

ORDINANCE NO. 01-01

ROLL CALL

VOTING	YES	NO
MAYOR DALE R. BARNEY <i>(votes only in case of tie)</i>		
SHERMAN E. HUFF <i>Councilmember</i>	X	
LILLIAN J. SHEPHERD <i>Councilmember</i>	X	
GLENN A. JAMES <i>Councilmember</i>	X	
ROY L. JOHNS <i>Councilmember</i>	X	
EVERETT KELEPOLO <i>Councilmember</i>	X	

I MOVE this ordinance be adopted: Councilmember Huff

I SECOND the foregoing motion: Councilmember James

ORDINANCE 01-01

AN ORDINANCE AMENDING PROVISIONS OF THE ELECTRIC UTILITY ORDINANCE

WHEREAS, Spanish Fork City owns and maintains its own electric power department; and

WHEREAS, the electric department already owns the poles and conduits which make it relatively easy to provide additional services to the residents and business of the City; and

WHEREAS, Spanish Fork City routinely recruits businesses to the area to provide a solid tax base, provide employment for its residents, and bolster the local economy; and

WHEREAS, the City has determined that it is at a currently disadvantage in recruiting desirable companies for the reason that the City presently lacks highspeed internet service; and

WHEREAS, the City can overcome that disadvantage by creating its own Telecommunications Division of the Spanish Fork City Power System to provide those services; and

WHEREAS, the City has used its Utility Board and an ad hoc Committee of local citizens to study issues of highspeed internet, cable television, and other services available through fiber optics; and

WHEREAS, the City has already begun a fiber optic system for the purpose of collecting data from its various utility metering devices from remote locations; and

WHEREAS, at a reasonable additional cost, the City is able to provide highspeed internet and cable television as a benefit to its residents; and

WHEREAS, the current cable television service is poor and expensive when compared with other areas along the Wasatch Front; and

WHEREAS, the telephone switching equipment servicing Spanish Fork City is antiquated, providing poor service to the City, its residents and businesses; and

WHEREAS, the Telecommunication Division of Spanish Fork City Power System can also provide for telephony services which would solve the problem with antiquated switching equipment; and

WHEREAS, current providers of telecommunications services have no competition and therefore have no incentive to provide better or less expensive service; and

WHEREAS, the City, by providing telecommunications services, will force private companies to provide better service at lower costs, thus providing additional benefit to the residents of the City; and

WHEREAS, the City finds that it is in the furtherance of the health, safety and welfare of the residents of the City to enter into the telecommunications industry as authorized by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council as follows:

Section I.

Title 13, Chapter 44 of the Spanish Fork City Municipal Code is hereby repealed and re-enacted as follows:

13.44.010 Created-Supervision.

A. There is hereby created an energy utility known as Spanish Fork Energy, which shall be a division of the Public Works Department. The energy utility shall provide electric power to the residents of the City.

B. There is also created a Telecommunications Division within Spanish Fork Energy to be known as Spanish Fork Community Network (SFCN). SFCN is authorized to construct and operate a telecommunications system and to furnish, provide, and sell competitive telecommunications services to the residents of Spanish Fork City, including but not limited to internet services, cable television, telephony, data transmission and other telecommunications related services.

C. SFCN is hereby granted authority to construct, own, purchase, hire, lease, maintain, and operate all aspects of the telecommunications system within the City. SFCN may enter into operation, management, license, joint construction, or other agreements with cable television providers, internet service providers, local telephone exchange carriers, and/or other

telecommunications companies in order to provide quality telecommunications services to its subscribers.

D. Residents of the City, where such services are available, may subscribe to such telecommunications services as may be offered by the City, or may elect to not subscribe for such services. Subscribers will be bound by the requirements of the subscription contract.

E. Electric and electronic cabling and other apparatus installed by or at the direction of the energy utility for the distribution of electrical power and telecommunications services shall be the property of the City.

13.44.020. Right of Entry.

A. The city electrical superintendent and other personnel of the energy utility shall have the right to enter upon any premises at all reasonable hours for the purpose of reading the electric meter thereon. All other inspections, for whatever purpose, shall be made in accordance with chapter 1.08 on right of entry for inspection.

B. Each energy service user shall keep each meter and/or demarc box freely accessible to employees of the energy utility for the purpose of reading said meter and accessing said demarc box and shall not obstruct access to said meter or demarc box in any manner whatsoever including but not limited to obstructions or inaccessibility caused by buildings, fences, gates, enclosures or any structure of any kind, or by dogs or other animals.

C. In addition to any penalty imposed by this chapter, the city electrical superintendent or any employee of the energy utility may disconnect the services to any service user who obstructs or makes inaccessible or who allows to be obstructed or to become inaccessible any service meter or demarc box.

13.44.030. Contract for Service.

Every person desiring to obtain telecommunications or electric service from the city shall contract therefore in writing upon blanks furnished by the city. The contractual form may be the same form used to obtain other municipal services.

