

TITLE 4

BUSINESS LICENSES AND REGULATIONS

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CHAPTER 4.04

ELECTRIC FRANCHISE; AP&L

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4.04.01 Electric franchise granted to Arkansas Power and Light Company The city of Mountain Home, Arkansas, (hereinafter called Grantor), hereby grants to the Arkansas Power and Light Company, its successors and assigns (hereinafter called Grantee), the exclusive right, privilege and authority within the present and all future expansion of the

corporate limits of the city of Mountain Home, Arkansas, except for such area within the present corporate limits, which at the date of enactment hereof is served by another supplier of electric energy, and except for such other areas which may be later annexed, where Grantee is not allowed by law to serve (1) to sell, furnish, transmit and distribute electric power and energy to Grantor and to all inhabitants and consumers within said limits, and (2) to construct, maintain, operate and extend a system for such purposes and to enter on, under and upon and use any and all of the streets, alleys, avenues, bridges and other public grounds and ways belonging to, or under the control of Grantor, for the purpose of erecting, maintaining, repairing, replacing and operating poles, wires, anchors, stubs, transformers, substations, cables, conduits and other related facilities, appliances and apparatus which are necessary for, or useful in, the furnishing, sale, transmission or distribution of said electric service (hereinafter called facilities). (Ord. No. 191, Sec. 1)

4.04.02 Rights and responsibilities of Grantor and Grantee

- A. Service; Protection Grantee shall, and does by acceptance hereof, agree to provide to the city and its inhabitants adequate and reasonable electric service as a public utility and the facilities necessary to provide such service. Grantor, in recognition of the large and continuing investment necessary for Grantee to perform its obligations hereunder, and the need and duty to promptly construct its facilities, as defined above, required to serve customers, in all areas and zones of the city, consents to the construction of such facilities as defined in Section 4.04.01 in all such areas and zones, and Grantor agrees to protect by ordinance, regulation and otherwise, to the fullest extent permitted by law, and except as otherwise limited herein, the grants of rights and privileges to Grantee set forth in Section 4.04.01 from interference with, or duplication by, other persons, firms or corporations seeking to engage in the sale or distribution of electric energy. (Ord. No. 191, Sec. 2)

- B. Public Right-of-Ways All facilities of Grantee which may be located on public ways, places and public property, as authorized herein, shall be located so as to not unreasonably obstruct public use and travel. All of Grantee's facilities shall be constructed, operated and maintained in accordance with standards at least equivalent to the standards prescribed by the National Electrical Safety Code. Grantee, its successors and assigns, shall replace and repair, at its own expense, all excavations, holes or other damage caused or done by it to public streets, ways, places and public property in the construction, operation and maintenance of its facilities. (Ord. No. 191, Sec. 3)

- C. Removal of Hazards; Interference The Grantee, its successors and assigns, is hereby given the right to trim, cut and/or remove trees, shrubbery or growth on or in public ways, places and public property which interfere or offer hazards to the operation of Grantee's facilities used or useful for the rendition of electric service, and further, Grantee is hereby given the right, authority and permission to

trim, cut and remove portions of trees, shrubbery or growth growing on private property but overhanging or encroaching on public ways, places and public property which interfere or offer hazards to the construction, operation and maintenance of Grantee's facilities. (Ord. No. 191, Sec. 4)

4.04.03 Termination procedure The rights, privileges and authority hereby granted shall exist and continue from the date of passage of this ordinance, and thereafter, until termination in accordance with provisions of Section 44 of Act 324 of the 1935 Acts of the State of Arkansas, as presently enacted or hereinafter amended. (Ord. No. 191, Sec. 5)

4.04.04 Rates The rates which are to be charged by Grantee for electric service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be amended by Grantee in accordance with law or by any regulatory authority having jurisdiction thereof. (Ord. No. 191, Sec. 6)

4.04.05 City not liable for negligence of Grantee In the construction, operation, and maintenance of its facilities, said Grantee shall use reasonable and proper precaution to avoid damage or injury to persons or property and shall hold and save harmless the said Grantor from damage, injury, loss or expense caused by the negligence of the Grantee, or its agents, servants, or employees, in constructing, operating and maintaining said facilities or in repaving or repairing any streets, avenues, alleys, bridges or other public grounds. (Ord. No. 191, Sec. 7)

4.04.06 Standard of care for facilities The Grantee shall endeavor at all times to keep its facilities in a reasonable state of repair, and to conform to such practices and install such appliances and equipment as may be in keeping with the customary usage and practice in cities of similar size in this state during the time this franchise shall remain in force. (Ord. No. 191, Sec. 8)

4.04.07 Franchise tax

- A. Beginning in 1966, and thereafter during the life of this franchise, the Grantee shall pay to Grantor each year, a franchise tax in an amount equal to: Four and twenty-five hundredths percent (4.25%) of the preceding calendar year's gross residential and commercial electric revenues as paid to the Grantee by residential and commercial customers located within the corporate limits of the city of Mountain Home, Arkansas. Payments shall be made by the Grantee to the Grantor in approximately equal quarterly installments beginning in January, 1966. Residential and commercial electric revenues are those revenues so classified pursuant to Grantee's uniform classification standards. Grantor shall have the right to examine and verify, from the records of the Grantee, any data relating to the gross revenues of Grantee from customers on which said franchise tax is due. In the event of a controversy between the Grantor and Grantee as to the amount of gross revenues received by Grantee in the city of Mountain Home, Arkansas,

upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Grantee, for final determination, and the decision of said Commission shall be binding upon both parties hereto.

- B. It is expressly agreed and understood by the Grantor and Grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes, general ad valorem taxes and other general taxes applicable to all citizens and taxpayers) which are now or might in the future be imposed by the Grantor under authority conferred upon the Grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee set forth in Section 4.04.07 hereof, to pay the city the sum of four and twenty-five hundredths percent (4.25%) annually of the gross residential and commercial electrical revenues shall immediately terminate. (Ord. No. 191, Sec. 9)

4.04.08 Street lighting Electric service furnished the Grantor for street lighting and other purposes shall be paid for by the Grantor in accordance with the applicable rate schedules of the Grantee now on file and/or as they may in the future be filed by the Grantee and approved by the Arkansas Public Service Commission or other regulatory authority having jurisdiction. The Grantee shall have the privilege of crediting any amount due Grantor with any unpaid balances due said Grantee for electric service rendered to said Grantor. (Ord. No. 191, Sec. 10)

4.04.09 Private generation facilities allowed Nothing contained herein shall be construed to prohibit any person, firm or corporation from owning and operating facilities for generating, distributing, or furnishing electric energy for his or its own use or for the use of his or its tenants, all of which facilities and use are wholly on the same premises owned by such person, firm or corporation. (Ord. No. 191, Sec. 11)

CHAPTER 4.08

GAS FRANCHISE

Sections:

- 4.08.01 Gas franchise granted to Source Gas
- 4.08.02 Rights and responsibilities of Gas Company and city
- 4.08.03 Franchise tax
- 4.08.04 City's rights unabridged
- 4.08.05 Danger signals

4.08.06	City indemnified
4.08.07	Service to applicants
4.08.08	Written agreement
4.08.09	Service lines
4.08.10	Grantee's conditions
4.08.11	Company information
4.08.12	Construction, ownership
4.08.13	Franchise in force
4.08.14	Distribution of gas
4.08.15	Recorded charges
4.08.16	Construction of chapter

4.08.01 Gas franchise granted to Source Gas That the city of Mountain Home, Arkansas, (hereinafter called Grantor) subject to the terms, conditions and stipulations mentioned in this ordinance, consents and the right, permission, and franchise is hereby given to the Source Gas Company, (hereinafter called Grantee) a corporation, organized and existing pursuant to the laws of the state of Arkansas, and its successors, lessees and assigns to lay, construct, equip, operate, repair and maintain a system of gas mains, pipes, conduits and feeders for the purpose of supplying and distributing natural gas for light, fuel, power, and heat and for any other purpose to the residents or inhabitants of the said city, and further, the right to lay, construct, operate and maintain a system of gas mains, pipe lines, pipe conduits and feeders and the necessary attachments, connections, fixtures and appurtenances for the purpose of conveying, conducting or distributing natural gas from any point beyond said city limits in order to enable the said Grantee to distribute and sell natural gas to the said city and to the residents or inhabitants thereof, and to others. (Ord. No. 189, Sec. 1)

4.08.02 Rights and responsibilities of Gas Company and city The Grantee herein is expressly given the permit (subject to the proviso hereinafter contained) to use the streets, avenues, roads, highways, alleys, sidewalks and other public places, as now laid out, or hereafter to be established, for the purpose of laying gas mains, pipe lines, conduits and feeders, and the necessary attachments, fixtures, connections and appurtenances for the purpose of conveying or conducting natural gas from any point within the said city or to any point beyond the city limits of the said city or to any other point, through and beyond the city limits of said city, and to operate and maintain a system of pipe lines, pipes, conduits, feeders and the necessary attachments, connections, fixtures and appurtenances for the distribution of natural gas within said city to serve the said city and the residents and inhabitants thereof, and others; provided, however, that where alleys are accessible for laying mains and pipes, the city shall have the right to require that the mains and pipes shall be laid in the alleys instead of the streets. (Ord. No. 189, Sec. 2)

4.08.03 Franchise tax The amount of occupational license or franchise tax to be paid by the Source Gas for the year 2012, and subsequent years, until changed by ordinance, shall be determined and computed as follows:

Franchise Rate

- A. Source Gas, formerly Arkansas Western Gas, herein referred to as Source Gas or as “Grantee,” shall pay in consideration of the grant of this permit, privileges and authority, to the city as a tax or fee and as compensation for the right and privileges enjoyed, a sum equal to four and one-quarter percent (4.25%), payable quarterly, of the gross revenues received from customers within the corporate limits of the city.
- B. Payment Source Gas shall pay the fees provided for in the aforementioned paragraph within thirty (30) days after the end of each calendar quarter.
- C. Exemption The city hereby exempts, relieves and discharges Source Gas from the payment of all municipal occupational, meter, and license taxes of any other character whatsoever, except ad valorem tax imposed by the city in lieu of the fees and levy provided for herein.
- D. Definitions The following terms, words and phrases, as used in this ordinance, shall have the following meanings, unless the context hereof clearly requires otherwise, and the singular shall include the plural and vice-versa, and the masculine shall include the feminine and vice-versa.
1. **City** shall mean the city of Mountain Home, Arkansas.
 2. **Source Gas** shall mean Source Gas Company, P. O. Drawer I, 15 West 6th Street, Mountain Home, Arkansas. (Ord. No. 2012-7, Sec. 1)

4.08.04 City's right unabridged Nothing in this franchise shall be construed in such a manner as to in any manner abridge the right of the city to pass and enforce the necessary police regulations for the purpose of protecting the citizens of said city and their property and the property of the Grantee. (Ord. No. 189, Sec. 3)

4.08.05 Danger signals Grantee shall at all times keep and display the necessary danger signals and proper guards around all excavations and obstructions and shall keep sufficient space in good condition for the travel of vehicles on at least one (1) side of all excavations and obstructions, and shall, as soon as practicable, restore all openings on the highway, road, street, avenue, alley and other public places to a condition equally as good as before said openings and obstructions were made. (Ord. No. 189, Sec. 3)

