

PUBLIC NOTICE

Norton Ordinance for ATVs and Work-Site Utility Vehicles

Published in The Norton Telegram on Friday, November 23, 2007. (1T)

ORDINANCE NO. 1566
AN ORDINANCE AUTHORIZING THE OPERATION OF WORK-SITE UTILITY VEHICLES AND ALL-TERRAIN VEHICLES ON THE STREETS OF THE CITY OF NORTON, KANSAS AND PROVIDING FOR PENALTIES FOR VIOLATION THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF NORTON, KANSAS:

Section 1. OPERATION OF WORK-SITE UTILITY VEHICLES; PENALTY. (a) Work-site utility vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.

(b) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials.

(c) No work-site utility vehicle shall be operated on any public highway, street, road or alley unless such vehicle shall comply with the equipment requirements under the provisions of article 17, chapter 8 of the Kansas Statutes Annotated.

(d) Every person operating a work-site utility vehicle on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

Section 2. SAME; VALID CITY REGISTRATION AND INSURANCE REQUIRED. No person shall operate a work-site utility vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has been inspected by the Norton Police Department for safety and equipment as required herein, has initially registered such vehicle with the City of Norton, Kansas and paid a registration fee of \$25.00 and has provided to the City proof of insurance. That such proof of insurance shall insure the named owner against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such vehicle and contain stated liability limits of not less than \$25,000 for bodily injury to, or death of one person in any one accident, to a limit of not less than \$50,000 because of body injury to, or death of, two or more person in any one accident, and to a limit of not less than \$10,000 because of harm to or destruction of property of others in any one accident. Upon such safety inspection, registration and proof of insurance, the owner shall be provided a registration sticker from the City which shall be attached to the rear of said vehicle and which shall be continuously displayed during hours of use.

Section 3. SAME; PENALTIES. A violation of any provision of Section 1 through 2 shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2007 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.

Section 4. SAME; VALID DRIVER'S LICENSE REQUIRED; PENALTY. No person shall operate a work-site utility vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license and is at least 18 years of age and is operating said vehicle in the course of a person's employment. Violation of this section is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

Section 5. OPERATION OF ALL-TERRAIN VEHICLES. (a) All-terrain vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city with a driver of at least eighteen years of age.

(b) "All-terrain vehicle" means any motorized non-highway vehicle 48 inches or less in width, having a dry weight of 1,000 pounds or less, traveling on three or more low-pressure tires, and having a seat to be straddled by the operator. As used in this subsection, "low pressure tire" means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(c) No all-terrain vehicle shall be operated on any public highway, street, road or alley unless such vehicle shall comply with the equipment requirements under the provisions of article 17, chapter 8 of the Kansas Statutes Annotated.

(d) Every person operating an all-terrain vehicle on the public highways, law shall subject to all of the duties applicable to a driver of a vehicle imposed by law.

(e) A person operating an all-terrain vehicle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on an all-terrain vehicle, unless such all-terrain vehicle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the all-terrain vehicle at the rear or side of the operator.

(f) A person shall ride upon an all-terrain vehicle only while sitting astride the seat, facing forward, with one leg on each side of the all-terrain vehicle.

(g) No person shall operate an all-terrain vehicle while carrying any package, bundle, or other article which prevents such person from keeping both hands on the handlebars.

(h) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the all-terrain vehicle or the view of the operator.

Section 6. SAME; ROADWAYS LANED FOR TRAFFIC. (a) All all-terrain vehicles are entitled to full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive any all-terrain vehicle of the full use of a lane. This subsection shall not apply to all-terrain vehicles operated two (2) abreast in a single lane.

(b) The operator of an all-terrain vehicle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate an all-terrain vehicle between lanes of traffic or between adjacent lanes or rows of vehicles.

(d) All-terrain vehicles shall not be operated more than two (2) abreast in a single lane.

(e) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties.

Section 7. SAME; CLINGING TO OTHER VEHICLES PROHIBITED. No person riding upon

an all-terrain vehicle shall attach himself, herself or the all-terrain vehicle to any other vehicle on a roadway.

Section 8. SAME; EQUIPMENT ON ALL-TERRAIN VEHICLES FOR PASSENGERS. Any all-terrain vehicle carrying a passenger shall be equipped with a seat and footrests for such passenger.

