

ORDINANCE No. 384

AN ORDINANCE ADOPTING CHAPTER 111 OF THE DRAIN BUSINESS REGULATION CODE REGARDING REGISTRATION AND FRANCHISING OF TELECOMMUNICATIONS CARRIERS AND REPEALING ORDINANCE NO. 380

THE CITY OF DRAIN ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 380, adopting Chapter 111 of the Drain Business Regulation Code, and the Code Sections adopted thereby are hereby repealed.

Section 2. The following sections are hereby adopted as the index and provisions of the City of Drain Business Regulation Code - Registration and Franchising of Telecommunications Carriers.

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PURPOSE AND INTENT

111.01 Purpose: The purpose and intent of this Ordinance is to:

- A. Comply with the provisions of the 1996 Telecommunications Act as they apply to local governments, telecommunication carriers and the services those carriers offer;
- B. Promote competition on a competitively neutral basis in the provision of telecommunications services;
- C. Permit and manage reasonable access to the public rights of way of the City for telecommunications purposes on a competitively neutral basis and conserve the limited physical capacity of those public rights of way held in trust by the City;
- D. Assure that the City's current and ongoing costs of granting and regulating private access to and the use of the public rights of way are fully compensated by the persons seeking such access and causing such costs;
- E. Secure fair and reasonable compensation to the City and its residents for permitting private use of the public right of way;
- F. Assure that all telecommunications carriers providing facilities and/or services within the City, register and comply with the ordinances, rules and regulations of the City;

111.02 Jurisdiction and Management of the Public Rights of Way

- A. The City has jurisdiction and exercises regulatory management over all public rights of way within the City under authority of the City charter and state law.
- B. Public rights of way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas.
- C. The City has jurisdiction and exercises regulatory management over each public right of way whether the City has a fee, easement, or other legal interest in the right of way. The City has jurisdiction and regulatory management of each right of way whether the legal interest in the right of way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.
- D. No person may occupy or encroach on a public right of way without the permission of the City. The City grants permission to use rights of way by franchises and permits.
- E. The exercise of jurisdiction and regulatory management of a public right of way by the City is not official acceptance of the right of way, and does not obligate the City to maintain or repair any part of the right of way.

F. The City retains the right and privilege to cut or move any telecommunications facilities located within the public rights of way of the City, as the City may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

111.03 Regulatory Fees and Compensation Not a Tax

A. The fees and costs provided for in this Ordinance, and any compensation charged and paid for use of the public rights of way provided for in this Ordinance, are separate from, and in addition to, any and all federal, state, local, and City charges as may be levied, imposed, or due from a telecommunications carrier, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of telecommunications services.

B. The City has determined that any fee provided for by this Ordinance is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees are not imposed on property or property owners, and these fees are not new or increased fees.

C. The fees and costs provided for in this Ordinance are subject to applicable federal and state laws.

DEFINITIONS

111.05 Definitions: For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. Words not defined herein shall be given the meaning set forth in the Communications Policy Act of 1934, as amended, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996.

Cable Service - is to be defined consistent with federal laws and means the one-way transmission to subscribers of video programming, or other programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

City - means the City of Drain, an Oregon municipal corporation, and individuals authorized to act on the City's behalf.

City Property - means and includes all real property owned by the City, other than public rights of way and utility easements as those are defined herein, and all property held in a proprietary capacity by the City, which are not subject to right of way franchising as provided in this Ordinance.

Franchise - means an agreement between the City and a grantee which grants a privilege to use public right of way and utility easements within the City for a dedicated purpose and for specific compensation.

Grantee - means the person, company or business to which a franchise is granted by the City.

Gross Revenues - means those revenues derived from the provision of exchange access services, as defined in ORS 401.710 (6), which originate or terminate in the City on facilities covered by the franchise or license granted by the City, less net uncollectibles from such revenues.

Overhead or Aboveground Facilities - means utility poles, utility facilities and telecommunications facilities above the surface of the ground, including the underground supports and foundations for such facilities.

Private Telecommunications Network - means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for resale, directly or indirectly. "Private telecommunications network" includes services provided by the State of Oregon pursuant to ORS 190.240 and 283.140.

Public Rights of Way - include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements, and all other public ways or areas, including the subsurface under and air space over these areas. This definition applies only to the extent of the City's right, title, interest or authority to grant a franchise to occupy and use such areas for telecommunications facilities. "Public rights of way" shall also include utility easements as defined below.

Telecommunications - means the transmission between and among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications Carrier - means any provider of telecommunications services and includes every person that directly or indirectly owns, controls, operates or manages telecommunications facilities within the City.

