

ORDINANCE NO. 370-A

Introduced by Commissioner Clare Wade

AN ORDINANCE GRANTING TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, HEREINAFTER SOMETIMES REFERRED TO AS "GRANTEE", 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, OVER AND UNDER THE STREETS, ALLEYS, AVENUES, THOROUGHFARES AND PUBLIC HIGHWAYS, PLACES AND GROUNDS WITHIN THE CITY OF WARRENTON, POLES, WIRES AND OTHER APPLIANCES AND CONDUCTORS FOR ALL TELEPHONE, TELEGRAPH AND OTHER COMMUNICATION PURPOSES.

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, over and under the streets, alleys, avenues, thoroughfares and public highways, places and grounds within the said City, poles, wires and other appliances and conductors for all telephone, telegraph and other communication purposes. 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, places and grounds in said City for the purpose of placing, erecting, laying and maintaining poles, or other supports or conduits for said wires and appliances and auxiliary apparatus 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, places and grounds 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

Page One, Ordinance.

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, and, if required by grantee, shall be accompanied by a cash deposit or a good and sufficient bond to pay any and all such costs as estimated by grantee.

Section 6. In 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 date of the acceptance of this franchise, and until its expiration, annually, the sum of \$600.00 or a sum equal to 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, whichever sum is the greater. Payment of the sum provided for herein shall be made on or before the 15th day of March of each and every year for the calendar year preceding, with the exception that in the year 1959, payment for the period commencing on the date this franchise becomes effective and ending December 31, 1958, shall be that proportion of \$600.00 which the period from such effective date to December 31, 1958, bears to the full calendar year 1958, or Two per cent. (2%) of the gross local service receipts derived from the operation of telephones located within the corporate limits of the City for that period, whichever sum is the greater. Such payment made by the grantee 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.

Section 7. 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 8. 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 City Commission and approved by the Mayor of the City.

Section 9. The Grantee hereby agrees and covenants to indemnify and save harmless said City and its officers from any damages, costs and expenses arising from any injury to persons or property by reason of any negligent or willful act or omission of the Grantee, its agents or employees in exercising the rights and privileges herein granted.

Section 10. Inasmuch as the Grantee has been enjoying the rights and privileges herein granted from the date of the expiration of its last previous existing franchise, to-wit: May 4, 1957, pursuant to verbal authority so to do, both the telephone company and the city agree that the City is to receive for the year 1957 and the period in 1958 before the new franchise is effective, Two per cent. per annum on the telephone company's gross local service receipts derived from the operation of telephones located within the corporate limits of the City of Warrenton  
Page Two, Ordinance.

plus the free use of any telephones set out in its prior franchise which expired May 4, 1957. That this sum of money need not be paid until the 15th day of March, 1958.

Section 11. This Ordinance and franchise shall be subject to the conditions and restrictions contained in Section 15 of Chapter 7 of the City of Warrenton Charter and also subject to the provisions of all of Chapter 7 of the City of Warrenton Charter and any other provisions of the City of Warrenton Charter referring to public utilities and matters of franchising.

Section 12. The rights, privileges and franchise herein granted shall continue to be in force for the period of ten (10) years from and after the date this Ordinance becomes effective.

Section 13. This Ordinance shall take effect and be in force from and after its passage and approval, and the said grantee shall, within thirty (30) days of the passage and approval of this Ordinance, file with the Auditor and Police Judge of the City of Warrenton, its written acceptance of all the terms and conditions of this Ordinance.

Passed by the City Commission of the City of Warrenton this 17 day of March, 1958.

Approved by the Mayor of the City of Warrenton this 17 day of March, 1958.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Auditor and Police Judge

Approved as to Form

By 