4.08.06 City indemnified. The Grantee shall do no injury to any highway, road, street, avenue, alley, lane, bridge, stream or watercourse, park or public place, nor in any manner disturb or interfere unnecessarily with electric lines, nor with any public or private sewer or drainage system, or water lines, now or hereafter laid or constructed by the said city or by any authorized person or corporation, but no electric conduits or sewer or water pipes shall be so laid as to interfere unnecessarily with any gas main or pipes which shall have been laid prior to the time of laying such electric conduits, sewer or water pipes. The Grantee shall fully indemnify and save harmless the city from any and all claims for damages for which said city shall or might be made or become liable by reason of the granting of this franchise, or any negligence or carelessness on the part of said Grantee or because of any act or omission of the Grantee in the construction and operation of its system of mains and pipes. (Ord. No. 189, Sec. 4)

4.08.07 Service to applicants. The Grantee shall supply natural gas under the terms and conditions herein specified to all applicants not in arrears for any bills for natural gas, service, pipes, appliances or other things, owning or occupying premises on or abutting the streets, avenues or other public places in which such gas mains or conduits are laid. (Ord. No. 189, Sec. 5)

4.08.08 Written agreement. The Grantee shall have the right to make and enforce a written agreement with all applicants for natural gas and the rate to be charged for natural gas, according to the terms and conditions hereof, the fixing of the minimum monthly bill and service meter moving charge, and specifying an immediate deposit, and fixing the terms and conditions upon which natural gas is to be served the individual applicant, shall be determined by such contract. Such contracts are to conform with the state laws and regulations governing same. (Ord. No. 189, Sec. 6)

4.08.09 Service lines. The Grantee shall lay its service pipes from its main pipes to the curb line and/or the consumer's outer property line at its own expense from the meter on. The consumer shall have the right to select his own gas fitter to lay his pipes and install his fixtures, at the consumer's risk and expense. Grantee shall extend its mains to serve new customers where reasonably assured of enough new customers and revenues therefrom to justify the expenditures necessary to give service. (Ord. No. 189, Sec. 7)

4.08.10 Grantee's conditions. The Grantee shall have the right to make and enforce as a part of the conditions under which it will supply natural gas for heat, power, light, fuel or other purposes as herein provided, all needful rules and regulations not inconsistent with law and the provisions of this franchise. (Ord. No. 189, Sec. 7)

4.08.11 Company information. The Grantee shall furnish promptly to the proper authorities any and all information which may be asked for by them in regard to the size, location or depths of any of the pipes, mains, conduits or service pipes, in any form whatsoever, and any other information in regard to its occupation of roads, highways, streets, avenues, or public grounds of said city which they may demand. Whenever the word "Grantee" occurs in this ordinance, it shall mean and it shall be understood to be the Arkansas Western Gas Company, its

successors, lessees or assigns, and whenever the words "authorities" or "proper authorities" occur in this franchise, they shall mean and shall be understood to mean the authorized officer or officers, committee or board representing the city of Mountain Home, Arkansas, or Grantor. (Ord. No. 189, Sec. 8)

4.08.12 Construction, ownership. It is contemplated that the city of Mountain Home, Arkansas, will construct a natural gas system to make natural gas available to the city and the Grantee will take over operation of the system under a lease with an option to purchase. The city of Mountain Home recognizes that, considering various business factors, including the substantial commitment of the Grantee and the present and anticipated circumstances with respect to Grantee's gas rates in the city in relation to competing fuels in the area, the operation of the gas system by Grantee under the lease-purchase agreement can only be economically justified if there is assurance that there will not be an increase in taxes, if any, which Grantee will consider in reaching its decision whether to operate the system under the lease-purchase agreement. (Ord. No. 189, Sec. 9)

4.08.13 Franchise in force. This franchise shall take effect and remain in force perpetually as provided in Section 44 of Acts of 1935, No. 324, Acts of the State of Arkansas, as same may be amended from time to time, and upon the written acceptance by the Grantee of the terms and conditions of this franchise. (Ord. No. 189, Sec. 10)

4.08.14 Distribution of gas. Be it further ordained that the Arkansas Western Gas Company, Grantee, its successors, lessees and assigns shall have twelve (12) months from the final passage and publication of this ordinance, and not longer, in which to begin the actual laying of pipe lines and laterals for the distribution of natural gas in said city. A failure on the part of the Arkansas Western Gas Company, Grantee, its successors, lessees or assigns, to comply with the foregoing provisions of this section as to the time in which to begin the work shall render null and void this ordinance; it is further provided, however, that upon a showing by the Grantee that the actual laying of pipe lines and laterals for the distribution of natural gas in said city has been delayed due to the Grantee's inability to secure necessary pipe or other materials, or due to acts of God, the period allowed above shall be automatically extended for an additional period of six (6) months. (Ord. No. 189, Sec. 11)

4.08.15 Recorded charges. Be it further ordained that the charges for recorded consumption of natural gas at one point of delivery as per Section 4.08.09 shall be provided in the Grantee's rate schedules attached hereto and made a part hereof by reference. (Ord. No. 189, Sec. 12)

4.08.16 Construction of chapter.

- A. This chapter shall not be construed to alter or change the terms or conditions of the present franchise under which the Gas Company is operating.
- B. Nothing in this chapter shall be construed to alter or change the present rate schedule under which the Gas Company is now operating, except by order of the

Arkansas Public Service Commission or other legally constituted bodies.

CHAPTER 4.12

TELEPHONE FRANCHISE

Sections:

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| 4.12.01 | Authority granted for operation of telephone system |
| 4.12.02 | Service to the city |
| 4.12.03 | Company rights |
| 4.12.04 | Term |
| 4.12.05 | Tax imposed upon Mountain Home Telephone Company |
| 4.12.06 | Tax shall be in lieu of other charges |
| 4.12.07 | Temporary moving of lines |
| 4.12.08 | Permission to trim trees |
| 4.12.09 | No electric light or power wire attachments |
| 4.12.10 | Exclusive privilege not given |
| 4.12.11 | Effective date |

4.12.01 Authority granted for operation of telephone system. Centurylink and Suddenlink Communications, together with their successors and assigns (hereinafter collectively referred to as Telephone Company) are provided, upon the terms stated herein, the non-exclusive right 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 Mountain Home, 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 rights to place, remove, construct and reconstruct, extend and maintain its plant and appurtenances as the business and purpose 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. (Ord. No. 2018-17, Sec. 1)

4.12.02 Service to the city. Telephone service furnished to the city shall be paid for by the city in accordance with the applicable rate schedules of the Telephone Company now on file and/or as they may in the future be filed by the Telephone Company and approved by the Arkansas Public Service Commission. The Telephone Company shall have the privilege of crediting any amount due the city with any unpaid balance due said Telephone Company for

telephone service rendered to said city. It is expressly agreed and understood between the city and the Telephone Company if any licenses, charges, fees, impositions or taxes (other than automobile license fees, special millage taxes and the general ad valorem taxes) be charged, imposed or levied by the city of Mountain Home, Arkansas, in the future, then in such event, the obligation of the Telephone Company set forth herein, to pay the city the sum of two percent (2%) annually of the gross telephone service revenue (excluding long distance and Western Union) shall immediately terminate. (Ord. No. 2018-17, Sec. 2)

4.12.03 Company rights. Nothing herein contained shall be construed as giving the Telephone Company any rights or privileges in addition to those already enjoyed or owned by said Company, nor shall it affect any prior or existing rights of the Telephone Company to maintain and operate a Telephone Exchange System within said city. Specifically, nothing contained herein shall affect any prior or existing rights of Suddenlink Communications for the operation of cable television services within the city. (Chapter 4.36 – Mountain Home Municipal Code) (Ord. No. 2018-17, Sec. 3)

4.12.04 Term. This franchise shall remain in effect for a term of two (2) years and for successive periods of one (1) year each unless and until canceled not more than six (6) months nor less than three (3) months prior to the expiration of the original term or any anniversary thereof. (Ord. No. 2018-17, Sec. 4)

4.12.05 Tax imposed upon Mountain Home Telephone Company. The Telephone Company shall pay each year as a franchise or privilege tax to the city of Mountain Home, Arkansas, payable on a current basis or within thirty (30) days after the end of each calendar quarter, four percent (4%) of the preceding calendar quarter's gross local service telephone revenues plus four percent (4%) of the interstate toll service revenue billed its customers within the corporate limits. The payment of the tax for the fourth quarter of each year shall be subject to a credit for uncollectible operating revenue applicable to the total of each for the year in which the tax applies. Such credit shall be the same percentage determined and applied to the Company's Annual Report to the Arkansas Public Service Commission. The franchise or privilege tax imposed herein shall be in addition to any franchise or privilege tax imposed on Suddenlink Communications as a result of the operation of a cable television system within the City (Chapter 4.36 – Mountain Home Municipal Code). (Ord. No. 2018-17, Sec. 5)

4.12.06 Tax shall be in lieu of other charges. The annual payment 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. (Ord. No. 2018-17, Sec. 6)

4.12.07 Temporary moving of lines. 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 (48) hours advance notice to arrange for such temporary wire changes. (Ord. No. 2018-17, Sec. 7)

4.12.08 Permission to trim trees. 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.(Ord. No. 2018-17, Sec. 8)

4.12.09 No electric light or power wire attachments. Nothing in this chapter 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 separate non-contingent agreements shall be a prerequisite to such attachments. (Ord. No. 2018-17, Sec. 9)

4.12.10 Exclusive privilege not given. Nothing herein contained shall be construed as giving to the Telephone Company any exclusive privileges nor shall it affect any prior or existing right of the Telephone Company to maintain a telephone system within the city. (Ord. No. 2018-17, Sec. 10)

4.12.11 Effective date. The effective date and basis of the franchise fees due as hereinbefore set out shall be the first quarter of 2019, and franchise fees due based upon the first quarter of 2019 and thereafter. (Ord. No. 2018-17, Sec. 11)

CHAPTER 4.14

COMMUNICATIONS NETWORK

Sections:

4.14 Communications Network

That permission be and is hereby granted to Yelcot, or its other business names and its successors in interests, assigns, and subsidiary or parent corporations or limited liability companies, subject to the regulatory authority of the City Council and the FCC and other regulatory authorities, to construct, maintain and operate, its poles, posts, cables, wires, and all

other necessary overhead apparatus on, over and along; and its conduits, ducts, mains, pipes, cables, wires, manholes, distributing poles and all other necessary underground appliances on, in, under and through the streets, alleys and highway, within the limits of the City of Mountain Home, Arkansas, and to sell, furnish, transmit and distribute communications services within the corporate limits of the City of Mountain Home and to use the property of other companies and permit other companies to use its property upon such arrangements as the two companies may agree, subject to the following conditions: (Ord. No. 2019-5, Sec. 1)

That all poles erected by Yelcot shall be located so they will not interfere with the safety or convenience of persons traveling on or over the said streets, alleys and highways; and in the work of installing and maintaining any underground system, Yelcot shall not open or encumber more of any street, alley or highway than will be necessary to enable it to perform same with proper economy and efficiency; nor shall it permit such opening or encumbrance to remain for a longer period than shall be necessary to do the work for which said opening shall have been made. (Ord. No. 2019-5, Sec. 2)

That all work done under the provisions of this Ordinance in said City shall be subject to the supervision of the City Engineer or some other representative appointed by said Council and Yelcot. Yelcot shall replace and properly repair any sidewalk or street pavement which may have been displaced or damaged by it in the construction and maintenance of its system in said City. (Ord. No. 2019-5, Sec. 3)

That Yelcot shall maintain all of their poles, cables, wires, conduits, ducts, mains, pipes, manholes, distributing poles and all other apparatus erected or constructed under the provisions of this Ordinance, in good and safe order and condition; and shall at all times fully indemnify, protect, and save harmless the said City from and against all lost and necessary expenditures arising from the erection, construction and maintenance of its network in said City, or from its neglect or failure to maintain the said apparatus in good and safe order and condition. (Ord. No. 2019-5, Sec. 4)

