

ORDINANCE BILL NO. 2 FOR 1943

ORDINANCE NO. 589. ✓

Code No 12-17

AN ORDINANCE GRANTING UNTO ETHEL A. BAUMAN, AN INDIVIDUAL DOING BUSINESS UNDER THE ASSUMED FIRM NAME AND STYLE OF LINN COUNTY TELEPHONE COMPANY, HER SUCCESSORS AND ASSIGNS, THE RIGHT TO ERECT, PLACE AND MAINTAIN POLES, WIRES, CABLES AND OTHER APPLIANCES AND CONDUCTORS AND TO LAY UNDERGROUND WIRES FOR THE TRANSMISSION OF ELECTRICITY FOR TELEPHONE AND TELEGRAPH PURPOSES, IN, UPON, ABOVE AND UNDER THE STREETS, ALLEYS, AVENUES, AND THOROUGHFARES IN THE CITY OF LEBANON, OREGON, AND TO EXERCISE THE PRIVILEGE OF OPERATING TELEPHONE AND TELEGRAPH INSTRUMENTS IN AND DOING A TELEPHONE AND TELEGRAPH BUSINESS WITHIN THE CITY OF LEBANON, OREGON.

THE PEOPLE OF THE CITY OF LEBANON DO ORDAIN AS FOLLOWS:

SECTION 1. There is hereby granted by the City of Lebanon, Oregon, hereafter called the City, unto Ethel A. Bauman, an individual, doing business under the assumed firm name and style of Linn County Telephone Company, hereafter called the Grantee, her successors and assigns, the right and privilege to do a general telephone and telegraph business in the City of Lebanon, Oregon, and to place, erect, lay, maintain and operate over and under the streets, alleys, avenues and thoroughfares within the said City, poles, wires, cables and other apparatus and appliances and conductors for the transmission of electricity for telephone and telegraph purposes. Such wires, cables and other appliances may be strung upon poles or other fixtures above the ground, or, at the option of the Grantee, her successors or assigns, may be laid or placed underground in pipes or conduits or otherwise protected, as the said Grantee may deem advisable.

SECTION 2. It shall be lawful for the said Grantee, her successors or assigns, to make all needful excavations in any streets, alleys, avenues and thoroughfares in the said City of Lebanon, except as herein otherwise provided, for the purpose of placing, erecting, laying and maintaining poles, cables, wires or other supports or conductors for the said wires, or repairing, renewing, or replacing the same, and the said work shall be done in compliance with the rules, regulations, ordinances or orders which may, during the continuance of this franchise, be adopted, from time to time, by the Council of the City of Lebanon, Oregon, and all such poles to be of lawful size and height and erected in a substantial, safe and workmanlike manner and to be so placed as not to interfere with travel on or use of said streets, alleys, avenues or thoroughfares, or with any object lawfully existing in said streets, alleys, avenues and thoroughfares of said City, subject, however, to the supervision and control of the Council of said City.

SECTION 3. Whenever the said Grantee, her successors or assigns, shall disturb or tear up any of the said streets, alleys, avenues, or thoroughfares of the said City, for the purposes aforesaid, she or they shall restore the same within ten (10) days to as good condition and repair as the same was before being disturbed or torn up. And whenever it shall be necessary, in the laying of underground wires, cables or conduits, to take up any

sidewalk or pavement, or to dig up the ground at the corner of any street, alley, avenue or thoroughfare of the said City of Lebanon, the said Grantee, her successors and assigns, shall thereafter and without delay remove any and all debris and materials caused or created thereby, and shall put such sidewalk or pavement, street, alley, avenue and thoroughfare in as good condition as the same was before it was taken up or disturbed. The Committee on Streets and Public Property of the Council of the City of Lebanon, or such other committee or official as the Council of said City, may designate, shall have the right to cause the said Grantee, her successors or assigns, to change the location of any of its poles, wires, conduits, cables or other conductors, whenever public convenience shall require the location of the same elsewhere, and the expense of such change or removal shall be borne by the said Grantee, or her successors or assigns.

SECTION 4. Nothing in this franchise shall be construed in any way to prevent the proper authorities of the City of Lebanon from sewerage, grading, planking, rocking, paving, repairing and altering or improving any of the streets, alleys, avenues and thoroughfares within said City in or upon which the poles, cables, wires or other conductors of the said Grantee shall be placed, but all such work or improvement shall be done, if possible, so as not to obstruct, disturb or prevent the free use of said poles, cables, wires, conductors, pipes or other apparatus.

SECTION 5. IN CONSIDERATION of the rights and privileges herein granted, the said City, by its authorized officers, shall have, and the said Ethel A. Bauman, her successors and assigns, hereby grants to it, the right and privilege to suspend and maintain on poles placed by said Grantee, her successors and assigns, in the streets, alleys, avenues, and thoroughfares, any and all wires which said City may require, exclusively for its own use, for fire alarm and police telegraph or telephone purposes, or if said wires are placed underground, the use of one duct in each conduit of the underground system of the Grantee, free of charge to the said City, and all such wires shall be placed upon the poles or in the conduit or cables so as not to interfere with the telephone service, and shall not carry current or voltage dangerous to the telephone plant or telephone users.

