

ORDINANCE NO. 1317

AN ORDINANCE AMENDING CHAPTER 4.12.02 OF THE MUNICIPAL CODE OF THE CITY OF EUREKA SPRINGS, ARKANSAS, WHEREBY THE CITY OF EUREKA SPRINGS OF THE STATE OF ARKANSAS AND THE SOUTHWESTERN BELL TELEPHONE COMPANY, A MISSOURI CORPORATION, AGREE THAT THE TELEPHONE COMPANY SHALL CONTINUE TO OPERATE ITS TELEPHONE SYSTEM AND ALL BUSINESS INCIDENTAL TO OR CONNECTED WITH THE CONDUCTING OF A TELEPHONE BUSINESS AND SYSTEM IN SAID CITY; AND ERECT AND MAINTAIN ITS PLANT CONSTRUCTION AND APPURTENCES ALONG, ACROSS, ON, OVER, THROUGH, ABOVE AND UNDER ALL PUBLIC STREETS, AVENUES, ALLEYS, PUBLIC GROUNDS AND PLACES IN SAID CITY; THAT THE CITY SHALL RECEIVE AN ANNUAL PAYMENT FROM THE TELEPHONE COMPANY; AND REPEALING ALL ORDINANCES AND AGREEMENTS IN CONFLICT HEREWITH:

WHEREAS, the City desires to enact and impose upon the Telephone Company, a tax which shall be in lieu of all other licenses, charges, fees or special taxes other than the usual general or special ad valorem taxes, and

WHEREAS, the City recognizes and concurs in the purpose and intent of an order of the Arkansas Public Service Commission entered on February 7, 1980, in Docket U-3013, relating to the treatment by the Telephone Company of all City special taxes;

NOW, THEREFORE: BE IT ORDAINED by the City Council of the City of Eureka Springs, State of Arkansas that;

SECTION 1: The Southwestern Bell Telephone Company, its successors and assigns (herein referred to as "Telephone Company") shall continue to operate its telephone system and all business incidental to or connected with the conducting of a telephone business and system in the City of Eureka Springs, State of Arkansas, (herein referred to as "City"). The plant construction and appurtenances used in or incidental to the giving of telephone service and to the maintenance of a telephone business and system by the Telephone Company in said City shall remain as now constructed, subject to such changes as may be considered necessary by the City in the exercise of its inherent powers and by the Telephone Company in the conduct of its business and said Telephone Company shall continue to exercise its right to place, remove, construct and reconstruct, extend and maintain its said plant and appurtenances as the business and purpose for which it is or may be incorporated may from time to time require, along, across, on, over, through, above and under all the public streets, avenues, alleys and the public grounds and places within the limits of said City as the same from time to time may be established.

SECTION 2: The Telephone Company shall pay to the City effective October 1, 1988 an amount equal to four per cent (4%) of the Company's access line billing revenues. Said payments shall be payable in quarterly installments on or before the last day of March, June, September and December of each year beginning with the period October 1, 1988 through December 31, 1988 inclusive and thereafter for like periods.

SECTION 3: The annual payment herein required shall be in lieu of all other licenses, charges, fees or impositions (other than the usual general or special ad valorem taxes) which may be imposed by the City under authority conferred by law. The Telephone Company shall have the privilege of crediting such sums with any unpaid balance due said Company for telephone services rendered or facilities furnished to said City.

SECTION 4: The Telephone Company on the request of any person shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting the same, and the Telephone Company may require such payment in advance. The Telephone Company shall be given not less than forty-eight hours advance notice or arrange for such temporary wire changes.

SECTION 5: Permission is hereby granted to the Telephone Company to trim trees upon and overhanging streets, alleys, sidewalks and public places of said City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Telephone Company, all the said trimming to be done under the supervision and direction of any City official to whom said duties have been or may be delegated.

SECTION 6: Nothing in this Ordinance contained shall be construed to require or permit any electric light or power wire attachments by the City or for the City. If light or power attachments are desired by the City or for the City, then a separate non-contingent agreement shall be a prerequisite to such attachments.

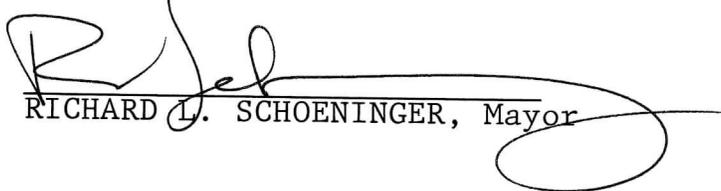
SECTION 7: Nothing herein contained shall be construed as giving to the Telephone Company any exclusive privileges, nor shall it affect any prior or existing rights of the Telephone Company to maintain a telephone system within the City.

SECTION 8: All other ordinances and agreements and parts of ordinances and agreements relating to the operating of or right to operate a telephone system within the City are hereby repealed.

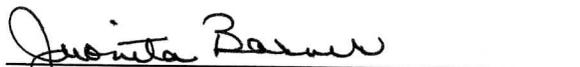
SECTION 9: The said Telephone Company shall have ninety (90) days from and after its passage and approval to file its written acceptance of this ordinance with the City Clerk, and upon such acceptance being filed, this Ordinance shall be considered an emergency, taking effect and being in force from and after the date of its passage, approval and publication. The Ordinance shall continue in effect and be in force until terminated by the City or the Telephone Company as of the end of any year after giving one (1) year's written notice of intention to terminate.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE  
CITY OF EUREKA SPRINGS, ARKANSAS, ON THIS 23th  
DAY OF August, 1988.

APPROVED:

  
RICHARD L. SCHOENINGER, Mayor

ATTEST:

  
City Clerk/Treasurer

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