That nothing in this Ordinance shall be construed to grant unto the said Yelcot any exclusive right, or to prevent a grant of similar privileges to other companies. (Ord. No. 2019-5, Sec. 5)

So long as Yelcot, or its other business names and its successors in interests, assigns, and subsidiary or parent corporations or limited liability companies, shall operate a communications network within the City, it shall pay to the City a franchise tax in amount equal to 4% of basic

local voice service excluding extension, terminal equipment, toll, yellow pages and other miscellaneous equipment revenues within the corporate boundaries of the City. This amount will be paid to the City of Mountain Home each quarter, and shall be made during the first ten (10) days of each month following the end of the quarter; provided, the amount of the tax levied herein by the City may be collected by Yelcot from those of Yelcot's customers receiving local exchange telephone service within the corporate boundaries of the City of Mountain Home, in accordance with the tariffs of Yelcot and the rules, regulations and orders of the Arkansas Public Service Commission. This Ordinance does not restrict the City from the right to alter the tax, upon proper notification in advance to Yelcot. (Ord. No. 2019-5, Sec. 6)

If at any point in the future, Yelcot begins providing cable television or video services, Yelcot shall pay to the City a municipal franchise adjustment fee in an amount equal to 4% of Yelcot's annual gross revenues, before taxes, derived from sales to all consumers residing in the corporate limits of the City of Mountain Home for the basic maintenance and service charges. Payments shall be made to the City on the same schedule as the franchise fee payments for basic local voice communications services set out in Paragraph 6 above.(Ord. No. 2019-5, Sec. 7)

(a) It is expressly agreed and understood by the City of Mountain Home and Yelcot that the aforesaid payment shall constitute and be considered as complete payment and discharge by Yelcot, or its other business names and its successors in interests, assigns, and subsidiary of parent corporations or limited liability companies, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes, general ad valorem taxes, curb cut fees, and other general taxes applicable to all citizens and taxpayers) which are now or might in the future be imposed by the City of Mountain Home under authority conferred upon the City of Mountain Home by law. However, this does not relieve Yelcot of its obligation to secure necessary permits from the City in compliance with Chapter 9.08 of the City Code. In the event such other taxes are imposed by the City of Mountain Home, the obligation of Yelcot to pay the City of Mountain Home the franchise tax set out in Section 6 of this Ordinance shall be immediately terminated.

(b) Yelcot shall at all times maintain and display the proper warning devices and allow sufficient space along the public way for the passage of vehicles around areas of construction and shall as soon as practicable restore the public ways to as good condition as before the construction was commenced.

(c) Yelcot shall have the authority to divert or detour traffic from the area of construction on proper notice to the Police Department and Public Works Department of the city when diversion or detour is necessary for the safety and well-being of the inhabitants of the city.

(d) Yelcot shall promptly furnish to the Department of Public Works, or to any other authority, any and all information which may be requested in regard to any portion of its system, in any form whatsoever, and any other information in regard to its occupation of the public ways.

(e) Yelcot shall remove, raise or lower its wires, cables or lines temporarily to permit the moving of houses or other structures provided that a person requesting such temporary removal, raising or lowering of any portion of the system shall pay the expense of such temporary removal, raising or lowering, and provided that Yelcot shall not be required to take action to remove, raise or lower any portion of its system within less than 48 hours advance notice.

(f) Permission is hereby granted to Yelcot to trim trees upon and overhanging the public ways of the city so as to prevent the branches of such trees from coming in contact with any portion of its system.

(g) Yelcot agrees that it shall bear full relocation costs of any utilities inside City's rights-of-way. (Ord. No. 2019-5, Sec. 8)

The franchise awarded hereunder shall take effect and be in full force from and after approval by the Mayor and City Council of the City of Mountain Home, Arkansas, from the date signed or April 1, 2019, whichever is later. Nothing in the preceding sentence shall be construed as to prohibit any modification of this agreement. The Mayor shall send a certified copy of this Ordinance to Yelcot once this Ordinance becomes law to notify Yelcot of the Ordinance. (Ord. No. 2019-5, Sec. 9)

CHAPTER 4.16

TAX ON PRIVATE CLUBS

Sections:

4.16.01 City tax levied

4.16.01 City tax levied. All private clubs within the city of Mountain Home, Arkansas, serving alcoholic beverages shall pay to the city a supplemental tax equal to one-half (1/2) of the amount paid to the state. Proceeds from this tax shall be deposited into the city's general fund.

CHAPTER 4.20**TAXI FRANCHISE****Sections:**

4.20.01	Exclusive right
4.20.02	Franchise fee
4.20.03	Term
4.20.04	Permitted rates and tariffs - Maximum
4.20.05	Establishment of zones
4.20.06	Hours of operation
4.20.07	Special services
4.20.08	Communication/dispatch
4.20.09	Liability insurance
4.20.10	Safety
4.20.11	Notice - Hearing – Termination
4.20.12	Penalties
4.20.13	Other taxes
4.20.14	Independent contractor

4.20.01 Exclusive right Mountain Home Taxi Service, Inc. is hereby granted an exclusive franchise for the operation of a taxicab service within the corporate limits of the city of Mountain Home, Arkansas. Provided that North Arkansas Transportation System is to have city-wide route authority, so long as it does not provide door-to-door service. (Ord. No. 2002-23, Sec.1)

4.20.02 Franchise fee Mountain Home Taxi Services, Inc. shall pay for the exclusive franchise granted in Section 1 the following franchise fees:

First automobile in use	\$20.00 per year
Second automobile in use	\$15.00 per year
Each additional automobile in use	\$10.00 per year

(Ord. No. 2002-23, Sec. 2)

4.20.03 Term The duration of this exclusive franchise and grant shall be for a period of five (5) years commencing the 14th day of August 2007. (Ord. No. 2007-21, Sec. 1.)

4.20.04 Permitted rates and tariffs - Maximum

A. The franchisee shall not charge more than the following rates and tariffs:

1. Base fee: \$3.75, plus \$1.75 per mile.

2. Extra stop: \$1.50.
 3. Extra passenger: A surcharge of \$1.25 each for each person in excess of one, in addition to the rates set out above.
 4. Waiting: \$.50 per minute (first 5 minutes are free). Then the lesser of \$.50 per minute or \$18.75 per hour, with a minimum of \$18.75 per hour rate. (Ord. No. 2004-24, Sec. 1.)
- B. The City Council has determined the rates or tariffs permitted may be increased by the franchisee upon his showing that increased cost of operation has prohibited a fair profit derived from his operation of such franchise. Upon written request by the applicant, the City Council shall grant to the applicant fee increases equal to any increase may be granted for good cause shown. Such increases shall not be granted nor requested more often than semi-annually.
- C. The franchisee is hereby authorized to charge an additional surcharge of One Dollar and Fifty Cents (\$1.50) for any services provided outside the hours of operation set forth in Section 6 of Ord. 97-028. (Ord. No. 02-23, Sec. 4.)

4.20.05 Establishment of zones. The areas delineated on the map attached to and made a part of this ordinance by reference thereto shall be the zones for which the fees, tariffs and rates as set forth hereinabove in Section 4 shall be applicable. (Ord. No. 02-23, Sec. 5)

4.20.06 Hours of operation. The franchisee shall operate and maintain the service on a five (5) day a week, ten (10) hours per day basis. (Ord. No. 02-23, Sec. 6)

4.20.07 Special services. The franchisee will provide service to the Mountain Home Municipal Airport on a seven (7) day per week basis, special call. The franchisee shall provide service to citizens and residents of Mountain Home, Arkansas, preferentially to other accounts which may be serviced by the franchisee. (Ord. No. 02-23, Sec. 7)

4.20.08 Communication/dispatch. The franchisee shall maintain Federal Communications Commission licensed two-way radio systems or a mobile phone system for the dispatch of his vehicle within the zones and to the locations it services. (Ord. No. 02-23, Sec. 8)

4.20.09 Liability insurance. The franchisee shall procure and maintain in continuous force and effect liability insurance upon its vehicles and equipment in a sum not less than the minimum amounts required by the laws of the state of Arkansas. (Ord. No. 02-23, Sec. 9)

4.20.10 Safety. The franchisee shall keep all vehicles operated by it in a safe, serviceable condition for the safety and protection of the citizens and inhabitants of the city to whom this service is being furnished. Failure of the franchisee to provide such equipment shall be cause for termination of this franchise grant by the city as hereinafter set out. (Ord. No. 02-23, Sec. 10)

4.20.11 Notice - Hearing - Termination. The city may terminate this franchise grant due to the failure of the franchisee to provide safe equipment as required in Section 10 hereinabove and for failure to perform pursuant to any section of this ordinance after reasonable notice to the franchisee and an opportunity for hearing, if desired. (Ord. No. 02-23, Sec. 11)

4.20.12 Penalties. Any person, firm, partnership or organization operating a taxicab, automobile for hire or other similar service in conflict with the grant of this franchise, shall be unlawful and for the operation of such without a franchise shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and each day of operation shall be deemed a separate and distinct offense. (Ord. No. 02-23, Sec. 12)

4.20.13 Other taxes. The service furnished the city by the franchisee and the payment of the fees set out hereinbefore in 4.20.02 for the exclusive grant herein, and privilege hereof, shall be in lieu of all other licenses, fees, charges, impositions of taxes (other than automobile license fees, special millage taxes, improvement district taxes and general ad valorem taxes) charged or imposed or levied by the city of Mountain Home, Arkansas. (Ord. No. 02-23, Sec. 13)

4.20.14 Independent contractor. Nothing in this chapter shall be construed as giving or making the franchisee herein an agent, servant or employee of the city of Mountain Home, Arkansas. (Ord. No. 02-23, Sec. 14)

CHAPTER 4.24

ELECTRIC FRANCHISE; NORTH ARKANSAS

ELECTRIC COOPERATIVE

Sections:

4.24.01	Electric franchise granted to North Arkansas Electric Cooperative
4.24.02	Rights and responsibilities
4.24.03	Facilities
4.24.04	Rights of way
4.24.05	Authority
4.24.06	Rates
4.24.07	Liability
4.24.08	Franchise tax
4.24.09	Other fees and taxes waived
4.24.10	Service to city
4.24.11	Franchise exceptions
4.24.12	Contract

4.24.01 Electric franchise granted to North Arkansas Electric Cooperative. The city of Mountain Home, Arkansas, (hereinafter referred to as "city") hereby grants to the North Arkansas Electric Cooperative, Inc., its successors and assigns (hereinafter referred to as "Grantee"), the exclusive right, privilege and authority within the territory allocated to it pursuant to the Arkansas Public Service Commission (PSC), in the city of Mountain Home, Arkansas, (1) to sell, furnish, transmit and distribute electric power and energy to Grantor and to all inhabitants and consumers within said limits, and (2) to construct, maintain, operate and extend a system for such purposes and to enter on, under and upon and use any and all of the streets, alleys, avenues, bridges and other public grounds and ways belonging to, or under the control of Grantor, for the purpose of erecting, maintaining, repairing, replacing and operating poles, wires, anchors, stubs, transformers, substations, cables, conduits and other related facilities, appliances and apparatus which are necessary for, or useful in, the furnishing, sale, transmission or distribution of said electric service (hereinafter called "facilities"). (Ord. No. 632, Sec. 1)

