

ORDINANCE NO. 4777

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO "TITLE 9 – UTILITIES" OF THE ELLENSBURG CITY CODE; AND AMENDING SECTIONS 9.110.050 AND 9.110.080 OF "CHAPTER 9.110 – TELECOMMUNICATIONS UTILITY" TO CLARIFY POINT OF DELIVERY NEEDS FOR TELECOMMUNICATIONS UTILITY ASSETS.

WHEREAS, the City of Ellensburg established a telecommunications utility in 2013 that included a transfer of the traffic signal interconnect system to the telecommunications utility and a description of the point of delivery; and

WHEREAS, a transfer of the traffic signal interconnect system from the general fund should have included payment by the telecommunications fund, however, the telecommunications utility does not use the traffic signal interconnect system; and

WHEREAS, a further clarification of the point of delivery needs to be made to ensure that telecommunications utility assets are adequately covered by the City's insurance authority,

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

**Section 1.** Section 9.110.050 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4658, is hereby amended to read as follows:

**9.110.050 Transfer of property.**

All telecommunication facilities, equipment, property, and property rights and interests in the right-of-way to the point of delivery, owned or acquired by the city for the purpose of the institutional network, insofar as they relate to or concern telecommunications, are hereby transferred to the telecommunications utility. All telecommunication facilities, equipment, property, and property rights and interests in the right-of-way to the point of delivery Equipment currently owned by the city for the purpose of traffic signal interconnection shall be owned and maintained by the telecommunications utility subject to continued ownership of the utility by the city general fund. Any future transfer or sale of the telecommunications utility shall be

~~conditioned upon continued ownership in perpetuity by the city of the traffic signal interconnect system.~~ [Ord. 4658 § 1, 2013.]

**Section 2.** Section 9.110.080 of the Ellensburg City Code, as last amended by Section 14 of Ordinance 4709, is hereby amended to read as follows:

**9.110.080 Right-of-way, pole attachments and point of delivery.**

A. The city hereby grants to the telecommunications utility established by this chapter authority to use the city's right-of-way to install telecommunications facilities and apparatus necessary to effectuate the purposes of this chapter, and the right to enter onto such public right-of-way to operate and maintain such telecommunications facilities, and to extend, improve and expand the telecommunications facilities owned by the city.

B. The city may condition access to the telecommunications facilities owned by the city upon the dedication or conveyance to the city of a utility easement for the installation, operation and maintenance of such telecommunications facilities over, across, upon and under property owned or controlled by another. Such utility easement may be used for the purpose of providing delivery of telecommunications access and related services to the city as well as to other public agencies. Such utility easement shall permit access thereto by city employees and agents at all reasonable hours or at any time in an emergency situation, as determined by the city in its sole discretion. The city may also require such dedication or conveyance to be by warranty deed or it may require execution of an indemnification covenant assuring good and merchantable title thereto.

C. Any telecommunications facilities attached to any pole owned by the city shall be subject to all ordinances and regulations pertaining to such pole attachments, including payment of pole attachment fees.

D. The City shall own, install and maintain all overhead and underground communication cables up to the point of delivery. The point of delivery is defined to mean the customer premises equipment between the city telecommunications facilities and the customer-provided building communication cables, typically located within the customer's building. In the event of any dispute or uncertainty about the location of a point of delivery, the records of the telecommunications utility that show the location of the particular point of delivery shall control.

E. If any telecommunications facilities owned by a telecommunications service company are to be interconnected to the telecommunications facilities owned by the city, then the initial and ongoing costs of the interconnection shall be approved in advance by the energy services director, and such interconnection shall be at a meet me location or at a point of service delivery that is mutually agreed upon. The initial and ongoing costs of the interconnection shall be paid by the requesting entity, unless otherwise mutually agreed upon. [Ord. 4709 § 14, 2015; Ord. 4658 § 1, 2013.]

**Section 3. Severability.** If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

**Section 4. Corrections.** Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 5. Effective Date.** This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

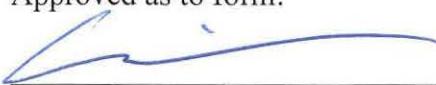
The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 16th day of October, 2017.

  
MAYOR

  
CITY CLERK

ATTEST:

Approved as to form:

  
CITY ATTORNEY

Publish: 10-19-17

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4777 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4777 was published as required by law.

  
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COREEN M. RENO