SECTION 6. IN FURTHER CONSIDERATION of the rights, privileges and franchises hereby granted the said Grantee, her successors and assigns, shall pay to the City of Lebanon, the sum of One Hundred Twenty Dollars (\$120.00) a year to be paid each and every year during the term of this franchise and grant, the same to be paid quarterly in advance at the rate of Thirty Dollars (\$30.00) per quarter, beginning January First, 1943; and the said Grantee, her successors and assigns, shall furnish to the City, free of charge, one telephone in the Recorder's Office and one telephone in the Fire Station of the City, and keep the same in good order; shall furnish and maintain, free of charge, to the City, for the duration of the present war or so long as shall be required of the City for purposes of National Defense, one telephone for the Observation and Listening Post, and three telephones for the Defense Control Center of the City, said four telephones last mentioned, however, to be discontinued at the end of the war emergency requiring the same; and to renew and continue for the term hereof the fire and police alarm signal service as provided under the terms of that certain contract between the City and P. A. Mitchell, his successors and assigns, dated the 2nd day of May, 1933, which was approved by the City

by Ordinance No. 445, passed by the Council and approved by the Mayor on said date; which payment and services shall be in lieu of all licenses or other charges which might be imposed or required by the said City from the said Grantee, her successors or assigns, for the privilege of conducting a telephone and telegraph business in the said City.

SECTION 7. Whenever any person has obtained permission of the proper City officials to use any of the streets of said City for the purpose of moving any building, the said Grantee, her successors or assigns, upon reasonable notice from such person and his paying the actual costs thereof, shall raise or remove any and all of the said wires or cables which may obstruct the moving of such building so as to allow the unobstructed passage of the same; and in case of the failure of said Grantee, her successors or assigns, to comply with the terms of this section, the Superintendent of Streets, or other proper officer of the said City, shall be and is hereby authorized to remove said wires at the expense of said Grantee, her successors or assigns.

SECTION 8. In case it shall be necessary to cut or remove any of the said wires, cables or other conductors of electricity or equipment of the said Grantee, in order to get fire ladders or other apparatus to a building during a city conflagration, the said City of Lebanon shall not be liable for any damages done to such wires, cables or conductors or equipment.

SECTION 9. In further consideration of the granting of this franchise, the said Grantee agrees that, upon order of the Street Committee of the City, she will paint to a height of eight feet, with such color of paint as may be designated by said Committee, all poles which may be declared by said Committee to be hazardous to traffic.

SECTION 10. In the event of placing of any additional poles within the fire limits of the said City, a permit must be obtained from the Committee on Streets and Public Property of the Common Council of the City of Lebanon, with the approval of the Chief of the Lebanon Fire Department endorsed thereon.

SECTION 11. If the said Grantee, her successors or assigns, shall fail, neglect or refuse to comply with all the terms of this franchise and to do and perform all the things to be done or performed by her as herein provided, then the rights, privileges and franchise hereby granted shall be forfeited to the City of Lebanon, and the said Grantee, her successors or assigns, shall at once remove all its poles, wires and equipment out of the streets, alleys, avenues and thoroughfares of said City, or failing to do so shall be subject to the penalties of doing business without a franchise.

SECTION 12. The rights, privileges and franchises hereby granted shall continue in force for a period of Ten (10) years from and after the first day of January 1943.

SECTION 13. This Ordinance shall be of no force or effect unless or until it shall have been published in full, at the expense of said Grantee, at least twice in a newspaper of general circulation published in the City of Lebanon, Oregon, such publication to take place and be completed not less than ten days nor more than thirty days before the final passage hereof, and

said Grantee shall within thirty days thereafter file with the Recorder of the City her written acceptance of all the terms and conditions of this Ordinance and franchise, whereupon the same shall be effective as of January 1, 1943.

SECTION 14. This Ordinance passed by the unanimous vote of all members elected to the Council taken by roll-call and by aye and nay vote and entered in the minutes of the Council proceedings this 2nd day of March, 1943. Approved by the Mayor this 2nd day of March, 1943.

P. J. Zwack

Mayor

ATTEST:

Gust Kauder

Recorder

LEBANON TELEPHONE COMPANY

ETHEL A. BAUMAN, MANAGER
LEBANON, OREGON

March 4, 1943.

Honorable Mayor and City Council,
City of Lebanon,
Lebanon, Oregon.

Gentlemen:

All the terms and conditions of Ordinance Number 581 of the City of Lebanon, passed by the City Council upon the second day of March, 1943, granting a telephone franchise unto Ethel A. Bauman, are hereby accepted by grantee this fourth day of March, 1943.

Yours respectfully,

Ethel A. Bauman

Acknowledgment of receipt of within acceptance is hereby acknowledged this 4th day of March, 1943.

Geo H Rande
Recorder, City of Lebanon