4.24.02 Rights and responsibilities. Grantee shall, and does by acceptance hereof, agree to provide to the city and its inhabitants adequate and reasonable electric service as a public utility and the facilities necessary to provide such service. Grantor, in recognition of the large and continuing investment necessary for Grantee to perform its obligations hereunder, and the need and duty to promptly construct its facilities, as defined above, required to serve consumers in all areas and zones of the city, consents to the construction of such facilities as defined in Section 4.24.01 in all such allocated territories, areas and zones and Grantor agrees to protect by ordinance, regulation and otherwise, to the fullest extent permitted by law, and except as otherwise limited herein, the grants of rights and privileges to Grantee set forth in Section 4.24.01 from interference with, or duplication by, other persons, firms or corporations seeking to engage in the sale or distribution of electric energy. (Ord. No. 632, Sec. 2)

4.24.03 Facilities. All facilities of Grantee which may be located on public ways, places and public property, as authorized herein, shall be located so as to not unreasonably obstruct public use and travel. All of Grantee's facilities shall be constructed, operated and maintained in accordance with standards at least equivalent to the standards prescribed by the National Electrical Safety Code and other municipal codes or laws applicable thereto. Grantee, its successors and assigns, shall replace and repair, at its own expense, all excavation, holes or other damage caused or done by it to public streets, ways, places and public property in the construction, operation and maintenance of its facilities. (Ord. No. 632, Sec. 3)

4.24.04 Rights of way. The Grantee, its successors and assigns, is hereby given the right to trim, cut or remove trees, shrubbery or growth on or in public ways, places and public property which interfere or offer hazards to the operation of Grantee's facilities used or useful for the rendition of electric service, and, further, Grantee is hereby given the right, authority and permission to trim, cut and remove portions of trees, shrubbery or growth growing on private

property but overhanging or encroaching on public ways, places and public property which interfere or offer hazards to the construction, operation and maintenance of Grantee's facilities. (Ord. No. 632, Sec. 4)

4.24.05 Authority. The rights, privileges and authority hereby granted shall exist and continue from the date of passage of this chapter and thereafter, until terminated in accordance with the provisions of Section 44 of Act 324 of the 1933 Acts of the State of Arkansas, as presently enacted or hereafter amended. (Ord. No. 632, Sec. 5)

4.24.06 Rates. The rates which are to be charged by Grantee for electric service hereunder shall be those which are now lawfully approved or prescribed and as said rates may, from time to time, be amended by Grantee in accordance with law or by any regulatory authority having jurisdiction thereof. (Ord. No. 632, Sec. 6)

4.24.07 Liability. In the construction, operation and maintenance of its facilities, said Grantee shall use reasonable and proper precaution to avoid damage or injury to persons or property and shall hold and save harmless the said Grantor from damage, injury, loss or expense caused by the negligence of the Grantee or its agents, servants or employees, in construction,

operating and maintaining said facilities or in repaving or repairing any streets, avenues, alleys, bridges or other public grounds. (Ord. No. 632, Sec. 7)

4.24.08 Franchise tax. Beginning in 1981, and thereafter during the life of this franchise, the Grantee shall pay to Grantor each month a franchise tax in an amount equal to four and twenty-five hundredths percent (4.25%) of the preceding month's gross residential and commercial electric revenues as paid to the Grantee by residential and commercial customers located within the corporate limits of the city of Mountain Home, Arkansas. Residential and commercial electric revenues are those revenues so classified pursuant to Grantee's uniform classification standards. Grantor shall have the right to examine and verify, from the records of the Grantee, any data relating to the gross revenues of Grantee from customers on which said franchise tax is due. In the event of a controversy between the Grantor and Grantee as to the amount of gross revenues received by Grantee in the city of Mountain Home, Arkansas, upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Grantee, for final determination, and the decision of said Commission shall be binding upon both parties hereto. (Ord. No. 632, Sec. 8)

4.24.09 Other fees and taxes waived. It is expressly agreed and understood by the Grantor and Grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes,

general ad valorem taxes and other general taxes applicable to all citizens and tax payers) which are now or might in the future be imposed by the Grantor under authority conferred upon the Grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee set forth in Section 4.24.08 hereof, to pay the city the sum of four and twenty-five hundredths percent (4.25%) annually of the gross residential and commercial electric revenues shall immediately terminate. (Ord. No. 632, Sec. 9)

4.24.10 Service to city. Electric service furnished the Grantor for street lighting and other purposes shall be paid for by the Grantor in accordance with the applicable rate schedules of the Grantee now on file and/or as they may in the future be filed by the Grantee and approved by the Arkansas Public Service Commission or other regulatory authority having jurisdiction. The Grantee shall have the privilege of crediting any amount due Grantor with any unpaid balance due said Grantee for electric service rendered to said Grantor. (Ord. No. 632, Sec. 10)

4.24.11 Franchise exceptions. Nothing herein shall be construed to prohibit any person, firm or corporation from owning and operating facilities for generating, distributing or furnishing electric energy for hire or its own use or the use of his or its tenants, all of which facilities and use are wholly on the same premises owned by such person, firm or corporation. (Ord. No. 632, Sec. 11)

4.24.12 Contract. Upon written acceptance by Grantee, this chapter shall constitute a contract between Grantor and the Grantee, and its successors and assigns. (Ord. No. 632, Sec. 12)

CHAPTER 4.28**OCCUPATIONAL LICENSE****Sections:**

4.28.01	Title
4.28.02	Terms and definitions
4.28.03	Occupational license required
4.28.04	Calendar year
4.28.05	Separate license required
4.28.06	Application procedure
4.28.07	Posting and display to officer
4.28.08	Fees
4.28.09	False statements
4.28.10	Transfer and assignment
4.28.11	Penalty

4.28.01 Title This chapter shall be known as the Occupational License Chapter. (Ord. No. 2010-17, Sec. 1)

4.28.02 Terms and definitions The following terms, words and phrases as used in this chapter, shall have the following meaning unless the context hereof clearly requires otherwise, and the singular shall include the plural and vice-versa and the masculine shall include the feminine and vice-versa.

City as used in this ordinance shall mean the city of Mountain Home, Arkansas.

Person as used in this ordinance shall mean a person, firm, partnership, association, corporation or venture.

Business as used in this ordinance shall mean a trade, occupation, calling, vocation, profession, venture, pursuit, livelihood, career, or transaction. (Ord. No. 2010-17, Sec. 2)

4.28.03 Occupational license required.

- A. It is unlawful for any person, firm or corporation, whether principal or agent to commence, engage in or carry on any of the businesses, occupations or professions within the city for which a license is required herein without having first paid the privilege tax and procured a license therefore.

- B. Each person with no physical location within the city engaged in business within the corporate limits shall be required to procure an Occupation License from the city unless such person possesses a valid Occupation License issued by another city, located in the state of Arkansas, where it maintains a physical location. A copy of said license shall be furnished to the City Clerk of Mountain Home. (Ord. No. 2010-17, Sec. 3.)

4.28.04 Calendar year Any Occupation License required herein shall be for a period of one year, commencing on March 1st and shall be considered delinquent after March 31st. License paid after March 31st will be subject to penalties and fees as set out in 4.28.10 of this ordinance. In the event of a person entering into a business after the first of each year, said person shall procure the license and pay the fees required within thirty (30) days from the date that business is commenced. The fees levied upon such new business shall be computed on a prorated basis of a 365 day year. (Ord. No. 2010-17, Sec. 4)

4.28.05 Separate license required Any person, firm or corporation engaging in more than one business, occupation or profession, and for which a license is required of each, shall pay for and take out license for each such business, profession or occupation. There will be no exception for more than one business, occupation or profession operated on the same premises. (Ord. No. 2010-17, Sec. 5)

4.28.06 Application procedure Each person desiring a license, required by this ordinance, shall apply to the City Clerk. If such a person or business is required to pay a license fee in Schedule II of Section 8, a copy of the assessment for personal property, on file in the County Assessor's office, for the year prior to that in which the fees are due, must accompany the application. Fees for a new business, required paying a license fee in Schedule II, will be based on the amount of opening inventory. Upon completion of the required application and presentation of the assessment for personal property, if applicable, said Clerk shall issue and deliver a receipt for payment and license therefore. (Ord. No. 2010-17, Sec. 6)

4.28.07 Posting and display to officer Each person holding a license under this article shall keep the license posted in a conspicuous place and show the license to any officer of the city demanding to see it. (Ord. No. 2010-17, Sec. 7.)

4.28.08 Fees The annual fees, unless otherwise specified, as required by this ordinance, shall be upon the following classifications: (1) the kind of trade, business, profession, vocation or calling (2) the amount of goods, wares or merchandise carried in stock in any business, whichever is applicable. If such trade, business, profession or vocation is not specifically listed, the fee will be determined based on the closest definition. Payment schedules are as follows:

A. Schedule I

	<u>Amount</u>
Abstracts of titles/abstractors	\$100.00
This subsection shall apply to all persons who conduct a business of compiling and making abstracts of titles to lands for a valuable consideration and title insurance companies.	
Accountants/audit companies	100.00
Includes public bookkeeping, tax preparation/consultant	
Also see:	Certified public accountant
	Income tax preparation – seasonal
Acupuncturist (each)	75.00
Advertising/advertising agency	50.00
The business or occupation of preparing and issuing advertisements.	
Air conditioning and heating	
See : Contractors	
Alarm companies	Exempt
See A.C.A. 17-40-106 and Ord. No. 520	
Register without fee.	
Alcoholic beverages	
See Ord. No. 87-030	
Ambulance service	Exempt
Amusement parks	125.00
Miniature golf, go-karts, batting cages, arcade and other amusement of like character	
Answering service	50.00
Antique dealer	50.00
Apartments – complex	
See: Leasing agent	
Apparel shops (men, women, children)	Schedule II
Appliance – repair (only)	35.00
Appliance store	Schedule II
Appraisers	50.00
Arcade (only)	50.00
Architects (each)	150.00
Art teacher/classes	35.00
Artificial limbs	50.00
making or selling	
Asphalt plant (Manufacturer/Contractor)	125.00
Assisted living/retirement home	3.00 per unit
Attorneys (each, not firm)	150.00
Auctioneers (each)	100.00

Audiologist	50.00
Hearing aid sales and service	
Auto dealer , new vehicles	200.00
Auto dealer , used cars and trucks	100.00
Auto detail	40.00
Auto repair shop	100.00
Automobile supply and accessories	Schedule II
Bait shop (only)	35.00
Bait and tackle	Schedule II
Bakery and pastry shop	50.00
Banking	
See: financial institutions	
Barber/beauty shops	50.00
each additional chair	7.50
See: salons for multiple services offered	
Barber/beauty supply stores	Schedule II
Bicycle dealers	Schedule II
repair only	35.00
Billiard/pool hall	35.00
Billing service	50.00
Blade sharpening	35.00
Boats/motor sales	100.00
Boarding house/bed & breakfast	50.00
a house where meals or room and meals	+3.50 per
can be had for pay	Guest unit
Bondsman/bail bonds	100.00
Bookstore	Schedule II
Bottled water	Schedule II
Bottlers see: manufacturing companies	
Bowling alley	150.00
Brick layers/contractor	100.00
Brokers (each, not firm)	100.00
stocks and bonds	
Building materials	Schedule II
Bulk gas and oil (wholesale)	100.00
Bus lines engaged in interstate	50.00
Business , commercial or trade schools	50.00
Butane and/or propane distributors	100.00
Butcher shop	50.00

