

ORDINANCE NO. 190 A

Introduced by Commissioner Geo. P. Kizer

AN ORDINANCE granting to The Pacific Telephone and Telegraph Company, its successors and assigns, the right and privilege to do a general telephone and telegraph business and to place, erect, lay, maintain and operate in, upon, and under the streets, alleys, avenues, thoroughfares and public highways within the City of Warrenton, State of Oregon, poles, wires and other appliances and conductors for the transmission of electricity for telephone, telegraph and allied purposes of communication.

THE CITY OF WARRENTON DOES ORDAIN AS FOLLOWS:

Section 1. There is hereby granted by the City of Warrenton to The Pacific Telephone and Telegraph Company, its successors and assigns, the right and privilege to do a general telephone and telegraph business within said City of Warrenton and to place, erect, lay, maintain and operate in, upon and under the streets, alleys, avenues, thoroughfares and public highways within the said City, poles, wires and other appliances and conductors for the transmission of electricity for telephone, telegraph and allied purposes of communication. Such wires and other appliances and conductors may be strung upon poles or other fixtures above ground, or at the option of the grantee, its successors and assigns, may be laid underground in pipes or conduits or otherwise protected, and such other apparatus may be used as may be necessary or proper to operate and maintain the same.

Section 2. It shall be lawful for said The Pacific Telephone and Telegraph Company, its successors and assigns, to make all needful excavations in any of such streets, alleys, avenues, thoroughfares and public highways in said City for the purpose of placing, erecting, laying and maintaining poles, or other supports or conduits for said wires or repairing, renewing or replacing the same. Said work shall be done in compliance with the necessary rules, regulations, ordinances or orders, which may during the continuance of this franchise be adopted from time to time by the City of Warrenton.

Section 3. Whenever The Pacific Telephone and Telegraph Company, its successors and assigns, shall disturb any of the streets for the purpose aforesaid, it or they shall restore the same to good order and condition as soon as practicable without unnecessary delay, and failing to do so the City of Warrenton shall have the right to fix a reasonable time within which such repairs and restoration of streets shall be completed, and upon failure of such repairs being made by said Company, its successors and assigns, the said City shall cause such repairs to be made at the expense of said The Pacific Telephone and Telegraph Company, its successors and assigns.

Section 4. Nothing in this Ordinance shall be construed in any way to prevent the proper authorities of the City of Warrenton from sewerage, grading, planking, rocking, paving, repairing, altering, or improving any of the streets, alleys, avenues, thoroughfares and public highways within the City of Warrenton in or upon which the poles, wires or other conductors of said Company shall be placed, but all such work or improvements shall be done if possible so as not to obstruct or prevent the free use of said poles, wires, conductors, conduits, pipes or other apparatus.

Section 5. Whenever it becomes necessary to temporarily rearrange, remove, lower or raise the aerial cables or wires or other apparatus of the grantee to permit the passage of any building, machinery, or other object, the said grantee will perform such 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 official as the City Commission may designate, shall detail the route of movement of the building, machinery or other objects, shall provide that the costs 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 will indemnify and save said grantee harmless of and from any and all damages or claims of whatsoever kind or nature caused directly or indirectly from such temporary rearrangement of the aerial plant of the grantee.

Section 6. In consideration of the right and privilege hereby granted, the City of Warrenton shall have, and the said The Pacific Telephone and Telegraph Company, its successors and assigns, hereby grants to it during the life of this franchise, the right and privilege to place and maintain, where aerial construction exists, a fixture on the top of poles erected and maintained under this franchise, to which may be attached wires not exceeding four (4) and where it has underground conduit available for such purpose, said The Pacific Telephone and Telegraph Company, its successors and assigns, shall furnish to the City of Warrenton one duct in its main underground conduit system, free of charge to the said City of Warrenton, to be used for the City's low tension police and fire alarm purposes; provided, however, that when accepted in such joint use as in this section provided the City of Warrenton shall construct and maintain its circuits, wires and appliances in accordance with accepted safety and construction standards, and in no event shall the said circuits, wires or appliances of the said City of Warrenton be exposed to power lines or circuits of over five thousand (5000) volts without formal notice to and specific written approval of grantee herein in each such proposed exposure, which approval shall be contingent upon the provision by said City of Warrenton of such safety and protection measures with respect to its circuits, wires and appliances as will meet the standards prescribed by such public authority as may have jurisdiction in the premises, or at the option of the grantee, as may be by it considered adequate; and provided further that in case of rearrangement of said plant, the said City of Warrenton will at its own expense care for its own fixtures, wires and construction and provided further that the said The Pacific Telephone and Telegraph Company, its successors and assigns, assume no liability whatsoever, either to said City or to any person, firm or corporation whatsoever, for any damage or claim of any kind arising out of the

construction, maintenance, operation, removal or presence of the equipment herein described and to be used by the City solely in maintaining the efficiency of its fire alarm system and police force.

