

59
amended
by 154

ORDINANCE 154

**AN ORDINANCE UPDATING AND AMENDING ORDINANCE 59,
OF DETROIT'S FRANCHISE AGREEMENT WITH GTE NORTHWEST
INCORPORATED.**

AN ORDINANCE GRANTING TO GTE NORTHWEST INCORPORATED SOMETIMES REFERRED TO AS "GRANTEE", ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE RIGHT AND PRIVILEGE 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 DETROIT, POLES, WIRES, AND OTHER APPLIANCES AND CONDUCTORS FOR ALL TELEPHONE AND OTHER COMMUNICATION PURPOSES; FIXING THE CONSIDERATION TO BE PAID BY SAID COMPANY UNDER SAID FRANCHISE, THE TERM THEREOF AND THE MODE OF ACCEPTANCE OF SAID GRANT BY SAID COMPANY, AND DECLARING AN EMERGENCY.

THE CITY OF DETROIT DOES ORDAIN AS FOLLOWS:

SECTION 1. There is hereby granted by the City of Detroit to GTE Northwest incorporated, its successors and assigns, the exclusive right and privilege within said City of Detroit and to place, erect, lay, maintain and operate in, upon, over and under the streets, alley, avenues, thoroughfares and public highways within the said City, poles, wires and other appliances and conductors for all telephone 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 GTE Northwest Incorporated, its successors and assigns to make all needful excavations and erections 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 and appliances and auxiliary apparatus or repairing, renewing or replacing the same. All work, erections, erections of poles and appliances and laying of wires shall be done in compliance with such necessary rules, regulations, ordinances, or orders as may, during the continuance of this franchise, be adopted from time to time by City of Detroit, in reasonable regulation of such work.

The word "necessary", as used in the paragraph shall mean such rules, regulations, ordinances or orders as The City Council may deem necessary to protect and safeguard the health, safety and convenience of the public and any member of the public residing within the City of Detroit, who might be affected by any excavation work or installation of

the Grantee. The City Council of the City of Detroit shall have the right to require from GTE Northwest Incorporated such bond or undertaking as it may deem reasonably necessary in any particular instance to insure compliance by GTE northwest Incorporated with rules, regulations, ordinances and orders of the Council relating to its operations within the City as provided for under this section.

Any act done by any contractor or subcontractor contracting with GTE Northwest Incorporated shall, for the purpose of this franchise, be deemed to be the act of GTE Northwest Incorporated.

SECTION 3. Whenever GTE Northwest Incorporated, its successors and assigns, shall disturb any streets, alleys, highways, or other public places for the purposes aforesaid, it shall restore the same to good order and condition as soon as practical without unnecessary delay, and failing to do so the City of Detroit shall have the right to fix a reasonable time within which such repairs and restoration of streets and other public places shall be completed, and to notify GTE Northwest Incorporated in writing of its time requirement for repair and restoration, and upon failure of such repairs being made by said Company, its successors and assigns, within the time so reasonably prescribed, the said City may cause such repairs to be made at the expense of said GTE Northwest Incorporated, its successors and assigns.

The City Council shall have the right to cause the said Grantee, its successors or assigns, to change the location of any of its poles, wires, conduits, cable or other conductors, whenever public convenience shall require the location of the same elsewhere, and the expense of such change or removal shall be borne by the said Grantee, or its successor or assigns.

SECTION 4. Nothing in this ordinance shall be construed in any way to prevent the proper authorities of the City of Detroit from putting in a sewer system, grading, planking, rocking, paving, repairing, altering or improving any of the streets, alleys, avenues, thoroughfares and public highways, within the City of Detroit 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 any other object extending more than 18 feet above the street surface, 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 other 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, after the actual costs thereof shall have been paid by the person having permission to move such building or other objects to GTE Northwest Incorporated, the Superintendent of Streets, or other proper office of the said City, shall be and is hereby authorized to remove said wires at the expense of said Grantee, its successors or assigns.