Cabinet makers	
1 person	35.00
2+ employees	75.00
Cafes & restaurants	
occupancy load:	
a. carry-out, delivery service only and/or drive-in	50.00
b. up to 75	75.00
c. 76-150	125.00
d. 151 – up	175.00
Car wash up to 4 bays	50.00
each additional bay	3.50
Carpenter shop	
1 person	35.00
2+ employees	75.00
Carpet/rug cleaning	35.00
Carpet/sales installation	
carpet sales	Schedule II
carpet installation (only)	75.00
Cash advance (loan agent)	50.00
Cash register dealer	50.00
Catalog store	250.00
all persons, firms or corporations selling and storing in or distributing in or from the city.	
Catering	75.00
Certified public accountant	150.00
Childcare	
1 – 5 children	30.00
6 – 15 children	50.00
16 and up	75.00
Chimney cleaning	35.00
Chiropodists (each, not firm)	150.00
Chiropractors (each)	150.00
Civil engineer (each)	150.00
Cleaners and pressers	50.00
Clubs (private)	
see: ord. no. 87-030	
Collection agencies	75.00
engaged in handling accounts or other forms of indebtedness and collecting same.	
Computer	
Instruction, consultation and/or repair, web design	35.00
Sales:	Schedule II
Concrete & cement products retail	Schedule II
Concrete ready-mix	150.00

Consignment sales	Schedule II
Contractors	
Backhoe/loader	100.00
Brick/stone mason	100.00
Carpet layers	50.00
Concrete contractor	75.00
Drywall contractor	50.00
Electrician	
Up to 2 employees	75.00
3 or more employees	125.00
General (New construction: Residential & Commercial)	125.00
General (remodel only)	
Up to 2 employees	50.00
3 or more employees	75.00
Heating and air conditioning	
Up to 2 employees	75.00
3 or more employees	125.00
Insulation/acoustical tile	
Up to 2 employees	50.00
3 or more employees	75.00
Painter, wallpaper installer	
Up to 2 employees	50.00
3 or more employees	75.00
Siding	
Up to 2 employees	50.00
3 or more employees	75.00
Plumbers	
Up to 2 employees	75.00
3 or more employees	125.00
Roofers	
Up to 2 employees	75.00
3 or more employees	125.00
Convenience store	Schedule II
Credit bureau	50.00
Crematory	200.00
Counseling service	75.00
Dance studio	50.00
Delicatessens	
see: cafes/restaurants	
Delivery service	50.00
Exclusive service – delivery of food or other items	
Dentist (each person so engaged)	150.00

Developers (firm)	100.00
Disc jockey (musical entertainment)	50.00
Doctor, physician, surgeon (each person so engaged) (includes independent contractors)	150.00
Dog groomer /small animals see: kennels for boarding services	35.00
Dry cleaners	50.00
Electrician see: Contractors	
Employment services	35.00
Engineer civil, mining, mechanical, consulting or other engineers	150.00
Equipment rental and lease includes vehicles, trailers, etc.	100.00
Exercise centers	100.00
Exterminating see: Pest control	
Factories see: manufacturing	
Film developers	35.00
Financial consultant	50.00
Financial institutions:	
<u>Total Resources - Deposits</u>	
Main bank and branch locations (each)	
0 - \$15,000,000	300.00
\$15,000,00 - 25,000,000	550.00
25,000,001 - 50,000,000	800.00
50,000,001 and over	1,050.00
Flea market	75.00
Florists (retail)	75.00
Fortune tellers	250.00
Fruit and vegetable stands permanent structure	50.00
temporary (see: Itinerate/peddler)	
Funeral homes	200.00
Furniture refinishing, repair, upholstery	50.00

Gas filling stations (one location)	
first pump	50.00
each additional pump	7.50
selling other merchandise	add Schedule II
Gasoline or oil dealers , wholesale	100.00
Glass installation	100.00
Golf courses	
miniature golf courses (no other amusement)	50.00
driving range (only)	50.00
Graphic design	50.00
Gravel crushing and screening (each truck)	25.00
Grocery store	Schedule II
Gun shop	Schedule II
Handyman	35.00
Hatchery	35.00
Health spa	100.00
Home-based business	
applicable license fee must be paid and all zoning and signage regulations must comply with city of mountain home codes. (fee based on applicable definition of occupation or activity)	
Home health care – nursing	50.00
(includes nutritionist, consultant)	
Home inspection	35.00
Hotels, motels	75.00+
plus per unit	3.50
restaurants and liquor services associated with hotels/motels will be taxed under appropriate activity of this schedule or chapter.	
Hypnotherapist (each)	75.00
Ice company	75.00
Ice cream - retail	
see: cafes/restaurants	
Income tax service	50.00
exclusive and seasonal service only	
Interior decorator shop/consultant	50.00
shop with inventory in excess of \$5,000.00	Schedule II
Internet – web design	35.00
Insurance agencies	Exempt
See: A.C.A. 26-57-602	

Investment firm (each broker)	100.00
Itinerant business	
per day	25.00
one year	100.00
Janitorial service	
Up to 2 employees	50.00
3 or more employees	100.00
Jewelry – retail	Schedule II
Jewelry repair and engravers	50.00
where no other license issued	
Karate instruction	35.00
Kennels	75.00
Pet boarding	
Laboratories	75.00
Landscape gardeners or planners	100.00
(full service lawn care and/or landscape)	
Lawnmower repair	35.00
Lawn mowing service	
mowing only – up to 2 employees	35.00
each additional employee	5.00
Launderettes and washaterias	50.00
Laundry routes	100.00
residential and commercial	
Leasing or rental agents:	
Apartment/residential	
1 – 3 units	0
4 or more units	2.50 per unit
Commercial	
1 – 5 units	50.00
each additional	3.50
Public mini-storage	
1 – 5 units	30.00
each additional	.50
Public storage units	
1 – 5 units (includes boat, R.V.)	30.00
each additional	.50

The leasing of real property or structure located thereon, when such real property or structure is situated or located within the corporate limits of the city is deemed subject to the license and fees imposed by this chapter, regardless of the residency of the owner thereof or the location or place where such document of lease or arrangement is executed or delivered or payment made thereon or pursuant thereto (whether inside or outside the boundaries of the city).

Limousine service	35.00
Linen supply companies	100.00
uniforms, towels, linens – delivery and service	
Liquor/retail, package and distribution	
see: ord. no. 87-030	
Locksmith	75.00
Loan agent (cash advance)	50.00
making loans to be paid back in installments and not otherwise taxed under this chapter	
Lumber dealers	Schedule II
Machine shop	50.00
Magazine distributor/sales	
see: Itinerate	
Manufacturing companies:	
1 – 3 employees	75.00
4 - 10	125.00
11 - 15	175.00
16 - 20	225.00
21 - 30	425.00
31 - 40	625.00
41 - 50	825.00
51 - 60	1,025.00
61 - 70	1,225.00
71 - 80	1,425.00
81 – 90	1,450.00
91 – up	1,500.00
Marble dealer	
Markers/stonecutters	50.00
Masseurs	50.00
Medical equipment – sales and rental	Schedule II
Miscellaneous occupation	35.00
Not otherwise specified or defined	

Mobile homes, trailers, r.v.	
Equipment, repair, parts only	100.00
Parks	50.00+
	2.50 per space
Mortgage company	100.00
Motion picture theaters	100.00
Motor freight line – warehouse	250.00
Musical/miscellaneous instruction	
Includes residential and transient teachers	35.00
Naprapath (each person so engaged)	150.00
News dealers	25.00
as principal business (each stand)	
Newspapers , each newspaper published in the city	250.00
Nurseries	
flowers, shrubs or plants	100.00
Nursing and home health care services	50.00
includes nutritionist	
Nursing homes	400.00
Optometrist, optician, oculist	150.00
Each optometrist, optician or oculist or dealer in spectacles or dealer in eyeglasses	
Osteopath (each person so engaged)	150.00
Orthodontist (each person so engaged)	150.00
Packing and shipping facility	50.00
Pawnbrokers	100.00
Pest control services	100.00
(Applicant shall provide copy of valid license issued by the State Plant Board) See: A.C.A. 17-37-204	
Pet shops	50.00
Pharmacy	Schedule II
Photography studios	35.00
Physical therapist (each)	75.00
Piano tuners (each person so engaged)	35.00
Plumbers	
see: Contractors	

Printing company	50.00
Private clubs	
See: Ord. No. 378 (In accordance with Alcoholic Beverage Control Board and A.C.A. 3-9-221 – Sec. 10, Act 132 of 1969)	
Private investigators	Exempt
See: A.C.A. 17-40-106 Register without fee	
Psychologist (each)	150.00
Radio and television stations	250.00
Real estate agency	150.00
Recording studio	75.00
Recreational clubs	150.00
Includes health, pool, spa centers	
Recreational hall	50.00
Multi-purpose rental	
Refrigerators	
Servicemen, with no stock	35.00
Dealers and servicemen who carry a stock	Schedule II
Repair shops, not otherwise specified	35.00
Restaurants and cafes	
<u>Occupancy Load:</u>	
Carry-out, delivery service only and/or drive-in	50.00
Up to 75	75.00
76-150	125.00
151 up	175.00
Retail stores	Schedule II
Miscellaneous and wholesale	
Sales and service	75.00
Salon – day spa	
First chair	50.00
Each additional chair	7.50
Offering such services as: Spa treatment, massage, manicurist, tanning, inventory, in addition to hair styling	35.00+
Sand and gravel/hauling	100.00
Satellite dish	75.00
Includes sales, service and installation	
Second-hand clothing sales	50.00
Sexually oriented business	
See: Ord. No. 99-021	

Shoe repair	35.00
Sign painter/installer	50.00
Skating rink	100.00
Surveyor	150.00
Tailor	35.00
Tanning salon	35.00
Tattoo parlor	100.00
Taxicab service (Separate ordinance – franchise)	
Taxidermist	50.00
Telephone solicitation – sales	50.00
Tin and sheet metal shops	50.00
Tire recapping service	35.00
Transfer and moving service Engaged in the business of moving household goods, or hauling merchandise or materials	50.00
Travel agencies	50.00
Tree trimmers or surgeons Employing not more than 3 persons	35.00
Employing more than 3 persons	50.00
Tutoring service	35.00
Typing service	35.00
Undertakers/embalmers see: Funeral homes	
Upholstery repair or trim shops	50.00
Utility companies (Non-franchise with city of Mountain Home)	50.00
Vacuum cleaner , dealers not included with other appliances	50.00
Vending service	35.00
Veterinarian (each not firm)	150.00
Video store (rental only)	35.00
If other merchandise sold	Schedule II

Warehouse/distribution	150.00
Welding companies , where exclusive or principal business	50.00
Wood sales/distribution sale and/or delivery of firewood	35.00
Wrecker/towing service	50.00
B.	

ALL RETAIL STORES

Schedule II

Inventory	Rate
\$ 0 - \$ 5,000	\$ 50.00
\$ 5,001 - \$ 10,000	\$ 80.00
\$ 10,001 - \$ 25,000	\$ 150.00
\$ 25,001 - \$ 50,000	\$ 175.00
\$ 50,001 - \$ 100,000	\$ 200.00
\$ 100,001 - \$ 200,000	\$ 225.00
\$ 200,001 - \$ 250,000	\$ 250.00
\$ 250,001 - \$ 300,000	\$ 350.00
\$ 300,001 - \$ 400,000	\$ 450.00
\$ 400,001 - \$ 500,000	\$ 550.00
\$ 500,001 - \$ 600,000	\$ 650.00
\$ 600,001 - \$ 700,000	\$ 750.00
\$ 700,001 - \$ 800,000	\$ 850.00
\$ 800,001 - \$ 900,000	\$ 950.00
\$ 900,001 - \$1,000,000	\$1,050.00
\$1,000,001 - \$1,500,000	\$1,300.00
\$1,500,001 - \$2,000,000	\$1,550.00
\$2,000,001 - Up	\$1,800.00

(Ord. No. 2010-17, Sec. 8.)

