to execute a written acceptance of said ordinance of the Town of New Astoria.

Section 3. That the passage of this ordinance at this time and the taking effect of same forthwith is necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Warrenton, and an emergency is, therefore, hereby declared to exist, and this ordinance shall be in full force and effect upon its passage by the Common Council and approval by the Mayor.

Passed by the Common Council this 26th day of July, 1915.

Approved this 26th day of July, 1915.

Signed: George Schmidt, Mayor

Attest: John Evenden, Auditor and Police Judge