Section 9. OPERATION OF ALL-TERRAIN VEHICLES; EQUIPMENT REQUIRED FOR OPERATORS AND RIDERS. (a) No person under the age of 18 years shall ride upon an all-terrain vehicle unless they are a passenger wearing a helmet which complies with minimum guidelines established by the national highway traffic safety administration pursuant to the national traffic and motor vehicle safety act of 1966 for helmets designed for use by motorcyclists and other motor vehicle users.

(b) No person shall operate an all-terrain vehicle unless such person is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant, except when the all-terrain vehicle is equipped with a windscreens which has a minimum height of 10 inches measured from the center of the handlebars.

Section 10. SAME; VALID CITY REGISTRATION AND INSURANCE REQUIRED. No person shall operate an all-terrain vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has been inspected by the Norton Police Department for safety and equipment as required herein, has initially registered such vehicle with the City of Norton, Kansas and paid a registration fee of \$25.00; and has provided to the City proof of insurance. That such proof of insurance shall insure the named owner against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such vehicle and contain stated liability limits of not less than \$25,000 for bodily injury to, or death of one person in any one accident, to a limit of not less than \$50,000 because of body injury to, or death of, two or more person in any one accident, and to a limit of not less than \$10,000 because of harm to or destruction of property of others in any one accident. Upon such safety inspection, registration and proof of insurance, the owner shall be provided a registration sticker from the City which shall be attached to the rear of said vehicle and which shall be continuously displayed during hours of use.

Section 11. SAME; PENALTIES. A violation of any provision in sections 5 through 10 shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2007 Standard Traffic Ordinance, as amended, or such other similar provision as the city may then have in effect.

Section 12. REVOCATION. In the event a person is convicted while operating a worksite utility vehicle or an all-terrain vehicle of two traffic infractions, or two violations under the Penalty Section, herein or any combination thereof, such person's registration hereunder shall be revoked and such person shall not be permitted to operate said vehicles or register another such vehicle for a period of two years.

Section 13. SAME; VALID DRIVER'S LICENSE REQUIRED; AGE OF OPERATOR; EMPLOYMENT USE; PENALTY. No person shall operate an all-terrain vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license, and is at least 18 years of age. Violation of this section is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

Section 14. OPERATION ON US HIGHWAYS. No person shall operate a worksite utility vehicle or all-terrain vehicle on U.S. Highway 36 or U.S. Highway 283 within the city limits of the City of Norton.

Section 15. PUBLICATION; EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF NORTON, KANSAS, on this 20th day of November, 2007

/s/ David N. Corns, Mayor
 /s/ Darla R. Ellis, City Clerk
 (Seal)

PUBLIC NOTICE

Norton Contract Franchise with Southwestern Bell

Published in The Norton Telegram on Friday, November 23, 2007. (1T)

ORDINANCE NO. 1566
 A CONTRACT FRANCHISE ORDINANCE GRANTED TO SOUTHWESTERN BELL TELEPHONE COMPANY, A TELECOMMUNICATIONS LOCAL EXCHANGE SERVICE PROVIDER PROVIDING LOCAL EXCHANGE SERVICE WITHIN THE CITY OF NORTON, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF NORTON, KANSAS:

Section 1. Pursuant to K.S.A. 2006 Supp. 12-2001, a contract franchise ordinance is hereby granted to Southwestern Bell Telephone Company d/b/a AT&T Kansas ("AT&T Kansas"), a telecommunications local exchange service provider providing local exchange service within the City of Norton, Kansas ("City"), subject to the provisions contained hereafter. The initial term of this contract franchise ordinance shall be for a period of two (2) years beginning January 1, 2008, and ending December 31, 2009. Thereafter, this contract franchise ordinance will automatically renew for additional one (1) year terms, unless either party notifies the other party of its intent to terminate the contract franchise ordinance at least ninety (90) days before the termination of the then current term. The additional term shall be deemed a continuation of this contract franchise ordinance and not as a new contract franchise ordinance or amendment. Pursuant to K.S.A. 2006 Supp. 12-2001(b)(2) under no circumstances shall this contract franchise ordinance exceed twenty (20) years from the effective date of the contract franchise ordinance. Compensation for said contract franchise ordinance shall be established pursuant to Section 3 of this ordinance.