4.28.08 False statements It shall be unlawful for any person to knowingly make a false statement in the application for any license required by this chapter for the purpose of defrauding the city of the just license fees and said violation shall be subject to the provisions of Section 11 herein. (Ord. No. 2010-17, Sec. 9)

4.28.09 Transfer and assignment Any person who shall sell, transfer or assign all of his/her interest in any business to any other person or changes physical location of any business shall notify the City Clerk. (Ord. No. 2010-17, Sec.10)

4.28.10 Penalty In fixing the amount of penalty for the violation of any of the provisions of this ordinance, late fees shall be charged after March 31st at a rate of 10% of the license fee together with the costs necessary for collection.

It is hereby declared a misdemeanor for any person, firm or corporation carrying on a business, profession or occupation within the city of Mountain Home to fail and/or refuse to comply with any of the provisions of this ordinance. Upon conviction for such violation, the offender shall be fined an amount not less than Two Hundred Fifty Dollars (\$250.00), nor more than Five Hundred Dollars (\$500.00). (Ord. No. 2010-17, Sec. 11.)

CHAPTER 4.32

MARKETPLACE REGULATION

Sections:

4.32.01	Title
4.32.02	Exemption
4.32.03	Parking
4.32.04	Hours of operation
4.32.05	Saleable articles
4.32.06	Sanitation
4.32.07	Identification
4.32.08	Use of public streets and sidewalks
4.32.09	Fine

4.32.01 Title The ordinance, formerly known as the "Farmers Market," shall be known as "The Downtown Market Regulation Ordinance." (Ord. No. 2003-26, Sec. 1.)

4.32.02 Exemption An occupational or privilege license, as required by Ordinance 589, as amended shall not be applicable to those persons who offer items for sale at "The Downtown Market" either in person or through a duly authorized agent, pursuant to A.C.A. 14-140-101 and 14-140-102. (Ord. No. 2003-26, Sec. 2.)

4.32.03 Parking The thirty-six inner square parking spaces, located adjacent to the Baxter County Courthouse on the north, east, and south side of the courthouse building, shall be available for vendors on Wednesdays and Saturdays, 5:00 a.m. to 1:00 p.m. The six handicapped parking spaces will not be utilized by the vendors. Vendors shall be permitted to back their vehicles into the spaces, provided no vehicle extends into the street which is obstructing traffic, and no vehicle or vendors supplies shall obstruct pedestrian traffic on the sidewalk of the market place. Forestalling is not allowed. (Ord. No. 2003-26, Sec. 3.)

4.32.04 Hours of operation The "Downtown Market" established hereby may be opened on Wednesdays and Saturdays, but shall not be opened on any other days. The market place shall be opened no earlier than 5:00 a.m. and shall close no later than 1:00 p.m. (Ord. No. 2003-26, Sec. 4.)

4.32.05 Saleable articles The following articles, and no others, shall be sold at the "Downtown Market" established hereby: vegetables, fruit, nuts, plants and flowers, eggs, jams and jellies, vinegars, baked goods, or products of the farm. Products sold must be in compliance with all applicable regulations of the Arkansas State Department of Health. (Ord. No. 2003-26, Sec. 5.)

4.32.06 Sanitation Each vendor will be responsible for keeping the market grounds clean in his/her immediate area. At the close of each market day, each vendor shall be required to leave the market place clean and free from debris and insects, and vendors must remove all trash from the market area. (Ord. No. 2003-26, Sec. 6.)

4.32.07 Identification Each vendor will be required to display, in plain view for customers at all times, a placard no smaller than six inches tall by twelve inches long, which visibly identifies the vendors name and business address. The placard will also state whether the vendor is a "producer" of the product, or a "re-seller." (Ord. No. 2003-26, Sec. 7.)

4.32.08 Use of public streets and sidewalks It shall be unlawful for any person to use any public street, public parking space or public sidewalk as a space of business except as authorized by this ordinance; provided further, the City Council may approve temporary use of a public street, place or sidewalk as a market place where such use is a part of an event, activity, or celebration of general public interest. The City Council may impose reasonable conditions on such as is necessary to safeguard public health, safety and welfare. (Ord. No. 03-26, Sec. 8.)

4.32.09 Fine Any person deemed guilty of violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100.00) nor more then Two Hundred Fifty Dollars (\$250.00) and each day of such violation shall be deemed a separate offense. (Ord. No. 03-26, Sec. 9.)

CHAPTER 4.36

CABLE TELEVISION

Sections:

4.36.01	Franchise granted
4.36.02	Definitions
4.36.03	Right-of-way
4.36.04	Grantee's facilities
4.36.05	Grantee's responsibilities
4.36.06	Service rules
4.36.07	Television reception
4.36.08	FCC
4.36.09	Maintenance of quality
4.36.10	Termination of franchise
4.36.11	Rates
4.36.12	Service area
4.36.13	Exceptions
4.36.14	Service to schools
4.36.15	Default
4.36.16	Franchise tax
4.36.17	Property taxes
4.36.18	Service interruptions
4.36.19	Hold harmless
4.36.20	Ordinance publication
4.36.21	Due process
4.36.22	Complaints
4.36.23	FCC approval
4.36.24	Terms
4.36.25	Franchise periods

4.36.01 Franchise granted. In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified, the right is hereby granted to Home Cable Company, its successors and assigns, hereinafter referred to as "Grantee", to erect, maintain and operate antenna television transmission and distribution facilities, in, under, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges, and other public places in the city of Mountain Home, Arkansas, and subsequent additions thereto, for the purpose of transmission and distribution of television impulses and television energy, both community antenna and closed-circuit, including programs recorded on file and television tape or otherwise recorded in accordance with the laws and regulations of the United States of America and the State of Arkansas, and the ordinances and regulations of the city of Mountain Home, for a period of fifteen (15) years. Prior to one (1) year before the expiration of this franchise, Home Cable Company shall give written notice of its intention to exercise its option to

renew this franchise for an additional fifteen (15) year period. The city of Mountain Home shall hold a public hearing affording due process within ninety (90) days of the notice of option to determine if the renewal option is to be granted. The city of Mountain Home may not deny said renewal option except for good cause. (Ord. No. 588, Sec. 1)

4.36.02 Definitions. Wherever used in this chapter, the word "television" shall mean a system for simultaneous transmission of audio signals and transient visual images by means of electrical impulses. (Ord. No. 441, Sec. 2)

4.36.03 Right-of-way. This right-of-way for the use and purposes herein set forth shall not be exclusive but is merely a permit allowing Grantee to use the streets, alleys, etc., of the city of Mountain Home, Arkansas, for the purposes herein set forth. (Ord. No. 441, Sec. 3)

4.36.04 Grantee's facilities.

- A. The Grantee's transmission and distribution system, poles, wires and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons or to interfere with any improvements the city may deem proper to make, or to hinder unnecessarily or obstruct the free use of the streets, alleys, bridges or other public property.
- B. Construction and maintenance of the transmission distribution system, including house connections, shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters and such applicable ordinances and regulations as may be presently in effect or may be enacted by the city of Mountain Home affecting electrical installation. (Ord. No. 441, Sec. 4)

4.36.05 Grantee's responsibilities.

- A. In the maintenance and operation of its television transmission and distribution system in the streets, alleys and other public places, and in the course of any new construction or addition to its facilities, the Grantee shall proceed as to cause the least possible inconvenience to the general public. Any opening or obstruction in the streets or other public places, made by the Grantee in the course of its operations, shall be guarded and protected at all times by the placement of adequate barriers, fences, boardings, warning signs and lighting at night, the bounds of which during periods of dusk and darkness shall be clearly designated.
- B. Whenever the Grantee shall take up or disturb any pavement, sidewalk or other improvement of any street, avenue, alley or other public place, the same shall be replaced and the surface restored in as good condition as before entry within a

reasonable period after completion of the Grantee's work. Upon failure of the Grantee to make such restoration within a reasonable time, the city may serve upon the Grantee notice of the city's intent to cause the restoration to be made and unless the Grantee within forty-eight (48) hours after receipt of such notice begins or resumes the proper restoration to be made, the city may cause the proper restoration to be made, including the removal of excess dirt, and the expense of same shall be paid by the Grantee upon demand by the city.

- C. The Grantee shall at all times comply with any and all reasonable rules and regulations which the city has made or may make to apply to the public generally with reference to the removal or replacement of pavements and to excavations in streets and other public places, not inconsistent with its use for the purposes contemplated by this chapter. (Ord. No. 441, Sec. 5)

4.36.06 Service rules. The Grantee shall have the right to prescribe reasonable service rules and regulations for the conduct of its business, service rules and regulations shall be kept on file at all times with the City Clerk. (Ord. No. 441, Sec. 6)

4.36.07 Television reception. The Grantee shall construct an All Hands System capable of providing four (4) or more channels of satisfactory television reception. (Ord. No. 441, Sec. 7)

4.36.08 FCC. The Grantee's distribution system shall conform to the requirements of the Federal Communications Commission (FCC), particularly with respect to freedom from spurious radiation and interfering with present or future private antenna reception. (Ord. No. 441, Sec. 8)

4.36.09 Maintenance of quality. The antenna, receiving and distribution equipment shall be installed and maintained so as to provide pictures on subscriber receivers throughout the system essentially of the same quality as those received at the antenna site and/or transmitted by the Grantee. (Ord. No. 441, Sec. 9)

4.36.10 Termination of franchise.

- A. Upon termination or forfeiture of this grant, in accordance with any of its terms, the Grantee shall, within a reasonable time, remove its poles, cables, wires and appliances from the city streets, lanes, avenues, sidewalks, alleys, bridges, highways and other public places and from the premises of Grantee's customers within the city and subsequent additions thereto.

B. In the event of failure of the Grantee to perform the obligations of the first sentence of this section, the city shall have the right to make a written demand upon the Grantee to proceed to carry out the removal of such equipment and, within thirty (30) days from the date of such demand, to proceed with such removal expeditiously, the city shall have the right to remove same and retain it as the city's property, without accounting therefor to the Grantee, and the expenses

of such removal shall be charged to and paid by the Grantee, without credit for the value, if any, of the equipment removed by the city. (Ord. No. 441, Sec. 10)

4.36.11 Rates

A. By its acceptance of this franchise, the Grantee specifically grants and agrees that its rates and charges to its subscribers for television and radio signals shall be fair and reasonable and no higher than necessary to meet all lawful costs of operation (assuming efficient and economical management), including a fair return on the investment. The existing rate and charges, which are hereby approved, are set forth in Schedule 1; that when subscribers are converted to all bands and are receiving ETC, the educational network and the weather scan, then the rates for said subscribers beginning on the following month shall be as set forth in Schedule 2; that when Grantee has installed its microwave system and said system is operational so that signals for Channels 4 and 11 from Little Rock are upgraded and Channel 7 from Little Rock is added to the system, then the rates for said subscribers beginning on the following month shall be as set forth in Schedule 3.

