

**ORDINANCE NO. 634  
CITY OF DAYTON, OREGON**

*An Ordinance Amending the Telecommunications Franchise Granted to McMinnville Access Company to Use City Rights of Way to Provide Telecommunications Services*

**WHEREAS**, on June 1, 2015, by Ordinance No. 624, the City granted McMinnville Access Company, doing business as Online Northwest (“McMinnville Access”), a franchise pursuant to Chapter 6 of the Dayton Municipal Code (the “Franchise”), which governs the construction and franchising of telecommunications carriers operating within the City and desiring to occupy City rights of way; and

**WHEREAS**, the Franchise authorizes McMinnville Access to occupy the rights of way in the City only to provide telecommunications services, as that term is defined in Chapter 6; and

**WHEREAS**, McMinnville Access intends to provide services over its facilities in the City that are not covered in the definition of “telecommunications services” in Chapter 6, and has requested an amendment to the Franchise to authorize these services; and

**WHEREAS**, City has reviewed McMinnville Access’s request and finds that it is in the public interest to authorize the company to provide additional services in the City, and the City Council therefore desires to amend the Franchise to authorize these services.

**The City of Dayton Ordains as follows:**

Section 1. The City of Dayton hereby amends Section 1(d) of the Franchise with McMinnville Access as follows (deletions shown as strikethrough; additions are underlined): “The terms ‘telecommunications facilities,’ ~~“telecommunications services,”~~ ‘rights of way’ and any other term used in this franchise that is defined in Chapter 6.11 of the Dayton Municipal Code shall have the meaning set forth therein; provided, however, that notwithstanding the definition of ‘telecommunications services’ in Chapter 6.11, for purposes of this franchise ‘telecommunications services’ shall mean ‘any service provided for the purpose of transmission of information, including, but not limited to, voice, video, or data, and includes all forms of telephone services and voice, video, data or information transport, but does not include ‘cable service’ as that term is defined in the Cable Act.””

Section 2. All other provisions, terms and conditions of the Franchise remain unchanged and in full force and effect except as expressly stated herein.

Section 3. The amendments to the Franchise granted herein are conditioned upon McMinnville Access’s acceptance of the amended terms and conditions in writing in the form attached hereto as Exhibit A within thirty (30) days of City Council enactment of this Ordinance. In the event McMinnville Access fails to timely file the acceptance, this Ordinance shall be null and void.

**PASSED AND ADOPTED** this 6th day of June, 2016.

Mode of Enactment:

Date of first reading: May 2, 2016 by title only.

Date of second reading: June 6, 2016 by title only.

X No Council member present at the meeting requested that the ordinance be read in full.

\_\_\_\_\_ A copy of the ordinance was provided to each Council member; three copies were provided for public inspection in the office of the City Recorder no later than one week before the first reading of the Ordinance.

Final Vote:

**In Favor:** Bixler, Collins, Frank, Marquez, Taylor, Wytoski

**Opposed:** None

**Absent:** Price

**Abstained:** None

  
\_\_\_\_\_  
Elizabeth Wytoski, Mayor

6/9/16  
\_\_\_\_\_  
Date of Signing

ATTESTED BY:

  
\_\_\_\_\_  
Rochelle Roaden,  
City Recorder

6/6/16  
\_\_\_\_\_  
Date of Enactment

Exhibit A

**ACCEPTANCE**

City Recorder  
City of Dayton  
PO Box 339  
416 Ferry Street  
Dayton, OR 97114

This is to advise the City of Dayton, Oregon that McMinnville Access Company, dba Online Northwest (the "Grantee") hereby accepts the terms and provisions of Ordinance No. 634 passed by the City Council on June 6, 2016, amending the Telecommunications Franchise previously granted to Grantee by Ordinance No. 624. The Grantee agrees to abide by each and every term of the Franchise as amended by Ordinance No. 634.

**McMinnville Access Company**

BY \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

**This Acceptance was received by the City of Dayton on \_\_\_\_\_, 2016.**

\_\_\_\_\_  
City Recorder