Section 2. For the purpose of this contract franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

"Access line" shall mean and be limited to retail billed and collected residential lines; business lines; ISDN lines; PBX trunks and simulated exchange access lines provided by a central office based switching arrangement where all stations serviced by such simulated exchange access lines are used by a single customer of the provider of such arrangement. Access line may not be construed to include interoffice transport or other transmission media that do not terminate at an end user customer's premises, or to permit duplicate or multiple assessment of access line rates on the provision of a single service or on the multiple communications paths derived from a billed and collected access line. Access line shall not include the following: Wireless telecommunications services, the sale or lease of unbundled loop facilities, special access services, lines providing only data services without voice services process by a telecommunications local exchange service provider or private line service arrangements.

"Access line count" means the number of access lines serving consumers within the corporate boundaries of the city on the last day of each month.

"Access line fee" means a fee determined by a city, up to a maximum as set out in K.S.A. 2006 Supp. 12-2001 and amendments thereto, to be used by a telecommunications local exchange service provider in calculating the amount of access line remittance.

"Access line remittance" means the amount to be paid by a telecommunications local exchange service provider to a city, the total of which is calculated by multiplying the access line fee, as determined in the city, by the number of access lines served by that telecommunications local exchange service

provider within that city for each month in that calendar quarter.

"Gross receipts" means only those receipts collected from within the corporate boundaries of the city enacting the franchise and which are derived from the following: (A) Recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (B) recurring local exchange access line services for pay phone lines provided by a telecommunications local exchange service provider to all pay phone service providers; (C) local directory assistance revenue; (D) line status verification/busy interrupt revenue; (E) local operator assistance revenue; and (F) nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, the sale or lease of unbundled network elements, nonregulated services, carrier and end user access, long distance, wireless telecommunications services, lines providing only data service without voice services processed by a telecommunications local exchange service provider, privateline service arrangements, internet, broadband and all other services not wholly local in nature are excluded from gross receipts. Gross receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within gross receipts. If telecommunications local exchange service provider offers additional services of a wholly local nature which in existence on or before July 1, 2002, would have been included with the definition of gross receipts, such services shall be included from the date of the offering of such services in the city.

"Local exchange service" means local switched telecommunications service within any local exchange service area approved by the state corporation commission, regardless of the medium by which the local telecommunications service is provided. The term local exchange service shall not include wireless communication services.

"Telecommunications local exchange service provider" means a local exchange carrier as defined in subsection (h) of K.S.A. 66-1,187, and amendments thereto, and a telecommunications carrier as defined in subsection (m) of K.S.A. 66-1,187, and amendments thereto, which does, or in good faith intends to, provide local exchange service. The term telecommunications local exchange service provider does not include an interexchange carrier that does not provide local exchange service, competitive access provider that does not provide local exchange service or any wireless telecommunications local exchange service provider.

"Telecommunications services" means providing the means of transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Section 3. Compensation made pursuant to this contract franchise ordinance shall be paid on a quarterly basis without invoice or reminder from the City and paid not later than forty-five (45) days after the end of the remittance period. For the first year of this contract franchise ordinance, said compensation shall be a sum equal to four percent (4%) of gross receipts. Thereafter, compensation for each calendar year of the remaining term of the contract franchise ordinance shall continue to be based on a sum equal to four percent (4%) of gross receipts; unless the City notifies AT&T Kansas prior to ninety days (90)

before the end of the calendar year that it intends to increase or decrease the percentage of gross receipts for the following calendar year or that it intends to switch to an access line fee for the following calendar year. In the event City elects compensation based on an access line fee, nothing herein precludes City from switching back to a gross receipts fee provided City notifies AT&T Kansas prior to ninety days (90) before the end of the calendar year that it intends to elect a gross receipts fee for the following calendar year. Any increased access line fee or gross receipt fee shall be in compliance with the public notification procedures set forth in subsections (l) and (m) K.S.A. 2006 Supp. 12-2001.

Section 4. The City shall have the right to examine, upon written notice to the telecommunications local exchange service provider, no more than once per calendar year, those records necessary to verify the correctness of the compensation paid pursuant to this contract franchise ordinance.

Section 5. As a condition of this contract franchise ordinance, AT&T Kansas is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission (FCC) or the Kansas Corporation Commission (KCC), subject to AT&T Kansas' right to challenge in good faith such requirements as established by the FCC, KCC or other City Ordinance. AT&T Kansas shall also comply with all applicable laws, statutes and/or ordinances, subject to AT&T Kansas' right to challenge in good faith such laws, statutes and/or ordinances.