B. Rate schedules

	Schedule 1	Schedule 2	Schedule 3
1. Main Station	\$ 5.45	\$ 5.75	\$ 6.90
2. Extensions: T.V. or F.M.	\$1.00	\$1.00	\$.50
3. Charge per amplifier (when added)			
a. Up to 10 outlets *			\$2.00
b. Above 10 outlets **			\$5.00
4. Installation charges:			
a. Residential	\$ 10.00	\$10.00	\$10.00
b. Ext. F.M. or T.V.	\$5.00	\$5.00	\$ 5.00
c. Business (per outlet)	\$10.00	\$10.00	\$10.00
5. Moves and changes			
a. Inside	\$5.00	\$5.00	\$5.00
b. Outside	\$10.00	\$10.00	\$10.00
6. Reconnect after disconnect for non-payment	\$10.00	\$10.00	\$10.00
7. Return check charge		\$3.00	\$3.00

* This is total outlets including main station outlet.

** Amplifiers will be added as needed to maintain signal strength due to losses because of number of extensions or length of runs.

- C. Grantee shall make no change to rates and charges for service under this chapter without approval of the City Council unless the city has failed to approve or reject proposed rates within ninety (90) days of a written request by Grantee and the Grantor shall have the reciprocal right to ask the Grantee for a rate decrease. (Ord. No. 441, Sec. 11)

4.36.12 Service area After specific notice of the Company's construction plan and the fact that the entire city will not be wired and a public hearing affording due process, the Grantee shall provide service only to those areas within the corporate limits of the city wherein the density of subscribers is adequate to permit the providing of service on an economically feasible basis; provided, however, the Grantee must provide service to any person who requests such service to a building situated in the city and within three hundred (300) feet of existing facilities of the Grantee, if such person is otherwise entitled to service. (Ord. No. 462, Sec. 12)

4.36.13 Exceptions If in the future, the state of Arkansas or any federal agency regulates the rates of the Grantee for the service provided for in this chapter, this chapter shall be of no effect during such regulation to the extent of any conflict therewith. (Ord. No. 441, Sec. 13)

4.36.14 Service to schools Grantee shall provide one (1) main station in each public school within the corporate limits of the city of Mountain Home, Arkansas, at a location within the school building to be selected by school authorities without charge, provided, extensions or moves and changes added after the initial installation shall bear the approved charges for such service. (Ord. No. 441, Sec. 14)

4.36.15 Default If the Grantee shall fail to comply with any of the provisions of this grant, or default in any of its obligations except for causes beyond the reasonable control of the Grantee, and shall fail, within thirty (30) days after written notice from the city to correct such default or noncompliance, the city shall have the right to repeal this chapter and all rights of the Grantee hereunder. (Ord. No. 441, Sec. 15)

4.36.16 Franchise tax All provisions of law provided and prescribed for the granting of this permit and authority are hereby declared to have been fully complied with and the permit shall be in full force and effect from and after its execution and approval. The Grantee shall pay, and, in consideration of the granting of this permit and authority, agree to pay to the city as a tax and as compensation for the right and privilege enjoyed hereunder, a four percent (4%) of the gross revenues for customers located within the corporate limits of the Grantor; payable monthly, within thirty (30) days after the end of the month from which such revenues are collected. (Ord. No. 2012-7, Sec. 2)

4.36.17 Property taxes. The payments herein provided for shall not be in lieu of ad valorem taxes assessed with respect to real or personal property of the Grantee by the city. (Ord. No. 441, Sec. 17)

4.36.18 Service interruptions. When a customer's service is reported or found to be interrupted, it will be restored as promptly as possible, but in the event it remains out of order through no fault of the customer, in excess of twenty-four (24) consecutive hours, after knowledge by the company of the interruption, the company will refund the prorated part of that month's charges for the period of days during which the service was not provided. This refund may be accomplished by a credit on a subsequent bill for cable service. If the trouble is the fault of the customer's property, no adjustment will be given and there could be a possible service charge. (Ord. No. 441, Sec. 18)

4.36.19 Hold harmless. In the construction, operation and maintenance of its facilities, said Grantee shall use reasonable and proper precaution to avoid damage or injury to persons or property and shall hold and save harmless the said Grantor from damage, injury, loss or expense caused by the negligence of the Grantee or its agents, servants or employees, in constructing, operating and maintaining said facilities or in repaving or repairing any streets, avenues, alleys, bridges or other public grounds. (Ord. No. 441, Sec. 19)

4.36.20 Ordinance publication. The Grantee shall pay to the city the cost of publishing this ordinance according to law. (Ord. No. 441, Sec. 20)

4.36.21 Due process. The Company's legal character, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements have been approved by the City Council as part of a full public proceeding affording due process. (Ord. No. 462, Sec. 22)

4.36.22 Complaints. The Company shall, as expeditiously as possible, investigate and resolve, to the extent possible, all complaints regarding the quality of service, equipment malfunctions, and similar matters and correct same expeditiously, and the Company shall maintain a local business office or listed agent at a location which subscribers may visit readily and may call without incurring toll charges so that complaints and requests for repairs or adjustments may be received. The City Council of Mountain Home shall have primary responsibility for the continuing administration of the franchise and implementation of complaint procedures. Notice of the procedures for reporting and resolving complaints will be given to each subscriber at the time of initial subscription to the cable system. (Ord. No. 462, Sec. 23)

4.36.23 FCC approval. This franchise agreement is subject to Federal Communications Commission (FCC) regulations as they now exist. Any modification of the provisions of Section 76.31 of the rules of the FCC resulting from amendment by the FCC shall be incorporated into this franchise within one (1) year of the adoption of such modification, or at the time of a franchise renewal, whichever occurs first. (Ord. No. 462, Sec. 24)

4.36.24 Terms. All terms of the Sections 4.36.01 through 4.36.23 remain in full force and effect. (Ord. No. 89-003, Sec. 1)

4.36.25 Franchise periods. Sections 4.36.01 through 4.36.24 are hereby extended for an additional fifteen (15) years beginning on the 16th day of February, 1991, and ending on the 16th day of February 2006. (Ord. No. 89-003, Sec. 2)

CHAPTER 4.40

POLICE ALARM SYSTEMS

Sections:

4.40.01	Purpose
4.40.02	Definitions
4.40.03	Exceptions
4.40.04	Standards, requirements and duties
4.40.05	Alarm business and alarm agent permits
4.40.06	Property owner or property lessee permits
4.40.07	Special provisions
4.40.08	Penalty

4.40.01 Purpose. The purpose of this chapter is to encourage the use of police alarm systems and to establish standards for and controls of the various signals from alarm systems that require police response. (Ord. No. 520, Sec. 1)

4.40.02 Definitions. For the purpose of this chapter, certain words and phrases shall be construed as set forth in this section, unless it is apparent from the context that a different meaning is intended.

- A. Alarm Agent - means any person who is employed by an alarm business, either directly or indirectly, whose duties include any of the following: selling, maintaining, leasing, servicing, repairing, monitoring, altering, replacing, moving or installing on or in any building, structure or facility, any alarm system.
- B. Alarm Business - means the business by any individual, partnership, corporation or other entity of selling, leasing, maintaining, monitoring, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility.

- C. Alarm System - means any mechanical, electrical or electronic device which is designed or used for the detection of unauthorized entry into a building, structure or facility or for alerting others of the commission of an unlawful act within a building, structure or facility, or both, and which emits a sound or transmits a signal or message when actuated. Alarm systems include, but are not limited to, direct dial telephone devices, audible alarms and proprietor alarms. Devices which are not designed or used to register alarms that are audible, visible or perceptible outside of the protected building, structure or facility are not included within this definition, nor are auxiliary devices installed by the telephone company to protect telephone company systems which might be damaged or disrupted by the use of an alarm system.
- D. Control Alarm Station - means any facility operated by a private firm that owns or leases alarm systems and which facility is manned by operators who receive, record or validate burglary or hold-up alarm signals and relay information about such validated signals to the police when appropriate.
- E. False Alarm - means any signal which is the result of human carelessness or error to which the police respond, which is not the result of a hold-up, robbery, other crime, emergency, malfunction or act of God.
- F. Hold-Up Alarm - means any alarm system designed to be actuated by a criminal act or other emergency at a specific location or by a victim of a hold-up, robbery or other emergency or criminal act at a specific location.
- G. Intrusion - means any entry into any area or building equipped with one or more alarm systems by any person or object whose entry actuates an alarm system.
- H. Licensing Authority - means the Chief of Police of the city of Mountain Home, Arkansas.
- I. Malfunction - means that the activated alarm was not due to a fault or negligence on the part of the owner of the alarm system or systems.
- J. Act of God - means an act occasioned exclusively by violence of nature without the interference of any human agency.
- K. Police Chief - means the Police Chief of the Mountain Home Police Department, Mountain Home, Arkansas, or his representative. (Ord. No. 520, Sec. 2)

4.40.03 Exceptions. The provisions of this section do not include a person who engages in the manufacture or sale of an alarm system from a fixed location and who neither visits the location where the alarm system is to be installed, nor designs the scheme for physical location and installation of the alarm system in a specific location. (Ord. No. 520, Sec. 3)

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4.40.04 Standards, requirements and duties.

- A. Audible Alarm Requirements. Every person maintaining an audible alarm shall furnish to the Police Chief, the name and telephone number of the primary person responsible for the alarm system and an alternate name and telephone number of a person who can deactivate the alarm system or systems. The lessee or owner of any audible alarm system will be responsible for deactivating the alarm system within a reasonable time following notification by the Police Department.
- B. Alarm System Permit. No person shall possess or use an alarm system without first applying for and receiving an alarm permit in accordance with the provisions of this ordinance.
- C. Display of Alarm System Permit. A valid alarm system permit shall be kept on the premises where the alarm system is located.
- D. Alarm Agents; Permits in Possession. Every alarm agent shall carry on his person at all times while so engaged, a valid alarm agent permit and shall display such permit to any police officer upon request.
- E. Alarm System Description. Alarm agent and/or alarm business must provide the owner or lessee a written description of the function, design and operation of the alarm system installed on the premises. (Ord. No. 520, Sec. 4)

4.40.05 Alarm business and alarm agent permits.

- A. Application for Permits. All alarm businesses and alarm agents who desire to conduct business in the city of Mountain Home shall apply to the Licensing Authority for a business permit on a form to be supplied by the Licensing Authority. Such business permit shall be issued for a one (1) year period, on a calendar year basis or part thereof, and no license shall extend beyond December 31st of each year. Notwithstanding this provision, a person having a business license may conduct business through January 31st of the year following the expiration of his business permit.
- B. Application Form. Applications for permits shall be filed with the Licensing Authority and shall be accompanied by the permit fee. The Licensing Authority shall prescribe the form of the application and request such information as is necessary to evaluate and act upon the permit application. Forms shall require alarm business applicants to list major owners and/or investors of their organization.
- C. Permit Fees. Permit fees shall be as follows:

1. Alarm Agent Permit . . . \$25.00 per year (due at the beginning of each calendar year)
 2. Alarm Business Permit . . \$125.00 per year (due at the beginning of each calendar year)
- D. Investigation. Every applicant for an alarm business or alarm agent permit shall be fingerprinted. The Police Department shall conduct an appropriate investigation of the applicants to determine whether said permit should be issued. No permit shall be granted if:
1. The applicant, his employee or agent has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a permit, or in any report or record required to be filed with any city agency; or
 2. The applicant had a similar type permit previously revoked for good cause within the past year unless the applicant can show a material change in circumstances since the date of revocation; and/or
 3. The applicant has within the past ten (10) years been convicted of any felony or any misdemeanor involving intent to defraud.
- E. Suspension or Revocation. A permit issued under this chapter may be suspended or revoked by the Licensing Authority for the violation of any of the provisions of this chapter or any regulation or regulations promulgated by the Licensing Authority pursuant to this chapter. Any permit or identification card issued hereunder shall be surrendered immediately to the Licensing Authority upon such suspension or revocation. No part of the permit fee shall be refunded when a permit is suspended or revoked.
- F. Appeal. Any applicant whose application for a permit has been denied, suspended or revoked may appeal such suspension in writing to the City Council within thirty (30) days after the date of the notice of suspension or revocation and may appear before the City Council at a time and place to be determined by the City Council, in support of his or its contention that the permit should not have been suspended or revoked. The decision of the City Council is final. (Ord. No. 520, Sec. 5)

4.40.06 Property owner or property lessee permits.

- A. Application for Permits. Any property owner or lessee of property in the city of Mountain Home, Arkansas, having on his or its premises an alarm system shall

apply to the Licensing Authority on a form to be supplied by the Licensing Authority, for a permit to have such a device on his or its premises. Application for permits for alarm systems existing in premises on the effective date of this chapter must be made to the Licensing Authority within ninety (90) days of the effective date of this chapter. No such alarm system may be installed on the premises of the owner or lessee after the effective date of this chapter prior to the Licensing Authority having issued a permit to such owner or lessee. No presently existing alarm system shall be modified after the effective date of this chapter prior to the Licensing Authority having issued a permit to such owner or lessee.