Telecommunications Facilities - means the plant and equipment, other than customer premises equipment, used by a telecommunications carrier to provide telecommunications services.

Telecommunications Service - means two-way switched access and transport of voice communications but does not include: a) services provided by radio common carrier; b) one-way transmission of television signals; c) surveying; d) private telecommunications networks; or e) communications of the customer which take place on the customer side of on-premises equipment.

REGISTRATION OF TELECOMMUNICATIONS CARRIERS

111.10 Purpose of Registration: The purpose of registration is:

- A. To assure that all telecommunications carriers who have facilities and/or provide services within the City comply with the ordinances, rules and regulations of the City.

B. To provide the City with accurate and current information concerning the telecommunications carriers who offer to provide telecommunications services within the City or that own or operate telecommunication facilities within the City.

C. To assist the City in the enforcement of this Ordinance and the collection of any city franchise fees or charges that may be due the City.

111.11 Registration Required: Except as provided in Section 111.13 hereof, all telecommunications carriers having telecommunications facilities within the corporate limits of the City and all telecommunications carriers that offer or provide telecommunications service to customer premises within the City, shall register. The appropriate application and license from a) the Oregon Public Utility Commission (PUC); or b) the Federal Communications Commission (FCC) qualify as necessary registration information. Applicants also have the option of providing the following information:

A. The identity and legal status of the registrant, including the name, address, and telephone number of the duly authorized officer, agent, or employee responsible for the accuracy of the registration information.

B. The name, address, and telephone number for the duly authorized officer, agent, or employee to be contacted in case of an emergency.

C. A description of the registrant's existing or proposed telecommunications facilities within the City, a description of the telecommunications facilities that the registrant intends to construct, and a description of the telecommunications service that the registrant intends to offer or provide to persons, firms, businesses or institutions within the City.

111.12 Registration Fee: Each application for registration as a telecommunications carrier shall be accompanied by a non-refundable registration fee in an amount established by resolution of the City Council.

111.13 Exceptions to Registration: The following telecommunications carriers are excepted from registration:

A. Telecommunications carriers that are owned and operated exclusively for its own use by the State or a political subdivision of this State.

B. A private telecommunications network, provided that such network does not occupy any public rights of way of the City.

CONSTRUCTION STANDARDS

111.20 General: No person shall commence or continue with the construction, installation or operation of telecommunications facilities within a public right of way except as provided in this Ordinance and construction must comply with all applicable codes, rules, and regulations.

111.21 Construction Codes: Telecommunications facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electric Code and the National Electrical Safety Code.

111.22 Construction Permits: No person shall construct or install any telecommunications facilities within a public right of way without first obtaining a construction permit and paying any construction permit fee established by the City. No permit shall be issued for the construction or installation of telecommunications facilities within a public right of way:

- A. Unless the telecommunications carrier has first filed a registration statement with the City; and if applicable,
- B. Unless the telecommunication carrier has first applied for and received a franchise pursuant to this Ordinance.

111.23 Permit Applications: Applications for permits to construct telecommunications facilities shall be submitted upon forms to be provided by the City and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

- A. That the facilities will be constructed in accordance with the franchise agreement.
- B. The location and route of all facilities to be installed aboveground or on existing utility poles.
- C. The location and route of all new facilities on or in the public rights of way, to be located under the surface of the ground.
- D. The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public rights of way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

111.24 Applicant's Verification: All permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans, and specifications submitted with the application comply with applicable technical codes, rules and regulations.

111.25 Construction Schedule: All permit applications shall be accompanied by a written construction schedule, which shall include a deadline for completion of construction.

111.26 Construction Permit Fee: Unless otherwise provided in a franchise agreement, prior to issuance of a construction permit, the applicant shall pay a permit fee in an amount established by resolution of the City Council. Such fees shall be designed to defray the costs of city administration of the requirements of this ordinance.

111.27 Issuance of Permit: If satisfied that the applications, plans and documents submitted comply with all requirements of this Ordinance and the franchise agreement, the City Administrator shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting time, place and manner of performing the work as the City Administrator may deem necessary or appropriate.

111.28 Compliance with Permit: All construction practices and activities shall be in accordance with the permit and approved final plans and specification for the facilities.

111.29 Restoration of Public Rights of Way and City Property:

A. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights of way or city property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to good order and condition unless otherwise directed by the City.

