

CHAPTER 19. FRANCHISE TO MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY

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5-19-1. Twenty-five (25) year franchise to maintain equipment in public rights of way.

There is hereby granted to the Mountain States Telephone and Telegraph Company, a corporation, its successors and assigns, for a period of twenty-five (25) years from and after the effective date of this Ordinance, the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, under and over the streets, alleys, public ways and public places, now or hereafter laid out or dedicated, and all extensions thereof and additions thereto in the City of Tooele, poles, wires, cables, underground conduits, manholes and other fixtures and equipment necessary or proper for the maintenance and operation in said City of a telephone exchange and lines connected therewith; provided, however, that no poles or other fixtures shall be placed where the same will interfere with any gas mains, electric light or power lines, water hydrant or water main; and all such poles or other fixtures placed on any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed close to the line of the lot abutting on said alleys; such equipment or fixtures in any event shall be placed in such a manner as not to interfere with the usual travel on said streets, alleys and public ways. (Ord. 83-22, 12-07-83)

5-19-2. Company subject to regulations of city.

During the life of this franchise, the Company shall be subject to all lawful exercises of the police power by the City and to such reasonable regulations thereunder as the City may by Ordinance thereafter provide. It is expressly understood and agreed by and between the said Company and the City that the Company shall save

the City harmless from all loss sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever resulting from negligence on the part of the Company in the construction and maintenance of its telephone system in the City. The City shall notify the Company's representative within five (5) days after the presentation of any claim or demand, either by suit or otherwise made against the City on account of any negligence as aforesaid on the part of the Company. (Ord. 83-22, 12-07-83)

5-19-3. City has right to maintain fire alarm and police systems upon company poles.

The City shall have the right and privilege during the life of this franchise, without charge, where aerial construction of said Company exists, to place and maintain upon the poles of said Company within the corporate limits, wires and fixtures necessary for police and fire alarm systems, such wires and fixtures to be placed and maintained under the supervision of the Company. The City in its use and maintenance of such wires and fixtures shall at all times comply with the rules and regulations of the Company, and the provisions of the latest edition of the National Electrical Safety Code as that there may be minimum danger of contact or conflict between the wires and fixtures of the Company and the wires and fixtures of the City. It is further agreed, in order to avoid danger to life and property, that the above privilege is granted on conditions that no such police or fire alarm wires or fixtures of the City shall be placed on poles carrying electric light or power wires, nor shall said police or fire alarm wires or other fixtures be exposed, without the consent of the Company to the danger of contact with any conductor carrying a voltage greater than the normal telephone voltage. The City shall be solely responsible for all injury to persons or damage to property arising out of the construction or maintenance of said police and fire alarm fixtures, or arising out of the attachment, maintenance or removal of said wires and fixtures to the poles of the Company. In cases or re-arrangement of the Company's plant or removal of poles or fixtures, the City shall care for or remove its own fixtures, and shall save the Company harmless from any damage or injury to persons or property, including property of the City, arising out of the removal or construction of its wires or other fixtures. (Ord. 83-22, 12-07-83)

5-19-4. Permit necessary to move structures which interfere with company equipment.

Any person or corporation desiring to move a building or other improvement along, or to make any unusual use of the streets, alleys and public ways of the City which, in movement or use would interfere with the poles, wires or other fixtures of the Company or the

City, shall first give notice to the Company of the City, as the case may be, and shall pay to the Company or the City, as the case may be, a sum sufficient to cover the expenses and damage incident to the cutting, altering and moving the wires or other fixtures of the Company or the City, and shall make application for a permit from the City for such movement or use. Before a permit is given to the City therefor, the applicant shall present a receipt from the Company showing such payment. Thereupon, the Company, upon presentation of the said permit, shall within forty-eight (48) hours thereafter provide for and do such cutting, altering and moving of the wires or other fixtures of said Company as may be necessary to allow such moving or other unusual use of the streets, alleys and public ways of the City. (Ord. 83-22, 12-07-83)

5-19-5. Company waives no previous rights obtained to maintain equipment on public rights of way.

It is expressly understood and agreed by the City that the enactment of this Franchise and its acceptance by the Company was and is made upon the express condition and understanding that neither the said enactment or the grant or acceptance of this franchise shall constitute a waiver upon the part of the Company of any rights or claims had or made by said Company with respect to the occupancy of the streets, alleys and public places of the City under the law of the Territory of Utah and under the constitutional and general statutes of the State of Utah, nor shall anything in this franchise in anyway prejudice or impair any rights or claims existing independently of this franchise of said Company or its predecessors or successors with respect to the construction, operation and maintenance, either before or after the life of this franchise, or a telephone system in said City. (Ord. 83-22, 12-07-83)

5-19-6. Repealed.

(Ord. 83-22, 12-07-83)

5-19-7. Payments in lieu of all other taxes.

In consideration of the payments hereinabove provided for, it is expressly understood and agreed by the City and the Company that the payments so provided in Section 5-13-6 hereof shall be in lieu of any and all other franchise, license, privilege, occupation, or any other form of excise or revenue tax (except general and valorem property taxes and special assessment for local improvements), based upon or measured by the revenue, employees, payroll, property, poles, wires, instruments, conduits, pipes, fixtures or other appurtenances of the Company, and all other property or equipment of the Company or any part thereof; provided that said payments shall continue only so long as the Company is not prohibited from making the same

by any lawful authority having jurisdiction in the premises, and so long as the City does not charge, levy or collect, or attempt to charge, levy or collect any of the forms of taxes specified above in this paragraph; and if any lawful authority having jurisdiction in the premises shall hereafter prohibit such payment or payments, or if the City does levy, charge or collect or attempt to levy, charge or collect any of the forms of taxes specified in this paragraph, the obligation to make such payments as hereinabove provided shall forthwith cease. (Ord. 83-22, 12-07-83)

5-19-8. Provisions for publication.

This ordinance shall be deposited in the office of the City Recorder of the City of Tooele and shall be published once in a daily newspaper published in said City within seven (7) days after filing, and shall be in full force and effect on the ____ day of _____, 19__, provided the Company, within thirty (30) days after the passage and approval of this ordinance shall have filed with the City Council of the City of Tooele, Utah, an unconditional acceptance thereof in writing. Within ten (10) days after the filing of said acceptance, the City Recorder, by letter addressed to the Secretary of said Company at Denver, Colorado, shall acknowledge the receipt of said acceptance. (Ord. 83-22, 12-07-83)

5-19-9. Conflicting ordinances repealed.

All ordinances in conflict herewith are expressly repealed. (Ord. 83-22, 12-07-83)