

AN ORDINANCE GRANTING TO Willard E. Chinn, HIS OR THEIR SUCCESSORS OR ASSIGNS, THE RIGHT AND PRIVILEGE TO USE AND OCCUPY THE STREETS, AVENUES, LANES, ALLEYS, HIGHWAYS, AND OTHER PUBLIC PLACES OF THE CITY OF SWEET HOME, LINN COUNTY, STATE OF OREGON, FOR THE PURPOSE OF SUPPLYING, DISTRIBUTING, AND SELLING WATER TO THE INHABITANTS OF SAID CITY, AND FOR THE PURPOSE OF PIPING WATER UNDER GROUND FOR THE USE OF THE INHABITANTS OF SAID CITY, FOR FIRE PROTECTION, DOMESTIC AND MANUFACTURING PURPOSES UPON CERTAIN TERMS AND CONDITIONS, AND PROVIDING A PENALTY FOR ANY INTERFERENCE THEREWITH AND DECLARING AN EMERGENCY.

Be it Ordained by the Common Council of the City of Sweet Home.

Section 1.

There is hereby granted to Willard E. Chinn, his successors or assigns, for a period of 20 years from and after the passage, publication and taking effect of this ordinance, the right and privilege of conducting water into the City of Sweet Home, and through the streets, avenues, lanes, alleys, squares, parks and play grounds of said city, for the purpose of supplying the said city, its inhabitants and manufacturing concerns with fresh, pure and wholesome water and the said grantee, his successors or assigns, does hereby agree to furnish the said city, its inhabitants and the manufacturing concerns with fresh, pure and wholesome water; and the said grantee, his successors or assigns, does hereby agree to furnish said water to the property lines along the streets, avenues, lanes, alleys and highways in the said City of Sweet Home, for which the said Willard E. Chinn, his successors and assigns, is hereby authorized to charge reasonable rates.

Section 2.

That the water for the use of the said City of Sweet Home, and its inhabitants and manufacturing concerns, shall come from and be secured from such place or places in the vicinity of the City of Sweet Home as may be selected by the grantee herein, provided, however, that such source of water supply and such water system shall at all times be subject to the approval of the health authorities of the State of Oregon and the City of Sweet Home and all and every regulation of the health authorities of said state and city.

Section 3.

The said Willard E. Chinn, his successors or assigns, is hereby granted the right and privilege of laying down, relaying, connecting, and disconnecting, and repairing all pipes and mains along, through, and under and over the streets, avenues, alleys, lanes, squares, parks and public grounds of said city that may be necessary or convenient for supplying the people of said city with water. In opening any such street, avenue, lane, alley, or way, or laying, relaying, connecting or disconnecting, or repairing of said pipes and water mains the said grantee herein, his successors or assigns, shall and will with all convenient haste complete the work for which the ground shall have been broken, and forthwith replace the earth, side-walks and pavement and make good the said

street, avenue, lane, alley or public way so opened to the satisfaction and approval of the officer or officers to whom shall be committed the care of such streets, alleys, public ways, etc. That in the piping or conducting water under ground, all holes, excavations, or ditches when open shall be carefully protected by proper guards and signals to prevent injury from accidents, and further that such water pipes or conduit shall be placed at least 30 inches under ground to top of main or pipe. That in the laying of mains, pipes and conduits through the streets, alleys, etc. the depth at which the mains, pipes and conduits are to be laid shall conform to the present street grades except where it is apparent that such street grade will be changed, in which case said pipe line shall be placed at a depth and conform to such a grade as may be approved by the Common Council of the City of Sweet Home. That in the placing of the water system and in such extensions as may be required in the future all mains, pipes, and conduits are to be put in in such manner as to avoid dead ends in the system wherever practicable and whenever possible. Where dead ends are unavoidably left in the system, proper valves or cacks are to be provided for flushing the mains and pipes.

Section 4.

The maximum monthly rate to be charged to consumers of water shall be fixed and regulated by the Public Utilities Commission of Oregon.

The grantee may, with the consent and approval of the Common Council of said city, and with the approval of the authorities of the State of Oregon, where same is regulated by the statutes of said state, or his successors or assigns, establish special rates and charges for water to be supplied through the system to any other person or parties requiring the same.

Section 5.

The Common Council of said city, or any committee thereof, or any officer by such city duly authorized, shall at all times have free access to the works and system constructed and installed in said city under this ordinance for the purpose of inspecting, examining or testing the same, or any part or portion thereof, or the water running through said pipes and mains.

Section 6.

The grantee and the proper authorities of said city and the State of Oregon, or its duly authorized agents, shall have the power in case of an emergency, to cause the use of water by all private parties to be discontinued for such time as the emergency may continue.