B. If the permittee fails to restore rights of way or property to good order and condition, the City shall give the permittee written notice and provide the permittee a reasonable period of time not exceeding thirty (30) days to restore the rights of way or property. If, after said notice, the permittee fails to restore the rights of way or property to as good a condition as existed before the work was undertaken, the City shall cause such restoration to be made at the expense of the permittee.

C. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares, and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such rights of way or property.

LOCATION OF TELECOMMUNICATIONS FACILITIES

111.40 Interference with the Public Rights of Way: No grantee may locate or maintain its telecommunications facilities so as to unreasonably interfere with the use of the public rights of way by the City, by the general public or by other persons authorized to use or be present in or upon the public rights of way. All use of public rights of way shall be consistent with City codes, ordinances and regulations.

111.41 Relocation or Removal of Facilities: Except in the case of an emergency, within sixty (60) days following written notice from the City, a grantee shall, at no expense to the City, temporarily or permanently remove, relocate or alter the position of any telecommunications facilities within the public rights of way whenever the City shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

A. The construction, repair, maintenance or installation of any city or other public improvement in or upon the public rights of way.

- B. The operations of the City or other governmental entity in or upon the public rights of way.
- C. The public interest.

111.42 Removal of Unauthorized Facilities: Within thirty (30) days following written notice from the City, any grantee, telecommunications carrier, or other person that owns, controls or maintains any unauthorized telecommunications system, facility, or related appurtenances within the public rights of way of the City shall, at its own expense, remove such facilities and/or appurtenances from the public rights of way of the City.

TELECOMMUNICATIONS FRANCHISE

111.50 Telecommunications Franchise: A telecommunications franchise shall be required of any telecommunications carrier who desires to occupy public rights of way of the City.

111.51 Application: Any person that desires a telecommunications franchise must register as a telecommunications carrier and shall file an application with the City Administrator which includes the following information:

- A. The identity of the applicant.
- B. A description of the telecommunications services that are to be offered or provided by the applicant over its telecommunications facilities.
- C. Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the telecommunications services proposed.
- D. An accurate map showing the location of any existing telecommunications facilities in the City that applicant intends to use, lease, or construct.

111.52 Application and Review Fee:

- A. Subject to applicable state law, applicant shall reimburse the City for such reasonable costs as the City incurs in entering into the franchise agreement.
- B. An application and review fee in an amount to be established by resolution of the City Council, shall be deposited with the City as part of the application filed pursuant to Section 111.51 above. Expenses exceeding the deposit will be billed to the applicant or the unused portion of the deposit will be returned to the applicant following the determination granting or denying the franchise.

111.53 Determination by the City: The City shall issue a written determination granting or denying the application in whole or in part. If the application is denied, the written determination shall include the reasons for denial.

111.54 Rights Granted: No franchise granted pursuant to this Ordinance shall convey any right, title or interest in the public rights of way, but shall be deemed a grant to use and occupy the public rights of way for the limited purposes and term, and upon the conditions stated in the franchise agreement.

111.55 Term of Grant: Unless otherwise specified in a franchise agreement, a telecommunications franchise granted hereunder shall be in effect for a term of five years.

111.56 Franchise Fee: Each franchise granted by the City is subject to the City's right, which is expressly reserved, to fix a fair and reasonable compensation to be paid for the privileges granted; provided, nothing in this Ordinance shall prohibit the City and a grantee from agreeing to the compensation to be paid. The compensation shall be subject to the specific payment terms and conditions contained in the franchise agreement and applicable state and federal laws.

111.57 Renewal Applications: A grantee that desires to renew its franchise under this Ordinance shall, not less than 180 days before expiration of the current agreement, pay a renewal application fee in an amount established by resolution of the City Council and file an application with the City for renewal of its franchise which shall include the following information:

- A. The information required pursuant to Section 111.51 of this Code.
- B. Any information required pursuant to the franchise agreement between the City and the grantee.

111.58 Renewal Determinations: Within 90 days after receiving a complete application under Section 111.57 hereof, the City shall issue a written determination granting or denying the renewal application in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for non-renewal.

- A. The financial and technical ability of the applicant.
- B. The legal ability of the applicant.
- C. The continuing capacity of the public rights of way to accommodate the applicant's existing and proposed facilities.
- D. The applicant's compliance with the requirements of this Ordinance and the franchise agreement.
- E. Applicable federal, state and local telecommunications laws, rules and policies.

F. Such other factors as may demonstrate that the continued grant to use the public rights of way will serve the community interest.

111.59 Obligation to Cure As a Condition of Renewal: No franchise shall be renewed until any ongoing violations or defaults in the grantee's performance of the agreement, or of the requirements of this Ordinance, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the City.