Section 7. In further consideration of the rights, privileges and franchise hereby granted, said grantee, The Pacific Telephone and Telegraph Company, its successors and assigns, shall furnish to said City of Warrenton for local service one individual flat rate telephone for the use of the said City of Warrenton for municipal purposes and shall connect the same with the system of said grantee and hereafter maintain and keep same in good repair and working order during the term of said franchise without expense or charge to the said City of Warrenton, and said telephone equipment shall be placed in such location in the City of Warrenton as the City Commissioners may direct.

Section 8. In further consideration of the rights, privileges, and franchise hereby granted, said grantee, The Pacific Telephone and Telegraph Company, its successors and assigns, shall pay to the City of Warrenton, from and after the effective date of this franchise and so long as it shall remain in effect, annually two per cent (2%) per annum of its gross local service receipts derived from the operation of telephones located within the corporate limits of the City of Warrenton as said corporate limits now exist or may hereafter be extended. Payment of said two per cent (2%) shall be made on or before the fifteenth day of March of each and every year for the calendar year preceding, with the exception that in the year 1938, payment shall be made only for the period commencing on the date this franchise becomes effective and ending December 31, 1937, and such 2% payment made by the grantee, together with the value to the City of Warrenton of the privilege of using the aerial and underground plant of the grantee, and one telephone for local service, as herein provided for, will be accepted by the City of Warrenton from the grantee, also in payment of any license, privilege or occupation tax or fee for revenue or regulation, or for any other purpose now or hereafter to be imposed by the City of Warrenton upon the grantee during the term of this franchise. And provided the grantee accepts this franchise and makes said 2% payment and furnishes to the City of Warrenton the privilege of using the aerial and underground plant of the grantee, and one telephone for local service, as herein provided for, then the City of Warrenton will not, during the term of this franchise, require the grantee to make any further payment to the City of Warrenton for any license, privilege or occupation tax or fee.

Section 9. The City of Warrenton may, in any lawful manner and upon the payment of a fair valuation lawfully ascertained, purchase, condemn, acquire, take over and hold the property and plant of the grantee in whole or in part; if such purchase or taking over be at the expiration of the term of the franchise, such valuation shall not include any sum for the value of the franchise or grant under which such plant and property is being operated.

Upon payment by the City of Warrenton of a fair valuation as above stated, the plant and property so acquired shall become the property of the City without formal execution of any instrument of conveyance, provided, however, the City may at its option compel the execution to it of an instrument of transfer and conveyance.

Upon the acquisition of any such plant or property the right of the holder of any such franchise pursuant to which such plant or property was operated shall cease and determine, and the acquisition by the City of any such property or plant shall operate to divest the holder of any such franchise of all right, title and interest therein.

Section 10. The franchise hereby granted shall not be sublet or assigned nor shall any of the rights or privileges hereby granted or authorized be leased, assigned, sold or transferred without the consent of the City of Warrenton, expressed by Ordinance duly passed by the Commission and approved by the Mayor of the City.

Section 11. The rights, privileges and franchise herein granted shall continue and be in force for the period of twenty (20) years from and after the date this Ordinance becomes effective.

Section 12. This Ordinance shall take effect and be in force from and after twenty (20) days after its passage and approval, and the said grantee shall, within thirty (30) days of the passage of this Ordinance, file with the Recorder of the City of Warrenton, its written acceptance of all the terms and conditions of this Ordinance.

PASSED AND ADOPTED BY THE COMMISSION THIS 13th DAY OF April, 1937.

ATTEST: G. Clifford Barlow
Auditor and Police Judge

APPROVED BY THE MAYOR THIS 13th DAY OF April, 1937.

W. Francis
Mayor

STATE OF OREGON)
COUNTY OF CLATSOP) SS
CITY OF WARRENTON)

I, G. Clifford Barlow, duly qualified and acting Auditor and Police Judge of the City of Warrenton, Clatsop County, Oregon, hereby certify that I have compared the above copy of City of Warrenton Ordinance No. 190 A passed and adopted by the Commission of said City on the 13th day of April, 1937, and approved by the Mayor on the 13th day of April, 1937, and that the above copy is a true and correct transcript and of the whole thereof of said Ordinance No. 190A.

WITNESS my hand and the seal of the City of Warrenton, Clatsop County, Oregon, this 13th day of April, 1937.

G. Clifford Barlow
Auditor and Police Judge of the City of Warrenton, Clatsop County, Oregon