Section 7.

Any person, except those who are authorized by the said city and the grantee herein, his successors or assigns, who shall in any way disturb, interfere or meddle with any main, hydrant, connection, valve, service pipe, foundation, reservoir, building, machinery, or any other property, or by any means pollute or defile any reservoir, spring, stream, or source of water supply, or any hydrant, fountain, or receptacle receiving water from such works, shall be

deemed guilty of a violation of this ordinance, and it shall be unlawful for any person, persons, firm or corporation consuming water furnished by the grantee, his successors or assigns, to furnish water to any other person, firm or corporation without having first obtained the permission so to do from the grantee, his successors or assigns, and any such act shall be deemed a violation of this ordinance, and upon conviction thereof in a court of competent jurisdiction shall be punished by a fine of not more than \$50.00, and, in the discretion of the court, may also be imprisoned for a period of not to exceed 25 days.

Section 8.

The size and capacity of the water mains and pipe lines to be installed under this ordinance shall be of sufficient size and capacity to supply all the water required and necessary to the successful carrying out of the provisions hereof, and no provision of this ordinance shall be construed to release the grantee or permit him to evade the obligations imposed upon him, or his successors or assigns, by this ordinance, and he and they shall at all times during the existence of the rights and privileges herein granted provide a full and sufficient supply of wholesome water for the use of the inhabitants, of said city, and shall furnish adequate pressure in the water system for fire purposes and domestic and other uses in order that good service and protection may be afforded in all parts of said city. Said water system with regard to size, and kind of pipe used, the pressure of said water to be maintained, the number, size and location of fire hydrants, the source of supply and capacity of place of storage of water for said water system, and all other things necessary to adequate fire protection of the inhabitants of the City of Sweet Home, concerning said water system must be approved by the State Bureau of Fire Underwriters and State Fire Marshal.

The grantee, his successors or assigns, shall submit to the State Bureau of Fire Underwriters and to the State Fire Marshal the full and complete plans and specifications of the proposed water system which said plans and specifications must be approved by the said Bureau and said Fire Marshal before the grantee, his successors or assigns, shall commence to construct said water system; and the grantee, his successors or assigns, shall construct the said water system in accordance with the said plans and specifications so approved.

Section 9.

In case of damage by the elements, unavoidable accidents to such water system, or breakage of machinery, reasonable time shall be given the grantee, his successors or assigns, to repair such damage, and he or they shall receive no payment for any time during which he or they fail to furnish water for the purposes in this ordinance stated.

Section 10.

Right is hereby given to the said grantee to assign this franchise to any individual or corporation, subject to the consent and approval of the Common Council of said city, who will carry out the provisions of this ordinance, and after such assignment, all rights and responsibilities of the said grantee shall cease.

Section 11.

The grantee, his successors or assigns, shall furnish water to the City of Sweet Home for the City Hall and residents therein, and for the City Jail free of charge. The free use of said water

shall be the consideration of the granting of this franchise.

The grantee, his successors or assigns, shall furnish water to the City of Sweet Home for hydrants at a rate to be fixed and regulated by the Public Utilities Commission of Oregon, which sum shall be paid yearly as other claims against the said city are paid, and in the event a greater number of hydrants shall be necessary for the proper fire protection of said city the same shall be furnished at an additional charge to be fixed and regulated by the Public Utilities Commission of Oregon for each additional hydrant, in the same manner.

The rates herein stated to be charged the City of Sweet Home for fire hydrant rental shall include and cover street sprinkling from hydrants and water for flushing sewers, and for firemen in drill and practice; and the City Marshal of the City of Sweet Home shall give the grantee, his successors or assigns, notice of the said street sprinkling from hydrants, and the flushing of sewers, and of the drill and practice of firemen.

The maximum rate for tapping any main or pipe line with a service entrance in said water system shall be fixed by the Public Utilities Commission, of the State of Oregon.

Section 12.

The grantee, his successors or assigns, in the accepting of the privileges and rights herein mentioned, agree that the work of constructing and installing said water works system shall be commenced within a period of 30 days from date of the approval of this franchise by the Public Utilities Commission, and that the same shall be completed and in operation within a period of five months from the date of the approval of this franchise by the Public Utilities Commission and any failure to so commence construction or to so construct, install and establish said water system within the time specified, shall be and may be considered a forfeiture of the rights and privileges herein granted, and if the Common Council of the said city so elect, all rights and privileges herein granted may be declared forfeited and this ordinance be of no force or effect. Provided however if in the opinion of the Common Council of the City of Sweet Home an emergency shall arise then the said Common Council may grant the grantee, his successors or assigns, such additional time as may seem reasonable.