111.60 Assignments or Transfers of System or Franchise: Ownership or control of a majority interest in a telecommunications system or franchise may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the grantee, by operation of law or otherwise, without the prior consent of the City, which consent shall not be unreasonably withheld or delayed, and then only on such reasonable conditions as may be prescribed in such consent.

A. Grantee and the proposed assignee or transferee of the franchise or system shall agree, in writing, to assume and abide by all of the provisions of the franchise.

B. No transfer shall be approved unless the assignee or transferee has the legal, technical, financial and other requisite qualifications to own, hold and operate the telecommunications system pursuant to this Ordinance.

C. Unless otherwise provided in a franchise agreement, the grantee shall reimburse the City for all direct and indirect fees, costs, and expenses reasonably incurred by the City in considering a request to transfer or assign a telecommunications franchise.

D. Any transfer or assignment of a telecommunications franchise, without prior approval of the City under this Section or pursuant to a franchise agreement, shall be void and is cause for revocation of the franchise.

111.61 Revocation Or Termination of Franchise: A franchise to use or occupy public rights of way of the City may be revoked for the following reasons:

A. Construction or operation in the City or in the public rights of way of the City without a construction permit.

B. Failure to comply with Section 111.60 hereof with respect to sale, transfer or assignment of a telecommunications system or franchise.

C. Misrepresentation by or on behalf of a grantee in any application to the City.

D. Abandonment of telecommunications facilities in the public rights of way.

E. Failure to relocate or remove facilities as required pursuant to this Ordinance.

- F. Failure to pay taxes, compensation, fees or costs when and as due the City under this Ordinance.
- G. Insolvency or bankruptcy of the grantee.
- H. Violation of material provisions of this Ordinance.
- I. Violation of the material terms of a franchise agreement.

111.62 Notice and Duty to Cure: In the event that the City believes that grounds exist for revocation of a franchise, the City shall give the grantee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the grantee a reasonable period of time, not exceeding thirty (30) days, to furnish evidence that:

- A. Corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance;
- B. Rebutts the alleged violation or noncompliance; and/or
- C. It would be in the public interest to impose some penalty or sanction less than revocation.

111.63 Public Hearing: In the event that a grantee fails to provide evidence reasonably satisfactory to the City as provided in Section 111.62 hereof, the City Administrator may refer the apparent violation or non-compliance to the City Council. The City Council shall provide the grantee with notice and a reasonable opportunity to be heard concerning the matter.

111.64 Standards for Revocation or Lesser Sanctions: If persuaded that the grantee has violated or failed to comply with material provisions of this Ordinance, or of a franchise agreement, the City Council shall determine whether to revoke the franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent, and gravity of the violation as reflected by one or more of the following factors. Whether:

- A. The misconduct was egregious.
- B. Substantial harm resulted.
- C. The violation was intentional.
- D. There is a history of prior violations of the same or other requirements.
- E. There is a history of overall compliance.
- F. The violation was voluntarily disclosed, admitted or cured.

111.65 Other City Costs: All grantees shall, within thirty (30) days after written demand therefore, reimburse the City for all reasonable direct and indirect costs and expenses incurred by the City in connection with any modification, amendment, renewal or transfer of the franchise or any franchise agreement consistent with applicable state and federal laws.

GENERAL FRANCHISE TERMS

111.70 Facilities: Upon request, each grantee shall provide the City with an accurate map or maps certifying the location of all telecommunications facilities within the public rights of way.

111.71 Damage to Grantee's Facilities: Unless directly and proximately caused by willful, intentional or malicious acts by the City, the City shall not be liable for any damage to or loss of any telecommunications facility within the public rights of way of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the public rights of way by or on behalf of the City, or for any consequential losses resulting directly or indirectly therefrom.

111.72 Duty to Provide Information: Within ten (10) business days of a written request from the City, each grantee shall furnish the City with the following:

A. Information sufficient to demonstrate that grantee has complied with all requirements of this Ordinance.

B. All books, records, maps, and other documents, maintained by the grantee with respect to its facilities within the public rights of way shall be made available for inspection by the City at reasonable times and intervals.

111.73 Service to the City: If the City contracts for the use of telecommunication facilities, telecommunication services, installation, or maintenance from the grantee, the grantee shall charge the City the grantee's most favorable rate offered at the time of the request charged to similar users within Oregon for a similar volume of service, subject to any of grantee's tariffs or price lists on file with the Oregon PUC. With the City's permission, the grantee may deduct the applicable charges from fee payments. Other terms and conditions of such services may be specified in a separate agreement between the City and grantee.

