

ORDINANCE NO. 18

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 Garibaldi, poles, wires and other appliances and conductors for all telephone, telegraph and other communication purposes.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF GARIBALDI, OREGON:

Section 1. There is hereby granted by the City of Garibaldi 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 Garibaldi 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 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. Provided however, that the grantee, its successors and assigns will place any of its poles, wires and other appliances and conductors in such manner as may be required from time to time by ordinance duly passed by the Common Council and approved by the mayor pursuant to the charter of the City of Garibaldi.

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 Garibaldi.

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 Garibaldi 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 Garibaldi from sewerage, grading, planking, rocking, paving, repairing, altering or improving any of the streets, alleys, avenues, thoroughfares and public highways within the City of Garibaldi 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. Said grantee hereby agrees and covenants to indemnify and save harmless the said City of Garibaldi and its officers from any damages, costs, and expenses arising from any injury to persons or property by reason of negligent act or omission of the grantee, its agents or employees in exercising the rights and privileges herein granted.

Section 6. "Whenever it becomes necessary to temporarily rearrange, remove, lower or raise the serial 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 common council 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 serial 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 serial plant of the grantee.

Section 7. 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 Garibaldi, from and after the date of the acceptance of this franchise, and until its expiration, 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 Garibaldi. 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, and such 2% payment made by the Grantee will be accepted by the 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 Garibaldi upon the grantee during the term of this franchise. And provided the grantee accepts this franchise and makes said 2% payment, then the City of Garibaldi will not, during the term of this franchise, require the Grantee to make any further payment to the City of Garibaldi for any license, privilege or occupation tax or fee.

Section 8. 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 9. 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 of this Ordinance, file with the Recorder of the city of Garibaldi, its written acceptance of all the terms and conditions of this ordinance.

WRITTEN ACCEPTANCE OF ORDINANCE NO. 18

CITY OF GARIBALDI, OREGON

TO THE MAYOR AND COMMON COUNCIL OF THE CITY OF GARIBALDI:

WHEREAS, on the 26th day of January, 1948, the Common Council of the City of Garibaldi, Oregon, passed Ordinance No. 18 entitled:

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 Garibaldi, poles, wires and other appliances and conductors for all telephone, telegraph and other communication purposes:

WHEREAS, said Ordinance was duly signed on the 26th day of January, 1948, by the Mayor of said City, and attested by the Recorder of said City on January 8, 1948.

WHEREAS, the franchise granted by said Ordinance was granted upon the condition that the said grantee shall, within thirty (30) days after the passage of said Ordinance, file with the Recorder of the City of Garibaldi, its written acceptance of all the terms and conditions of said Ordinance:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that The Pacific Telephone and Telegraph Company does hereby accept said Ordinance No. 18 and all the terms and conditions of said Ordinance.

IN WITNESS WHEREOF, The Pacific Telephone and Telegraph Company has caused this acceptance to be duly executed this 17th day of February, 1948.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY

By _____

J. H. Jones
Vice President

Attest: _____

G. H. Harding
Secretary

Receipt of the original of the duly executed acceptance by The Pacific Telephone and Telegraph Company of all the terms and conditions of that certain franchise granted by Ordinance No. 18 of the City of Garibaldi, Oregon, is hereby admitted this 26 day of February, 1948.

B. L. Smith
Recorder of the City of Garibaldi

The foregoing ordinance was:

Read for the first time in open council on December 8, 1947 at the hour of 8:40 p.m.

Read for the second time in open council on December, 8, 1947 at 8:50 p.m.

Read for the third time in open council January 26, 1948 at 9:40 p.m. and being then and there before the council upon the question "Shall the ordinance pass", the roll being called resulted as follows:

Fessler, Aye
Fellows, Aye

Graham, Aye
Weber, Aye

Spooner, Absent

Passed and adopted by the Common Council, the 26th day of January, 1948.



Mayor

ATTEST:



Recorder-Treasurer