Section 13.

The grantee, his successors or assigns, in accepting the privileges and rights herein mentioned, agree to submit to the Common Council of the City of Sweet Home a complete record of all cost and expense of whatever nature, incurred in the construction of said water system within 30 days from the completion of said water system.

Section 14.

The grantee, his successors or assigns, in accepting the privileges and rights herein mentioned, agree that the City of Sweet Home if it shall so elect by its Common Council may at any time purchase the said water system from the said grantee, his successors or assigns, at a price which shall be the reasonable value of the said water system, which value shall be determined by the Public Utilities Commission of Oregon.

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Section 15.

The grantee, his successors or assigns, in accepting the privileges and rights herein mentioned, agree that the total cost of the within contemplated water system shall not exceed the total sum of \$40,000.00.

Section 16.

The grantee, his successors or assigns, in accepting the privileges and rights herein mentioned, agree that upon the granting of this franchise there shall be executed and filed with the Recorder of the City of Sweet Home, a bond which shall be approved by the Mayor of the City of Sweet Home in the amount of \$4,000.00 conditioned upon the faithful performance of all of the agreements of this franchise. If the grantee, his successors or assigns, fail to so execute and file said bond in the said amount within 10 days from the granting of this franchise the Common Council of the City of Sweet Home and/or the approval of the said franchise by the Public Utilities Commission of Oregon, if it shall so elect may declare a forfeiture of all rights and privileges herein granted and this ordinance to be of no force or effect. Provided however the above mentioned bond shall be returned to the grantee, his successors or assigns, upon the completion of the construction of the said water system in accordance with the terms and agreements contained in this franchise. Thereafter during the continuance of this franchise if the grantee, his successors or assigns shall not faithfully perform the covenants and agreements of this franchise or shall not maintain said water system in accordance with the terms of this franchise the Common Council of the City of Sweet Home if it shall so elect may declare a forfeiture of all rights and privileges herein granted and this ordinance of no force or effect and the grantee, his successors or assigns, shall forfeit all or his or their right, title or interest to or in said water system.

Section 17.

If at any time the City of Sweet Home shall by its Common Council elect to purchase the said water system as provided in Section 14 of the ordinance the grantee, his successors or assigns, shall be entitled to 10 days notice in writing of such intention to purchase, and the grantee, his successors or assigns, shall have a right to be heard concerning the same. Which notice of intention to purchase shall designate the time and place of such hearing, and at the said hearing the Common Council of the City of Sweet Home may by ordinance authorize the Mayor and the Recorder of the City of Sweet Home to purchase the said water system from the grantee, his successors or assigns.

If at any time the City of Sweet Home shall by its Common Council deem that there has been any violation of the terms of this Ordinance by the grantee, his successors or assigns, and shall declare a forfeiture of the rights and privileges granted under this franchise as provided by section 16 of this Ordinance; the grantee, his successors or assigns, shall be entitled to 10 days notice in writing of such violations of the terms of this

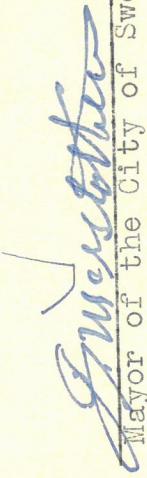
franchise, and the said grantee, his successors or assigns, shall have the right to be heard concerning the same. Which notice of the violation of the terms of this franchise shall designate the time and place of said hearing and shall with convenient certainty specify the manner of said violation and the terms of this franchise which have been violated, and at the said hearing the Common Council of the City of Sweet Home may be ordinance or resolution declare a forfeiture of this franchise and the rights and privileges granted thereunder, as provided by Section 16 of this Ordinance.

Section 18.

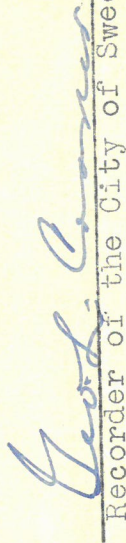
By reason of the lack of good, pure and wholesome water in the City of Sweet Home, it is the opinion of the Common Council of the City of Sweet Home that an emergency exists, and that it is necessary for the immediate preservation of the peace, health and safety of the said City that this ordinance shall be in full force and effect from and after its passage; and approval by the Mayor.

Passed by the Council this 2^d day of May 1938.

Approved by the Mayor this 2^d day of May 1938.


Mayor of the City of Sweet Home

Attest:


Recorder of the City of Sweet Home

Attest of Oregon }
County of Sims } ss

I, Geo. L. Coover Recorder, certify that I posted 3 copies of the within franchise on the 1st day of May 1938. One at Post Office, one at News Eng and one at city hall

Geo. L. Coover
Recorder