111.74 Compensation for City Property: If any right is granted, by lease, franchise or other manner, to use and occupy city property for the installation of telecommunications facilities, the compensation to be paid for such right and use shall be fixed by the City.

111.75 Cable Franchise: Any telecommunication carrier which wishes to provide cable service must enter into a separate cable franchise agreement.

111.76 Obligation to Modify or Extend Service: The City may require any telecommunications franchisee to make such modifications, additions and extensions to its physical equipment, facilities, or plant or services within the City as shall be reasonable or necessary in the interest of the public,

and designate the location and nature of all additions and extensions, the time within which they must be completed and all conditions under which they must be constructed.

111.77 Grantee Insurance: Unless otherwise provided in a license or franchise agreement, each grantee shall, as a condition of the grant, secure and maintain the following liability insurance policies insuring both the grantee and the City, and its elected and appointed officers, officials, agents and employees as coinsured:

- A. Comprehensive general liability insurance with limits not less than \$1,000,000 for bodily injury or death to each person; \$1,000,000 or property damage resulting from any one accident; and, \$1,000,000 for all other types of liability.
- B. Automobile liability for owned, non-owned and hired vehicles with a limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- C. Workers' compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.

The liability insurance policies required by this section shall be maintained by the grantee throughout the term of the telecommunications license or franchise, and such other period of time during which the grantee is operating without a franchise or license, or is engaged in the removal of its telecommunications facilities. Each such insurance policy shall contain the following endorsement:

"This policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City Administrator of such intent to cancel or not to renew."

Within 60 days after receipt by the City of such notice, and in no event later than 30 days prior to the cancellation, the grantee shall obtain and furnish to the City evidence that the grantee meets the requirements of this section.

The insurance policy requirements of this section may be met by a program of self-insurance acceptable to the City.

111.78 General Indemnification: Each franchise agreement shall include, to the extent permitted by law, grantee's express undertaking to defend, indemnify and hold the City and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its telecommunications facilities, and in providing or offering telecommunications services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this Ordinance or by a franchise agreement made or entered into pursuant to this Ordinance.

GENERAL PROVISIONS

111.80 Governing Law: Any franchise granted under this Ordinance is subject to the provisions of the Constitution and laws of the United States, and the State of Oregon and the ordinances and Charter of the City.

111.81 Written Agreement: No franchise shall be granted hereunder unless the agreement is in writing.

111.82 Nonexclusive Grant: No franchise granted under this Ordinance shall confer any exclusive right, privilege, license or franchise to occupy or use the public rights of way of the City for delivery of telecommunications services or any other purposes.

111.83 Severability and Preemption: If any portion of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, or superseded by state or federal legislation, rules, regulations or decision, the remainder of the Ordinance shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining portion of this Ordinance shall be valid and enforceable to the fullest extent permitted by law. In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Ordinance, then the provision shall be read to be preempted only to the extent required by law. In the event such federal or state law, rule, or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding, without the requirement of further action on the part of the City.

111.84 Penalties: Any violation of the provisions of this Ordinance is punishable by a fine in an amount established by resolution of the City Council. A separate and distinct offense shall be deemed committed each day on which a violation occurs.

111.85 Other Remedies: Nothing in this Ordinance shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Ordinance.

111.86 Captions: The captions to sections throughout this Ordinance are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this Ordinance.

111.87 Compliance with Laws: Any grantee under this Ordinance shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all ordinances, resolutions, rules and regulations of the City heretofore or hereafter adopted or established during the entire term of any franchise granted under this Ordinance, which are relevant and relate to the construction, maintenance and operation of a telecommunications system.

111.88 Consent: Wherever the consent of either the City or of the grantee is specifically required by this Ordinance or in a franchise granted, such consent will not be unreasonably withheld.

111.89 Application to Existing Ordinance and Agreements: To the extent that this Ordinance is not in conflict with and can be implemented with existing ordinance and franchise agreements, this Ordinance shall apply to all existing ordinance and franchise agreements for use of the public right of way for telecommunications.

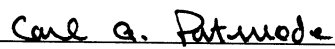
111.90 Confidentiality: The City agrees to use its best efforts to preserve the confidentiality of information as requested by a grantee, to the extent permitted by the Oregon Public Records Law.

PASSED BY THE CITY COUNCIL OF THE CITY OF DRAIN, DOUGLAS COUNTY, OREGON, THIS 12th DAY OF FEBRUARY, 2001.



Brad Borigo, Mayor

ATTEST:



Carl Patenode, City Administrator