Neither the City or any of its employees shall be held liable for the consequences of any act done in connection with the moving of said building or other object or rearrangement of wires or for the cost of rearranging the wires

SECTION 6. If, at any time in the future, the Grantee, its successors and assigns shall lay or plan to lay underground any pipe, conduits or other apparatus, it shall, for the purpose of notifying the Council, and within a reasonable time prior to the commencement of any work in connection therewith, furnish to the City Recorder a map or blueprint showing the location of all proposed excavations, pipes, conduits or other apparatus.

SECTION 7. In case it shall be necessary to cut or remove any of the said wires, cables or other telephone conductors or equipment of the said Grantee, in order to get fire ladders or other apparatus to building during a city conflagration, the City of Detroit shall not be liable for any damages done to such wires, cables or conductors or equipment.

SECTION 8. Grantee shall indemnify and save harmless the City of Detroit and its officers and agents against and from any and all claims, damages, cost and expense to which it or they may be subjected by reason of any act or neglect of Grantee, its agents or employees in any manner arising out of the construction, maintenance or operation of any property of Grantee in or upon any street, alley, or public place within the City.

SECTION 9. Grantee shall furnish and file with the City Council a map or blueprint showing the location of all underground services and installations within the City, and shall bring said map up to date from time to time upon reasonable notice from the City Manager of Council.

SECTION 10. In consideration of the rights, privileges and franchise hereby granted, said Grantee, ~~GET~~ Northwest Incorporated, its successors and assigns, shall pay to the City of Detroit from and after the date of the acceptance of this franchise, and until its expiration, annually, a maximum of 5% annum of its gross local exchange service receipts derived from the operation of telephones located within the corporate limits of the City of Detroit. Payment of said fee shall be made on or before the 1st day of July each and every year for the fiscal year preceding, the first annual payment being due on or before July 1, 1997 and such 5% payment made by the Grantee will be accepted by the City of Detroit 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 Detroit upon the Grantee during the term of this franchise, and provided the Grantee accepts this franchise and makes said 5% payment, the City of Detroit will not, during the term of this franchise, require the Grantee to make any further payment to the City of Detroit for any license, privilege or occupation tax or fee for revenue or regulation or for any other purpose.

SECTION 11. In further consideration of the rights and privileges herein granted, the Grantee, its successor and assigns hereby grants, without charge to the City

of Detroit 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 wires as are necessary for the exclusive use of the City of Detroit for fire alarm and police signal circuits, or other signal circuits, required by the City. Any such wiring installations made and to be made by the City of Detroit shall be made in conformity to the requirements of all applicable Federal, State and City electrical codes and in conformity with standard practices.

SECTION 12. Telephone service of any type or classes, furnished to the City of Detroit shall be paid for by the City of Detroit at regular rates for service as contained in the Grantee's tariff as now on file and as hereafter to be filed with the Public Utilities Commission of Oregon.

SECTION 13. The rights, privileges and franchise herein granted shall continue and be in force the period of Ten (10) years from and after July 1, 1997.

SECTION 14. The Grantee shall file with the Recorder of the City of Detroit its written acceptance of the right and franchise hereby granted and the regulations hereby imposed, within thirty(30) days from and after the date when this ordinance shall become effective; and this Ordinance shall become null and void unless such acceptance is so filed. The Grantee shall at all times, fully and faithfully perform all of the terms, provisions and conditions of this Ordinance and all other ordinances and orders of the Council as specified in Section 2 hereof. Upon default by the Grantee, its successors or assigns, in any of its obligations hereunder and the continuance of such default for a period of thirty (30) days from and after receipt of written notice from an authorize officer of the City specifying such default, the City may by ordinance, and for good cause shown, cancel and terminate this franchise and all further rights of the Grantee herein.

SECTION 15. This ordinance shall be of no force or effect unless published in full in accordance with requirements of the City Charter of the City of Detroit.

SECTION 16. An emergency is hereby declared to exist and this ordinance shall go into full force and effect immediately upon its passage and approval by the Mayor.

Approved by the Mayor on this 9th day of December 1997.
Passed by the Council on this 9th day of December 1997.
Effective this 9th day of December 1997.

ATTEST: Albert C Phillips
City Recorder

Martha Millican
Mayor