Section 6. Nothing herein contained shall be construed as giving AT&T Kansas any exclusive privileges, nor shall it affect any prior or existing rights of AT&T Kansas to maintain a telecommunications system within the City.

Section 7. AT&T Kansas shall collect and remit compensation as described in Section 3 on those access lines that have been resold to another telecommunications local exchange service provider.

Section 8. The City agrees to provide AT&T Kansas with notification in the event that it annexes property into the corporate boundaries of the City that would require AT&T Kansas to collect and pay a franchise fee on access lines or gross receipts which prior to the annexation of the property AT&T Kansas was not required to pay a franchise fee. The City agrees to provide AT&T Kansas with notification in the event the City renumbers or renames any streets that would require AT&T Kansas to collect and pay a franchise fee on access lines or gross receipts which prior to the renumbering or renaming of the streets AT&T Kansas would not have been required to pay a franchise fee. The City agrees that in the event the City does not provide AT&T Kansas with notice of an annexation or renumbering and/or renaming of the streets, AT&T Kansas is not liable to the City for payment of franchise fees on the annexation or renumbered and/or renamed streets prior to the City providing notice to AT&T Kansas of such.

Section 9. The City agrees that pursuant to K.S.A. 2006 Supp. 12-2001(l)(1) and (2) that the franchise fee imposed under this contract franchise ordinance must be assessed in a competitively neutral manner, may not unduly impair competition, must be nondiscriminatory and must comply with state and federal law.

Section 10. Any required or permitted notice under this contract franchise ordinance shall be in writing. Notice upon the City shall be delivered to the

city clerk by first class United States mail or by personal delivery. Notice upon AT&T Kansas shall be delivered by first class United States mail or by personal delivery to:

Southwestern Bell Telephone Company
 Cindy Zapletal
 Director-External Affairs
 1640 Fairchild Avenue, First Floor
 Manhattan, Kansas 66502

Section 11: Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this contract franchise ordinance shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

Section 12: Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond AT&T Kansas' or the City's control.

Section 13: AT&T Kansas has entered into this contract franchise ordinance as required by the City and K.S.A. 2006 Supp. 12-2001. If any clause, sentence, section, or provision of K.S.A. 2006 Supp. 12-2001, and amendments thereto, shall be held to be invalid by a court of competent jurisdiction, either the City or AT&T Kansas may elect to terminate the entire contract franchise ordinance. In the event a court of competent jurisdiction invalidates K.S.A. 2006 Supp. 12-2001, and amendments thereto, if AT&T Kansas is required by law to enter into a contract franchise ordinance with the City, the parties agree to act in good faith in promptly negotiating a new contract franchise ordinance.

Section 14: In entering into this contract franchise ordinance, neither the City's nor AT&T Kansas present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the contract franchise ordinance, neither the City nor AT&T Kansas waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or AT&T Kansas may have at law or equity, without limitation, to argue, assert, and/or take any position as to the legality or appropriateness of this contract franchise ordinance or any present or future laws, ordinances, and/or rulings which may be the basis for the City and AT&T Kansas entering into this contract franchise ordinance.

Section 15: The parties agree that in the event of a breach of this contract franchise ordinance by either party, the non breaching party has the right to terminate the contract franchise ordinance immediately. Prior to terminating the contract franchise ordinance, the non breaching party shall first serve a written notice upon the breaching party, setting forth in detail the nature of the breach, and the breaching party shall have thirty (30) days thereafter in which to cure the breach. If at the end of such thirty (30) day period the non breaching party deems that the breach has not been cured, the non breaching party may take action to terminate this contract franchise ordinance.

Section 16: This contract franchise ordinance is made under and in conformity with the laws of the State of Kansas. No such contract franchise ordinance shall be effective until the ordinance granting the same has been adopted as provided by law.

Final passage by the Council the 7th day of November, 2007.

Approved by the Mayor the 7th day of November, 2007.

(SEAL)
 /s/ David N. Corns, Mayor

ATTEST:
 /s/ Darla R. Ellis, City Clerk
 APPROVED AS TO FORM:
 /s/ Karen L. Griffiths,
 City Attorney

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