

ORDINANCE NO. A- 556

AN ORDINANCE WHEREBY THE CITY OF CONWAY 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 APPURTENANCES 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 PAYMENT FROM THE TELEPHONE COMPANY, AND REPEALING ALL ORDINANCES AND AGREEMENTS IN CONFLICT HERewith; AND DECLARING AN EMERGENCY:

WHEREAS, the City desires to enact and impose upon the Telephone Company certain taxes 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 December 10, 1957, in Docket U-1281 relating to the treatment by the Telephone Company of all City special taxes;

WHEREAS, under the provisions of the aforesaid order of the Arkansas Public Service Commission the City of Conway may levy upon Southwestern Bell Telephone Company an annual license tax, the amount of which is determined by multiplying the number of telephones within the corporate limits of the City on the last day of the preceding year by the sum of ninety-three cents (\$0.93); such tax being hereinafter designated as "License Tax"; and

WHEREAS, the City of Conway may levy taxes upon Southwestern Bell Telephone Company in addition to the aforesaid License Tax but any additional tax (hereinafter designated as "City Tax") will be passed on by said Telephone Company to its customers in the City, together with costs of collection thereof;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Conway, 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 Conway, State of Arkansas, (herein referred to as "City"). The plant construction and appurtenances used in or incident 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 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, 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 ~~do~~ the City an annual License Tax, as hereinabove defined, for the year 1971 and succeeding years, which tax, until changed by ordinance adopted by the City, shall be determined by multiplying the number of telephones within the corporate limits of the City ~~as~~ of the final day of the preceding year by the sum of ninety-three cents (93¢). Such License Tax, ~~as~~ so computed, shall be paid in full on or before April 1 of the year for which said License Tax is due.

SECTION 3. In addition to the License Tax, aforesaid, there is hereby further levied an annual City Tax, as hereinabove defined, for the year 1971 ~~and~~ each succeeding year, which tax, until changed by ordinance, shall be determined by multiplying the number of main stations within the corporate limits of the City as of the final day of the preceding year by the sum of \$6.00. Such City Tax, together with ~~the~~ costs of collection thereof, shall be passed on by the Telephone Company to its customers in the City ~~and~~ shall be shown separately on bills to such customers as "City Tax", in accordance with the rules and regulations of the Arkansas Public Service Commission. Said City Tax shall be payable to the Clerk-Treasurer of the City in quarterly installments on or before the last day of March, June, September and December of 1971 and each year thereafter, except that for the year

1971, the first quarterly installment shall be only 2/12th of the annual tax instead of a full quarterly installment, the balance of such City Tax for the first quarter of 1971 being hereby expressly waived.

SECTION 4. Upon receipt of the License Tax the Clerk-Treasurer of the City shall deposit the entire amount thereof into the General Fund of said City. Upon receipt of each installment of the City Tax the Clerk-Treasurer of the City shall deposit the same into the accounts or funds of the City as hereinafter designated, and such City Tax is hereby allocated to the various accounts or funds of the City in the following manner, to-wit:

General Fund	50%
Street Fund	20%
Parks and Recreation Fund	20%
Non-Uniformed Employees Pension and Retirement Fund	10%

Said moneys, as so allocated and deposited, shall be used for the purposes of the respective funds or accounts, and for no other purpose.

SECTION 5. The License Tax and the City Tax 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 6. 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 of

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 7. 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 8. 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 9. 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 10. Ordinance No. **A-495**, adopted by the City Council of the City of Conway on May 12, 19~~70~~, and all other ordinances and agreements and parts of ordinances and agreements relating to the operating of or right to operate a telephone system within said City are hereby repealed.

SECTION 11. 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. 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) years notice of intention to terminate.

SECTION 12. Whereas there is a great need for revenues in the City of Conway, Arkansas, to carry on necessary public services; and, whereas the Arkansas Public Service Commission has approved a standard formula for computation of municipal Occupation (license, franchise, or other special city) Taxes for Cities of the same classification as the City of Conway in the amount of \$0.93 per telephone, based on the total number of telephones, and whereas under such formula any additional such tax will be passed on by the Telephone Company to its customers in said municipality, together with costs of collection; and whereas such additional taxes are necessary in order to provide additional funds for necessary municipal purposes and it is necessary that this Ordinance shall become effective immediately in order to provide for the prompt computation and collection of said taxes; therefore, an emergency is hereby declared to exist and this Ordinance being necessary for the immediate protection of the public peace, health and safety shall take effect immediately upon its passage and approval.

PASSED: December 22, 1970.

APPROVED:

*Walter Dunaway*  
Mayor

ATTEST:

*Doris Dunn*  
Clerk-Treasurer

CERTIFICATE

The undersigned, Clerk-Treasurer of the City of Conway, Arkansas, hereby certifies that the foregoing pages numbered 1 to 5, inclusive, are a true and correct copy of Ordinance No. A-506, passed at a regular session of the City Council of Conway, Arkansas, held at the regular meeting place of the Council at 7:00 o'clock p.m. on the 22 day of December, 1970, and that said Ordinance is of record in Record Book No. 7, page 539, now in my possession.

*Doris Dunn*  
Clerk-Treasurer