

ORDINANCE BILL NO. 3 for 1953

ORDINANCE NO. 235

AN ORDINANCE GRANTING TO THE LINN COUNTY TELEPHONE 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 SWEET HOME, POLES, WIRES AND OTHER APPLIANCES AND CONDUCTORS FOR ALL TELEPHONE, TELEGRAPH AND OTHER COMMUNICATION PURPOSES, AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

THE CITY OF SWEET HOME DOES ORDAIN AS FOLLOWS:

Section 1. There is hereby granted by the City of Sweet Home to the Linn County Telephone Company, its successors and assigns, the right and privilege to do a general telephone and telegraph business within said City of Sweet Home and to place, erect, lay, maintain and operate in, upon, over 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.

Section 2. It shall be lawful for said Linn County Telephone 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 Sweet Home.

Section 3. Whenever the Linn County Telephone 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 Sweet Home 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 Linn County Telephone 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 Sweet Home from sewer-ing, grading, planking, rocking, paving, repairing, altering, or improving any of the streets, alleys, avenues, thoroughfares, sidewalks, and public highways, within the City of Sweet Home 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 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, or other large object, the said Grantee, its 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 cable which may obstruct the moving of such building or object so as to allow the unobstructed passage of the same; and in case of the failure of said Grantee, its 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, its successors or assigns.

When acting in conformity with the foregoing, neither the City nor any of its employees shall be held liable for the consequence of any act done in connection with the moving of said building or object or rearrangement of wires or for the cost of rearranging the wires.

Section 6. In case it shall be necessary to cut or remove any of the said wires, cables or other conductors 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 Sweet Home shall not be liable for any damages done to such wires, cables or conductors or equipment.

Section 7. In consideration of the rights, privileges, and franchise hereby granted, said Grantee, the Linn County Telephone Company, its successors and assigns, shall pay to the City of Sweet Home, from and after the date of this franchise, and until its expiration, annually, two per cent (2%) per annum of its gross local exchange service receipts derived from the operation of telephones located within the corporate limits of the City of Sweet Home. 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, the first payment covering the period from the date hereof to December thirty-first, nineteen hundred and fifty three being due on or before March fifteenth, nineteen hundred and fifty four, and such 2% payment made by the Grantee will be accepted by the City of Sweet Home 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 Sweet Home upon the Grantee during the term of this franchise, except assessments for special improvements levied upon the real property benefitted thereby. And provided the Grantee accepts this franchise and makes said 2% payment, then the City of Sweet Home will not, during the term of this franchise, require the Grantee to make any further payment to the City of Sweet Home for any license, privilege or occupation tax or fee for revenue or regulation or for any other purpose, except said special improvement assessments levied upon real property.

Section 8. In further consideration of the rights and privileges herein granted, the Grantee, its successors and assigns hereby grants,

without charge, to the City of Sweet Home the right and privilege to suspend and maintain on poles placed by Grantee, its successors and assigns, in the streets, roads, alleys and thoroughfares, such signal wires as are necessary for the exclusive use of the City of Sweet Home for fire alarm and police signal circuits, or other signal or control circuits, required by the City, including a control circuit to the City pump house. In the event that the use of poles in certain areas is discontinued by Grantee and underground circuits are substituted therefor, then Grantee will reserve space in the underground conduit to accommodate the fire alarm and police signal circuits and other city signal circuits which otherwise would be suspended on Grantee's poles for which no charge shall be made. All wires of the City of Sweet Home shall be so placed on the poles, or in the conduits, of Grantee as not to interfere with telephone service of the Grantee, and shall not carry such electrical current or voltage as may endanger Grantee's telephone plant or telephone users. Grantee further agrees to take fire calls at its switchboard and to give the location to volunteer firemen, all without charge to the City of Sweet Home, until such a time as Grantee shall install automatic switchboard equipment. When such automatic switchboard equipment shall be installed, Grantee agrees to install, without cost to the City of Sweet Home, a multiple jack strip with associated apparatus in the City Hall and four trunks to the Central Exchange and two other trunk circuits shall be provided for receiving fire reports only, and thereafter the employees of the City will receive the fire calls and relay the necessary information to the proper parties.

