

CITY OF LOOKOUT MOUNTAIN, GEORGIA

ORDINANCE NO. 147

AN ORDINANCE

To renew for an additional twenty (20) years the franchise granted by Ordinance No. 26 to Southern Bell Telephone and Telegraph Company, authorizing the Southern Bell Telephone and Telegraph Company to use the public streets of the City of Lookout Mountain, Georgia, for the purpose of erecting, constructing, maintaining and operating lines of telephone and telegraph thereon and thereunder, such franchise renewal to be under substantially the same terms and conditions as those set forth in Ordinance No. 26.

BE IT ORDAINED by the City Council of the City of Lookout Mountain, Georgia, and it is hereby ordained:

Section 1. Permission is hereby granted to the Southern Bell Telephone and Telegraph Company (hereinafter referred to as the "Company"), its successors and assigns, to construct, maintain and operate lines of telephone and telegraph equipment, including the necessary poles, conduits, cables, fixtures, electrical conductors, fiberoptics and digital technology fixtures upon, along, under and over the public roads, streets, highways and rights of way of the City of Lookout Mountain, Georgia (hereinafter referred to as the "City" or "Lookout Mountain"), as its business may from time to time require, provided that all poles shall be neat and symmetrical.

Section 2. The work of erecting poles and constructing underground conduits under this ordinance shall be done subject to the supervision of the City, and the Company shall replace or properly relay and repair any sidewalk or street that may be displaced by reason of such work, and upon failure of the Company to do so, after twenty days' notice in writing given by the Mayor of the City to the Company, the City may repair such portion of the sidewalk or street that may have been disturbed by the Company, and collect the costs so incurred from the Company.

Section 3. In consideration of the rights and privileges herein granted, the Company shall pay to the City the amount prescribed by applicable tariffs of the Public Service Commission in effect on the date of payment as the maximum which a city in the same designated class as Lookout Mountain may impose upon the Company, without any portion of it being collectible, in additional charges for service, from subscribers in Lookout Mountain. The first payment hereunder shall be made to the City within thirty (30) days of the acceptance of this ordinance by the Company and shall be for the permission year May 18, 1990, to May 17, 1991. Thereafter, the Company shall make such payments annually on or before July 1 of each year. The payments shall be computed each year based on the preceding calendar year ending December 31st.

Section 4. The payment provided for herein shall be in lieu of specific registration fees, business licenses and all special taxes on poles or conduits; however, such payment shall not reduce the amount to be paid by the Company on account of the ad valorem taxes on its physical property, under existing statutes, and shall not exclude charges for the opening of the streets, the repavement or repairing of same, sanitary taxes, water charges, or like charges, all of which shall be paid by the Company in the same manner as any other citizen is required to pay therefor.

Section 5. This ordinance shall be effective within the boundaries of the City as they shall exist from time to time.

Section 6. The Company shall indemnify the City against, and assume all liabilities for, damages which may arise or accrue to the City for any injury to persons or property from the doing of any work herein authorized, or the neglect of the Company or any of its employees to comply with any ordinance regulating the use of the streets of the City, and the acceptance by the Company of this ordinance shall be an agreement by it to

pay to the City any sum of money for which the City may become liable from or by reason of such injury.

Section 7. The Company shall file with the City Clerk of the City its acceptance of this ordinance within sixty (60) days from the date when it shall take effect.

Section 8. Nothing in this ordinance shall be construed as a surrender by the City of its right or power to pass ordinances regulating the use of its streets.

Section 9. The permission granted by this ordinance, if accepted by the Company, shall be in force for a period of twenty (20) years from and after May 18, 1990.

Section 10. Severability:

If any section, subsection, sentence, or clause in this ordinance be adjudged invalid, such adjudication shall not affect the validity of the ordinance or code as a whole or of any section, subsection, sentence, or clause hereof or thereof not adjudged invalid.

Section 11. Part of Code of Ordinances:

It is the intention of the governing body and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Lookout Mountain, Georgia, and the sections of this Ordinance may be re-numbered to accomplish such intention.

Section 12. Repealer.

All other ordinances or parts thereof heretofore enacted by the City in conflict herewith are hereby repealed.

Section 13. Effective Date:

This ordinance shall be effective ten (10) days after its adoption and approval by at least three members of the Council of this City after two readings at least one week apart.

APPROVED ON FIRST READING ON September 20,

1990.

James Rowland
Member of City Council

Daniel L. Chandler
Member of City Council

James L. Gray
Member of City Council

Member of City Council

Member of City Council

D. N. Howard
Mayor of Lookout Mountain,
Georgia

APPROVED AND ADOPTED ON SECOND READING ON October 18

_____, 1990.

James Rowland
Member of City Council

James L. Gray
Member of City Council

Daniel L. Chandler
Member of City Council

Susan W. Pettway
Member of City Council

Member of City Council

D. N. Howard
Mayor of Lookout Mountain,
Georgia

ATTEST:

Bill Bee
City Clerk of Lookout Mountain,
Georgia