13.44.040. Utility Rules and Regulations.

All persons or entities desiring to purchase electricity or telecommunications services from Spanish Fork Energy shall do so in conformity with such rules and regulations as shall be adopted by the city. Regulations shall specify methods and conditions of application of service, methods and conditions of rendering service, procedures for payment for services rendered, procedures and methods for termination of service and all other matters incident to or related to the operation of the energy utility by Spanish Fork City.

13.44.050. Service Rates.

All users of electrical or telecommunications services from Spanish Fork Energy shall pay such rates as shall be established from time to time by resolution of the city council. Such resolution may be by passage of the annual or interim budgets containing the rates to be charged.

13.44.060. Damage to Property - Interruption of Service - Liability.

All consumers of energy services connected with said system shall be responsible for all damages to or loss of property belonging to the city located on such consumer's premises unless occasioned by cause beyond their control or by the negligence of the energy utility. The energy utility shall not be responsible for any interruption or failure to supply electricity or telecommunications services. Nothing in this chapter shall be construed to relieve or lessen the responsibility of any person owning, operating or installing cabling, wires, fixtures, appliances, apparatus, construction

or equipment for damages to anyone injured or damaged either in person or property by any defect therein; nor shall the city or any agent thereof be held as assuming any liability by reason of the inspection authorized herein or any approval resulting from said inspection by the city building inspector.

13.44.070. Willful or Malicious Damage.

A. It is a Class B Misdemeanor for any person to willfully or maliciously cut, break or remove the insulation from any electrical wire or fiber optics cable in use in said system.

B. It is a Class B misdemeanor for any person to willfully or maliciously:

1. Intercept the transmission of electric current or telecommunications services of the system without applying or paying therefore;

2. To use or obtain by any means or device any electronic signal or electric current except through a meter or other device regularly installed and approved by the energy utility.

3. Reconnect to or use services from said system after electrical services have been disconnected for nonpayment of services rendered, or for violation of any established rule or regulation of the energy utility of the city or for any violation of any duly enacted ordinance pertaining thereto.

C. It shall be a Class B misdemeanor for any person to:

1. Cut, break or throw down any of the poles owned by the energy utility;

2. Willfully destroy the insulation of said system or any part thereof by the attachment of a ground wire or other contrivance;

3. Injure, molest or destroy any property or materials appertaining to said system;

4. Interfere with the use of said system or obstruct or postpone the transmission of services of said system or to procure or advise any such injury;

5. Perform, procure or advise the performance or procurement of any said listed acts.

13.44.080. Installations.

A. All installations related to the energy utility shall comply with all applicable codes adopted by the city and shall comply with all licensing and inspection ordinances now or hereafter adopted by the city, including the construction and development standards.

B. Electrical installations shall be subject to the inspection and approval of the city building inspector before any building or structure in which said electrical wiring is installed shall receive service through the city power system.

C. The city building inspector may require the removal of any flooring, wallboard, paneling, ceiling materials, encasement or any and all construction materials covering or obstructing free access or view of any electrical wiring or device which has not been inspected and received inspector's approval. The city building inspector shall not approve any electrical wiring which has not been visually or otherwise inspected. The expenses of the removal and reinstallation of any materials undertaken pursuant to this section shall be borne by the owner or builder of said building or structure.

13.44.090 Telecommunications Competition

A. The City promotes and encourages competition for voice, data, video, and video programming services that make the latest and best technology available and which keep service prices affordable for all City residents and businesses.

B. The City will manage access to the public easements and rights-of-way for telecommunications purposes in a nondiscriminatory, competitively neutral and in a nonexclusive manner, and, to the extent allowed under applicable law, receive fair compensation therefore.

C. Telecommunications and video programing franchises and licenses will be managed to preserve the integrity of the City infrastructure, assure efficient use of City property, and ensure compliance with City ordinances, rules, and regulations. The following guidelines shall be in effect:

1. Minimal disruption of public and private property will be a priority;
2. Telecommunications and video programming franchises will be required to place their facilities underground in situations where existing utility services are underground and/or whenever existing overhead facilities go underground and/or whenever City policy so requires;
3. All construction and development standards of the City shall be followed.

D. Any franchise fees assessed against private businesses providing energy services shall have a like cost assessed against the energy utility.

13.44.100. Violation - Penalty.

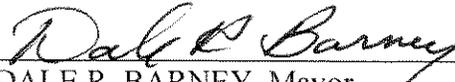
A. Unless otherwise specifically provided, every person who violates any provision of this chapter is guilty of a Class C misdemeanor.

B. Each day that a violation of any provision of this chapter continues constitutes a separate and distinct offense.

Section II.

The City Council of Spanish Fork City hereby finds that it is necessary, in order to protect the health, safety, welfare and well-being of the citizens of Spanish Fork, that this ordinance go into effect immediately upon passage.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF
SPANISH FORK, UTAH, this 16th day of January, 2001.



DALE R. BARNEY, Mayor

ATTEST:



KENT R. CLARK, City Recorder

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