

ORDINANCE NO. 147

AN ORDINANCE GRANTING TO US WEST COMMUNICATIONS, INCORPORATED, HEREINAFTER REFERRED TO AS "GRANTEE", ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND PRIVILEGE TO DO A GENERAL COMMUNICATION BUSINESS AND TO PLACE, ERECT, LAY, MAINTAIN AND OPERATE IN, UPON, OVER AND UNDER THE HIGHWAYS, PLACES AND GROUNDS WITHIN THE CITY OF DUNES CITY POLES, WIRES AND OTHER APPLIANCES AND CONDUCTORS FOR ALL TELEPHONE AND OTHER COMMUNICATION PURPOSES; AND REPEALING ORDINANCE NUMBERS 6, 83 AND 130.

THE CITY OF DUNES CITY, OREGON, ORDAINS AS FOLLOWS:

Section 1. There is hereby granted by the City of Dunes City to US WEST Communications, Incorporated, its successors and assigns, the right and privilege to do a general communication business within said City of Dunes City 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 said City, poles wires and other appliances and conductors for all telephone and other communications 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, 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 Grantee, its successors and assigns, to make all needful excavations in any of the 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 such wires and appliances and auxiliary apparatus or repairing, renewing or replacing the same. The 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 Dunes City.

Section 3. Whenever Grantee, 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 Dunes City 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 the Grantee, its successors and assigns, the said City shall cause the repairs to be made at the expense of the Grantee, 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 Dunes City from sewerage, grading, planking, rocking, paving, repairing,

altering, or improving any of the streets, alleys, avenues, thoroughfares and public highways, places and grounds within the City of Dunes City in or upon which the poles, wires or conductors of the Grantee 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. The City shall not require Grantee to remove or relocate its facilities or vacate any street, alley or other public way incidental to any public housing or renewal project under ORS Chapters 456 or 457 without reserving Grantee's right therein or without requiring Grantee to be compensated for the costs thereof.

**Section 5.** Whenever it becomes necessary to temporarily rearrange, remove, lower or raise the aerial cables or wires or other apparatus of the Grantee to permit the passage of any building, machinery or other object moved over the roads, streets, alleys, avenues, thoroughfares and public highways within the City, the Grantee will perform such a rearrangement within a reasonable period after written notice from the owner or contractor-mover desiring to move said building, machinery or other objects. Said notice shall bear the approval of the City, shall detail the route of movement of the building, making such a rearrangement of its aerial facilities will be borne by the contractor-mover and shall further provide that the contractor-mover will indemnify and save the Company harmless of and from any and all damages of claims whatsoever kind or nature caused directly or indirectly from such temporary rearrangement of the facilities of the Grantee, and if required by the Grantee, shall be accompanied by a cash deposit or a good and sufficient bond to pay any and all such costs as estimated by the Grantee.

**Section 6.** In consideration of the rights, privileges, and franchise hereby granted, said Grantee, US WEST Communications, Incorporated, its successors and assigns, shall pay to the City of Dunes City from and after the date of the acceptance of this franchise, and until its expiration, annually, seven percent (7%) per annum of its gross revenues derived from exchange access services as defined in ORS 401.710 within the corporate limits of the City of Dunes City less net uncollectibles. Payment shall be made on or before the fifteenth day of March of each and every year for the calendar year preceding, with the exception that in the year 1996, payment shall be made only for the period commencing on the date this ordinance becomes effective and ending December 31, 1995. Such payment made by the Grantee will be accepted by the City of Dunes City from the Grantee, also in payment of any license, privilege or occupation tax or fee for revenue or regulation, or any permit or inspection fees or similar charges for street openings, installations, construction or for any other purpose now or hereafter to be imposed by the City of Dunes City upon the Grantee during the term of this franchise.

**Section 7.** 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, except that it is understood and agreed that either party may terminate this Agreement after 180 days notice in writing. This Ordinance shall be subject to any and all State or Federal legislative enactments.

**Section 8.** This Ordinance shall, if accepted by Grantee, take effect and be in force thirty (30) days from and after its passage and approval. Said Grantee shall, within 30 days of the passage and approval of this Ordinance, file with the Recorder of the City of Dunes City its written acceptance of all the terms and conditions of the Ordinance.

**Section 9.** Ordinance numbers 6, 83 and 130 are hereby repealed.

**PASSED AND ADOPTED** by the City Council this 8th day of February, 1996.

**APPROVED** by the Mayor the 8th day of February, 1996.

  
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Mayor

**ATTEST:**

  
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City Recorder