

LEGAL NOTICE

(First published in the Citizen Thursday, December 18, 1976) 1 time

ORDINANCE NO. 89

AN ORDINANCE GRANTING THE FRANCHISE, PRIVILEGES AND RIGHTS TO CONTINENTAL

TELEPHONE COMPANY OF KANSAS, INC., ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, ACQUIRE, OPERATE AND MAINTAIN A TELEPHONE SYSTEM IN THE CITY OF OVERBROOK KANSAS, AND TO USE THE STREETS, ROADS, ALLEYS, AND OTHER PUBLIC PLACES WITHIN SAID CITY FOR SUCH PURPOSES.

Be It Ordained by the Governing Body of the City of Overbrook of the State of Kansas that:

SECTION I. Continental Telephone Company of Kansas, Inc., 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 Overbrook, State of Kansas, (herein referred to as "City"). The plant construction and appurtenances used in or incident to the giving of telephone service and to the maintenances of a telephone business and system by the Telephone Company in said City shall remain as now planned or 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 purposes 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, bridges, and the public grounds and places within the limits of said City as the same from time to time may be established.

SECTION II. 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 to arrange for such temporary wire changes.

SECTION III. 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 IV. Permission is hereby granted to the Telephone Company to make all necessary excavations in the public streets, roads, alleys, sidewalks, or other public places, all in accordance with the ordinances applicable to such excavations by public utilities or others securing such permission.

SECTION V. The Telephone Company agrees to pay to the City as full compensation for granting the rights and privileges herein a sum equal to 3 percent of the gross receipts of the Telephone Company from subscribers in the City of Overbrook said gross receipts for the regular basic charge to customers or subscribers for telephone services in the City, but does not include charges for special services, long distance calls or charges for extension phones. The Telephone Company shall make and report to the Governing Body of the City all such gross receipts once each six months and pay to the City the amount due such City at the time said report is made. The first report and payment to be on the 1st day of January 1977.

SECTION VI. Nothing in this ordinance shall be construed to require or permit any telephone, electric light, or power wire attachments by either the City or the Telephone Company, on the poles of the other. If such attachments are desired by the City or the Telephone Company, then a separate non-contingent agreement shall be a pre-requisite to such attachments.

SECTION VII. 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 VIII. All poles, wires, anchors, anchor rods, and other appurtenances which are located on, over, along or across the public streets, roads, alleys, or other public thoroughfares of the City shall be so placed by the Telephone Company as not to interfere with traffic on the traveled portions of such thoroughfares; and the Telephone Company after the construction, or reconstruction of the telephone lines, will restore to their original condition the streets, roads, alleys, or other public thoroughfares on which such lines have been constructed, insofar as this is practicable; the said Telephone Company shall at all times hold the City harmless and free from liability for any damages which may be done to real or personal property by the exercise of this franchise, and such Telephone Company in accepting this franchise assumes any and all such liability as far as the City is concerned.

SECTION IX. The rates to be charged and exacted from the City of Overbrook and its inhabitants for telephone service furnished by the Telephone Company shall be the rates as approved by the Corporation Commission of the State of Kansas, or other regulatory body having jurisdiction over the Company's rates and services.

SECTION X. The Telephone Company will comply with all reasonable rules and regulations of the City of Overbrook and with all ordinances now in effect or which may hereafter be passed insofar as they do not conflict with the terms or the purposes of the franchise herein granted.

SECTION XI. The Telephone Company shall pay the printing costs of this franchise ordinance.

SECTION XII. All other ordinances and agreements and parts of ordinances and agreements relating to the operation of a telephone system within said City are hereby repealed.

SECTION XIII. The said Telephone Company shall have sixty (60) 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 as taking effect and being in force from and after the date of its passage and approval by the Mayor, for a period of ten years; and for two successive five-year terms thereafter, unless either party shall notify the other in writing of its intention of terminating said agreement at the expiration of the original term or at the expiration of the first succeeding five-year term, said notice of intention to terminate shall be served by either party on the other at least one year prior to the effective date of such termination.

Approved this 8th day of December 1976

Gerald Coffman
Mayor

ATTEST:
Barbara Williams
City Clerk