

**CITY OF SHERWOOD, OREGON  
ORDINANCE 2002-1131**

**AN ORDINANCE ESTABLISHING A PRIVILEGE TAX TO BE LEVIED AND COLLECTED  
FROM VERIZON NORTHWEST, INC., DECLARING AN EMERGENCY, AND  
ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, the City of Sherwood ("City") and Verizon Northwest, Inc., as successor in interest to GTE Northwest, Inc., have enjoyed a franchise relationship for many years; and

**WHEREAS**, Verizon Northwest, Inc. is currently operating within the City, its facilities are actually occupying City rights of way, and City residents are receiving local exchange access and other telecommunications services from Verizon Northwest, Inc.; and

**WHEREAS**, Verizon Northwest, Inc. does not currently have a franchise allowing its use and occupancy of the City's rights of way, the last franchise agreement granted by Ordinance No. 930 having expired on or about June 26, 2001; and

**WHEREAS**, both Verizon Northwest, Inc., and its predecessor GTE Northwest, Inc. have continuously paid a franchise fee or privilege tax calculated to be 3.96% of defined gross revenues earned within the City for the privilege of occupying City rights of way pursuant to the concurrent authority granted to the City under state law, the City Charter and ordinances; and

**WHEREAS**, the City has issued permits and otherwise facilitated Verizon's need to construct, repair, and maintain its physical plant located within the rights of way throughout Verizon's occupancy of City rights of way; and

**WHEREAS**, Verizon Northwest, Inc. notified the City that Verizon is now unwilling to accept a franchise agreement pending the outcome of current litigation, but wishes to maintain its facilities in City rights of way and to apply for and receive as appropriate and authorized the necessary permits to continue its operations in the City and its use of City rights of way; and

**WHEREAS**, the City Council desires to continue its course of dealings with Verizon Northwest, Inc., with due regard for the protection of its citizens and the City rights of way, and it is the intent of the Council to levy and collect the full privilege tax authorized by state law; and

**WHEREAS**, ORS 221.515 authorizes the City to levy a privilege tax in the amount of up to seven percent (7%) of the gross revenues of a telecommunications carrier earned in the provision of telecommunications services within the City, for the use and occupancy of the City's rights of way; and

**WHEREAS**, the City and Verizon Northwest, Inc. have had an established practice with respect to right of way activities which was based on the expired franchise and which should be continued and formalized by this enactment of the City Council; and

**WHEREAS**, because the franchise agreement is expired, and it is necessary to clarify the City's authority to receive fair and reasonable compensation for the use and occupancy of its rights of way by Verizon throughout the period following expiration of the franchise and until further action of the Council, an emergency should be declared, and this ordinance should become effective concurrent with the expiration of Ordinance No. 930;

**NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:**

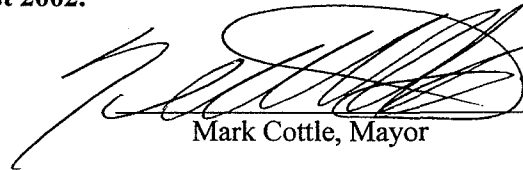
Section 1. Privilege Tax Levied. A privilege tax is hereby levied in the amount of 3.96 percent (3.96%) of the gross revenues earned by Verizon Northwest, Inc. in the provision of telecommunications services within the City of Sherwood, consistent with the authority by the City's Charter, ordinances, and ORS 221.515 for the period from July 1, 2001 through June 30, 2002. From and after July 1, 2002, the amount of the privilege tax levied will be in the amount of seven percent (7%) of the gross revenues earned by Verizon Northwest, Inc. in the provision of telecommunications services within the City of Sherwood. Payment of the tax shall be made quarterly on or before January 15, April 15, July 15, and October 15 each year for the prior quarter ending December 31, March 31, June 30 and September 30. Any payment not so made shall bear interest at the rate of nine percent (9%) per annum until paid.

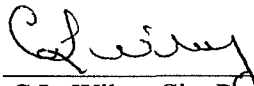
Section 2. Provisions Related to Right of Way Regulation.

- (a) It shall be lawful for Verizon Northwest, Inc. to make all needful and necessary excavations in any of said streets, alleys, avenues, thoroughfares and public highways under the jurisdiction of the City of Sherwood. Work shall be done with the approval of, to the specifications of, and under permit from the City of Sherwood Engineering Department, which permits shall be obtained prior to the commencement of such work and shall be in the form specified by the City Engineer or designee.
- (b) Whenever it shall be necessary in the construction, reconstruction, relocation or making any other improvements to any street, alley, or public highway, or when it is deemed for the public benefit to relocate any equipment belonging to Verizon Northwest Inc., Verizon Northwest Inc. shall relocate said equipment following 30 days' written notice from the City Engineer or designee and at no cost to the City. In the event that Verizon Northwest, Inc. shall fail to make such relocation as required herein, the City may undertake or cause such relocation to be done, and shall recover the cost thereof from Verizon Northwest, Inc. Any payment not made to the City pursuant to this paragraph within 30 days of the City's demand shall bear interest at the rate of nine percent (9%) per annum until paid.

Section 3. Emergency Declared; Effective date. Based on the findings above, an emergency is hereby declared, and this Ordinance shall take effect retroactively as of the expiration of Ordinance No. 930 on June 26, 2001, and shall continue in effect until repealed by the City Council.

**Duly passed by the City Council this 13<sup>th</sup> day of August 2002.**

  
Mark Cottle, Mayor

ATTEST:   
C.L. Wiley, City Recorder

	<u>AYE</u>	<u>NAY</u>
Heironimus	<input checked="" type="checkbox"/>	_____
Durrell	<input checked="" type="checkbox"/>	_____
Claus	<input checked="" type="checkbox"/>	_____
Weeks	<u>Resigned 8-13-02</u>	_____
Mays	<input checked="" type="checkbox"/>	_____
Fox	<input checked="" type="checkbox"/>	_____
Cottle	<input checked="" type="checkbox"/>	_____