

AFFIDAVIT OF POSTING

ORDINANCE #118

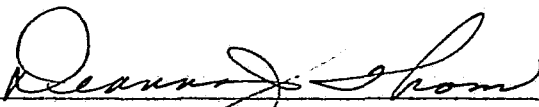
STATE OF OREGON)
)
COUNTIES OF CLACKAMAS)
 AND WASHINGTON)
)
CITY OF WILSONVILLE)

I, the undersigned, City Recorder of the City of Wilsonville, State of Oregon, being first duly sworn on oath depose and say:


On the 2nd day of January, 1980, I caused to be posted copies of the attached Ordinance #118, an ordinance granting a Franchise to Telephone Utilities of Oregon, in the following four public and conspicuous places of the City, to wit:

Wilsonville Post Office
Wilsonville City Hall
Lowrie's Food Market
Kopper Kitchen

The Ordinance remained posted for more than five (5) consecutive days prior to the time for said public hearing on the 2nd day of January, 1980.


DEANNA J. THOM, City Recorder

Subscribed and sworn to before me
this 24th day of January, 1980.


NOTARY PUBLIC, STATE OF OREGON
My commission expires: May 11, 1981

ORDINANCE NO. 118

AN ORDINANCE GRANTING TO TELEPHONE UTILITIES OF OREGON THE RIGHT TO MAINTAIN POLES, WIRES AND OTHER APPLIANCES AND CONDUCTORS AND TO LAY UNDERGROUND WIRES FOR THE TRANSMISSION OF ELECTRICITY FOR COMMUNICATION PURPOSES IN CERTAIN STREETS, ALLEYS, AVENUES, THOROUGHFARES AND PUBLIC HIGHWAYS OF THE CITY OF WILSONVILLE, OREGON AND TO CONDUCT A GENERAL COMMUNICATION BUSINESS WITHIN ONE AREA OF THE CITY.

THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1: There is hereby granted by the City of Wilsonville to Telephone Utilities of Oregon, an Oregon corporation, its successors and assigns the right and privilege to conduct a general communication business in that area of the City of Wilsonville which is south of the Willamette River and to place, erect, lay, maintain and operate in and under the streets, alleys avenues, thoroughfares and public highways within said area of the City south of the Willamette River wires and other appliances and conductors for the transmission of electricity for communication purposes. Such wires and other new or enlarged appliances and conductors shall be laid underground in pipes or conduits or otherwise protected.

Section 2: It shall be lawful for grantee to make all need-ful and necessary excavations in any of said streets, avenues, thoroughfares and public highways but on the following conditions:

- A. An application for the required excavations shall first be filed with the City Administrator and a permit issued by the City which may specify the time when and the conditions under which the work is to be done.
- B. Said work shall be done in compliance with the rules, regulations, ordinances and orders which have been heretofore or which may hereafter be made or required by the City.

Section 3: Whenever grantee shall disturb any of the streets, alleys, avenues, thoroughfares and public highways for the purposes aforesaid it shall restore the same in good order and condition as soon as practicable without unnecessary delay and failing to do so the City shall have the right to fix a reasonable time within which

such repairs and restorations shall be completed and upon failure of the grantee to make such repairs and restorations the City may cause such repairs to be made at the expense of the grantee. The grantee, by its acceptance of this franchise agrees and covenants to indemnify and save harmless the City and the officers thereof against all damages, costs and expenses whatsoever to which it or they may be subjected in consequence of the negligence of the grantee or its agents or servants in any manner arising from the rights and privileges hereby granted.

Section 4: The City, by its properly constituted authorities shall have the right to cause the grantee to move the location of any existing pole, underground conduit or equipment belonging to grantee whenever the relocation thereof shall be for public necessity and the expense thereof shall be paid by the grantee. Whenever it shall be necessary for public necessity to remove any pole, underground conduit or equipment belonging to grantee or upon which any wire or circuit of the grantee shall be stretched or fastened, the grantee shall, upon written notice from the City or its properly constituted authorities, meet with City representatives and agree in writing to a plan and date certain to remove such pole, underground conduit, equipment, wire or circuit at grantee's expense and if the grantee fails, neglects or refuses to do so, the City, by its properly constituted authorities, may remove the same at the expense of the grantee.