Should the City of Sweet Home not have a full time attendant on duty at the City Hall, after automatic switchboard equipment is installed by the Grantee, five telephone instruments will be installed on a common circuit at desirable locations, selected by City officials, one station to be located at the City Fire Hall.

The above five phones will ring simultaneously when the published fire reporting number is dialed. An attendant at any station may receive the fire report, and operate a control switch that will operate the fire warning system.

Should the above five telephones on a common circuit be provided by the Grantee, it shall be in lieu of the jack strip apparatus and four trunks, and two trunks for receiving fire calls only, provided that if the City is not ready for twenty-four hour operation for use of the jack strip at the time the automatic switchboard equipment is in operation, and the City later wishes to change to twenty-four hour operation by an attendant at the City Hall, the Grantee will change from the five instruments on a common line system to the jack strip and four trunk installation, but shall not be required to make such change more than once.

Section 9. In further consideration of the rights and privileges herein granted, the Grantee agrees to furnish, without cost to the City of Sweet Home, local exchange service of the types and at the locations specified on the statement marked Exhibit A attached hereto and forming a part hereof. Telephone service of other types or classes, or any service in addition to that specified in Exhibit A shall be paid for by the City of Sweet Home at the regular rates for service as contained in Grantee's tariff as now on file or as hereafter may be filed with the Public Utilities Commissioner of Oregon.

Section 10. The Grantee agrees that, except as prevented by material shortages, acts of God, the elements, unavoidable accidents, strikes, riots, war conditions, defective machinery, breakdowns in equipment, or other matters beyond its control, the Grantee will complete the installation of dial switchboard equipment to serve the City of Sweet Home within three years from the date hereof.

Section 11. This ordinance supersedes all existing franchises of the Linn County Telephone Company, and shall be posted for ten days after passage in three or more conspicuous places in the City of Sweet Home.

The rights, privileges and franchise granted herein shall continue and be in force for the period of 15 years from and after the thirtieth day after its passage.

Section 12. The City Council deems it expedient that this Ordinance and Franchise shall take effect immediately, and this Ordinance shall be in effect from and after the date that it is passed by the City Council and approved by the Mayor.

Passed by the Council and approved by the Mayor this 24th day of March, 1953.

ATTEST:

Jess M. Parker
City Manager
City of Sweet Home

Ernest E. Ellis
Mayor of the City of Sweet Home

Accepted and agreed to this 6th day of April, 1953

LINN COUNTY TELEPHONE COMPANY

W. D. Smith
President

H. D. H. H. H.
Secretary

EXHIBIT A

<u>Phone Listing</u>	<u>Type of Service</u>	Monthly Rate if billed in accordance with Tariff in Effect <u>3/1/53</u>
Police Department	One party business desk phone	\$ 4.75
Volunteer Department	One party business desk phone	4.75
City office	One party business desk phone	4.75
on premises	Two extensions from above station	2.50
Water Plant	Four party Desk phone	4.25
Sewer Plant	Four party Desk phone	<u>4.25</u>
		\$ 25.25

Total monthly "Free Service," other than trunks
for handling Fire Department, if billed at
regular Tariff rates in effect March 1, 1953

\$ 25.25

April 4, 1953

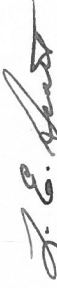
REGISTERED

Mr. Jess Parker, City Manager
City of Sweet Home
Sweet Home, Oregon

Dear Sir:

Linn County Telephone Company hereby files its unconditional acceptance of the terms, conditions and provisions of Ordinance No. 235 passed by the City of Sweet Home on March 24, 1953. This ordinance grants to Linn County Telephone Company a franchise to construct, maintain, and operate property and facilities for the supplying of telephone service in the City of Sweet Home for a period of fifteen years.

Very truly yours,



L. E. Scott, Manager