Section 5 Whenever it becomes necessary to temporarily rearrange, remove, lower or raise the wires, cables or other plant of grantee for the passage of buildings, machinery or other objects grantee shall temporarily rearrange, remove, lower or raise its wires, cables or other plant as the necessities of the case require; provided, however, that the person or persons desiring to move any such buildings, machinery or other objects shall pay the entire actual cost to grantee of changing, altering, moving, removing or

replacing its wires, cables or other plant so as to permit such passage and shall deposit in advance with grantee a sum equal to such cost as estimated by grantee and shall pay all damages and claims of any kind whatsoever direct or consequential caused directly or indirectly by the changing, altering, moving, removing or replacing of said wires, cables or other plant except as may be occasioned through the sole negligence of grantee. Grantee shall be given not less than ninety-six (96) hours written notice by the party desiring to move such building or other objects. Said notice shall detail the route of movement of such building or other objects over and along the streets, alleys, avenues, thoroughfares and public highways and shall bear the approval of the City. Such moving shall be with as much haste as possible and shall not be unnecessarily delayed or cause grantee unnecessary expense or waste of time.

Section 6: In consideration of the rights and privileges hereby granted, the City shall have and grantee hereby grants to it the right and privilege to maintain wires and necessary control boxes to be placed in the pipes or conduits of grantee which City may reasonably require for fire, police and other municipal purposes. All such new or expanded facilities shall be placed in the conduits so as not to interfere with the communication services and shall not carry currents or voltage dangerous to telephone plant or telephone users and all installations, maintenance and repairs shall be subject to the rules, regulations and supervision of the grantee. City agrees in consideration of the establishment of this service and the furnishing of such facilities to hold grantee entirely free and harmless from all claims or liability for damages which may arise out of the operation of these special services.

As further consideration, grantee agrees to pay the City a filing fee equivalent to two (2) percent and a franchise fee equivalent to

three (3) percent of the applicable gross annual revenue for the Calendar year 1979 for both local and foreign exchange services rendered subscribers within the City limits such revenue to be determined in accordance with the lawful rates and rate grouping applicable to the exchange and of extended area service. Such payment shall be made by grantee on or before March 1, 1980.

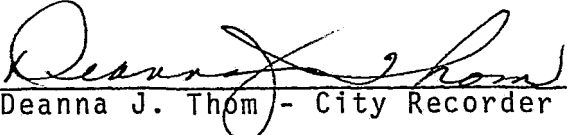
Section 7: It is understood and agreed that the total percentage to be paid to the City by grantee under the terms and provisions of Section 6, above is not the standard franchise fee paid by the grantee to other cities it serves for the rights, privileges and franchises of the nature contemplated herein due to the fact the grantee has never had a franchise agreement with the City of Wilsonville.

Section 8: The rights, privileges and franchise hereby granted shall be for the 1980 calendar year.

Section 9: This ordinance shall be inoperative unless it is accepted in writing by the grantee within sixty (60) days after its effective date. If grantee refuses to accept this ordinance, then the grantee shall pay five percent (5%) of the gross revenues per year from 1971 annexation of this area to the City and continue at five percent (5%) per year until agreement is signed as per ORS 221.450.

Section 10: All ordinances and parts of ordinances of previous date insofar as the same are in conflict herewith are hereby repealed and annulled; and this ordinance shall take effect immediately upon its final reading and passage by the Wilsonville City Council.

Submitted to the Council and read the first time at a regular meeting of the Council on the 17th day of December, 1979 and continued for further discussion at the regular meeting of the Council on the 7th day of January, 1980, commencing at the hour of 7:30 p.m. at the Wilsonville City Hall.


Deanna J. Thom - City Recorder

ENACTED after second reading by the Council on the 7th day
of January, 1980 by the following vote: YEAS 5. NAYS 0.

Vera A. Rojas
Vera A. Rojas - Acting City Recorder

Dated and signed by the Mayor this 8th day of January, 1980.

William G. Lowrie
William G. Lowrie - Mayor