- B. False Alarm and/or Malfunction. Any owner or lessee having an alarm system on his or its premises shall after two (2) malfunctions or false alarms of such system within a thirty (30) day period, which result in a response by the Mountain Home Police Department, pay a service fee of Twenty-Five Dollars (\$25.00) for any such further responses.
- C. Exclusions. The provisions of this subsection shall exclude any malfunction caused by an act of God.

4.40.07 Special provisions.

- A. None of the provisions of this chapter shall apply to the following:
 - 1. An alarm system installed in a motor vehicle.
 - 2. Employees of a public utility company engaged in the business of providing communication services or facilities.
 - 3. Licensed agents involved in periodic maintenance and testing or permitting alarm systems with prior clearance from monitoring agency.
- B. The information furnished and secured pursuant to this chapter shall be confidential and not subject to public inspection.
- C. All existing alarm systems within the city limits of the city of Mountain Home, Arkansas, will be given ninety (90) days from the effective date of this chapter to transfer the monitoring system from the Baxter County Sheriff's Office to the Mountain Home Police Department. (Ord. No. 88-029, Sec. 3)

4.40.08 Penalty.

- A. It shall be unlawful for any alarm agent or alarm business to sell, lease or install equipment upon the premises until the owner or lessee has obtained a permit for same.

- B. It shall be unlawful for any person to intentionally activate any alarm system for any reason other than to warn of an actual burglary, hold-up, robbery or as provided for in Section 4.40.07(A).
- C. Any person violating provisions of this chapter and upon conviction thereof shall be deemed guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00). (Ord. No. 520, Sec. 10)

CHAPTER 4.44

ITINERANT AND ROADSIDE SALES

Sections:

- 4.44.01 Itinerant sales
- 4.44.02 Penalty
- 4.44.03 Roadside sales
- 4.44.04 Permit length
- 4.44.05 Requirements
- 4.44.06 Farmers' Market
- 4.44.07 Penalty

4.44.01 Procedures

- A. Each itinerant salesperson who proposes to engage in the sale of any product or service by visiting the homes or businesses, or from a transitory location within the city limits of the city of Mountain Home, Arkansas, shall:
 - 1. Application for and payment of itinerate license fee shall be made in the City Clerk's office.
 - 2. Payment of a non-refundable \$25.00 photo identification card fee shall be made in the City Clerk's office.
 - 3. Applicant shall follow the procedures set by the city of Mountain Home, Arkansas, for obtaining an itinerate photo identification card.
 - 4. Applicant shall wear said photo identification on a conspicuous part of his/her person at all times while conducting sales within the city.
 - 5. Door-to-door sales shall be allowed only from sunrise to sunset.

6. Applicant shall comply with the expiration date on the identification.
 7. Continues sales activity after identification card expiration date shall be a violation of this ordinance. (Ord. No. 2009-16, Sec. 1.)
- B. Exception. The sale of excess farm products shall be exempt from the requirements of this chapter. (Ord. No. 848, Sec. 2)

4.44.02 Penalty Any person who violates the provisions of this chapter shall be deemed guilty of a misdemeanor and shall, upon conviction, pay a fine of not less than Twenty-Five Dollars (\$25.00) and not more than Five Hundred Dollars (\$500.00). (Ord. No. 848, Sec. 3)

4.44.03 Roadside sales It shall be unlawful for any person, firm or corporation to engage in any roadside or streetside sales from a moveable outlet or where there is no outlet at all within the city of Mountain Home, without first having obtained an applicable permit from the Building Inspection Department. A fee of Fifty Dollars (\$50.00) shall be charged by the Building Inspection Department at the time of application for a permit and such sum shall be paid into the general fund of the city. (Ord. No. 2008-26, Sec. 2.)

4.44.04 Permit length The permit issued by the Building Inspection Department shall be valid for a maximum of thirty (30) days and may be extended by the City Council one time for up to thirty (30) additional days. No person, firm or corporation shall be allowed to engage in roadside and/or streetside sales without having a valid permit from the Building Inspection Department. (Ord. No. 2008-26, Sec. 3.)

4.44.05 Requirements The trailer or other portable mechanism or location for roadside and/or streetside sales, or portable structure must meet the following requirements:

The trailer or other portable mechanism or location for roadside and/or street side sales, or portable structure must meet the following requirements:

- A. The trailer, or other mechanism for roadside and/or street side sales, or portable structure must meet the setback requirements of the City of Mountain Home Zoning Ordinance.
- B. The trailer, or other mechanism for roadside and/or street side sales, or portable structure must have proper distances between structures as set out in City ordinances and building codes.
- C. The trailer, or other mechanism for roadside and/or street side sales, or portable structure shall not be placed in a fire lane.

D. The trailer, or other mechanism for roadside and/or street side sales, or portable structure shall meet the requirements of Chapter 43 of the Fire Code of the State of Arkansas.

E. The trailer, or other mechanism for roadside and/or street side sales, or portable structure should have fire extinguishers when and where required by law.

F. The trailer, or other mechanism for roadside and/or street side sales, or portable structure shall not be placed within thirty (30) feet of any exit or exit way.

G. Any electrical wiring which is required by the trailer, or other mechanism for roadside and/or street side sales, or portable structure shall be installed by a licensed electrician.

H. The trailer, or other mechanism for roadside and/or street side sales, or portable structure must have a letter approval from the Baxter County Sanitarian, if required by the Department of Health.

I. No one possessing a thirty day Itinerate License at the time of the passage of this ordinance shall be allowed to apply for a permit created under the terms of this ordinance.

J. The trailer, or other mechanism for roadside and/or street side sales, or portable structure must not be placed in a manner or location that requires or promotes pedestrian traffic to cross a highly traveled route for vehicular traffic.

(Ord. No. 2015-4-26, Sec. 1.)

4.44.06 Farmers' Market The provisions of this ordinance shall not apply to the Mountain Home Farmers' Market, or to any other government or Mountain Home Chamber of Commerce sanctioned events. (Ord. No. 2008-26, Sec. 4.)

4.44.07 Penalty Any person, firm or corporation which fails to comply with the terms of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00), and each day such violation of this ordinance shall exist, shall constitute a separate offense. (Ord. No. 2008-26, Sec. 5.)

CHAPTER 4.48

ALCOHOLIC BEVERAGES

Sections:

- 4.48.01 Application
- 4.48.02 Fee: wholesale dealers; liquor
- 4.48.03 Fee: wholesale dealers; beer and malt liquors
- 4.48.04 Fee: wholesale dealers; liquor, beer and malt liquors
- 4.48.05 Fee: retail dealers; beer
- 4.48.06 Fee: retail package stores; liquor, beer and malt liquors
- 4.48.07 Location
- 4.48.08 Certificate of occupancy
- 4.48.09 Hours of sale
- 4.48.10 Penalty
- 4.48.11 Other licenses and fees
- 4.48.12 Purpose
- 4.48.13 Definitions

4.48.01 Application

- A. Before any person shall engage in the wholesale or retail liquor business in the city, an application shall be made to the city for the granting of a license.
- B. Said application shall contain a sworn statement of the name of the business sought to be licensed, the names and addresses of all of the persons owning or holding any interest in said business, and the proposed location of said business, the owner or owners of the building or premises in which said store is to be located, and said applicant's state license shall accompany such application, then the City Collector shall issue such license upon the payment of the license fee provided hereinafter. (Ord. No. 87-030, Sec. 1)

4.48.02 Fee: wholesale dealers; liquor The business of storing, transporting and/or selling of spirituous and vinous liquors at wholesale within the city is hereby declared to be a privilege, and for the exercise of such privilege, there is hereby levied an annual tax in the sum of One Hundred Fifty Dollars (\$150.00) for each such business conducted. (Ord. No. 87-030, Sec. 2)

4.48.03 Fee: wholesale dealers; beer and malt liquors The business of storing, transporting and/or selling beer or malt liquors at wholesale within the city is hereby declared to be a privilege and for the exercise of such privilege, there is hereby levied an annual tax in the sum of One Hundred Fifty Dollars (\$150.00) for each such business conducted. (Ord. No. 87-030, Sec. 3)

4.48.04 Fee: wholesale dealers; liquor, beer and malt liquors The business of storing, transporting and/or selling of spirituous, vinous liquors and malt liquors at wholesale within the city is hereby declared to be a privilege, and for the exercise of such privilege, there is hereby levied an annual tax in the sum of Three Hundred Dollars (\$300.00) for each such business conducted. (Ord. No. 87-030, Sec. 4)

4.48.05 Fee: retail dealers; beer

- A. The business of storing, transporting, selling and/or dispensing at retail of any and all malt liquors and beer on or off premises within the city is hereby declared to be a privilege and for the exercise of such privilege, an annual privilege tax shall be levied as follows:
1. For each retailer doing business within the city, Fifteen Dollars (\$15.00) for a retailer whose total gross annual sales do not exceed One Thousand Dollars (\$1,000.00); Twenty Dollars (\$20.00) for a retailer whose total gross annual sales exceeds One Thousand Dollars (\$1,000.00), but does not exceed Two Thousand Dollars (\$2,000.00); and Twenty dollars (\$20.00) for a retailer whose total gross annual sales exceeds Two Thousand Dollars (\$2,000.00), plus an additional Five Dollars (\$5.00) for each One Thousand Dollars (\$1,000.00) gross annual sales in excess of Two Thousand Dollars (\$2,000.00); provided, the annual privilege tax for each retailer doing business within the city of Mountain Home, Arkansas, shall not exceed a maximum of One Hundred Dollars (\$100.00) annually.
 2. At the time each retail dealer applies for a new permit, said retail dealer shall file with the City Clerk an affidavit signed by said retail dealer showing gross revenues received by said retail dealer from the sale of light wines and/or beer during the preceding year.
 3. The City Clerk, either personally or through his authorized agents, shall have the right to inspect and examine the records of every retail dealer subject to the tax required by this provision.
 4. Whenever the City Clerk has ascertained that a retail dealer has secured a permit for an amount less than that which should have been paid therefore, he shall require the payment of the difference plus a penalty in an amount equivalent to one hundred percent (100%) of said difference or cancel the

permit. The City Clerk shall notify the Director of Alcoholic Beverage Control of the identity of retailers failing to comply with the provisions of this section in order that the Director may notify wholesale dealers to discontinue sales to such delinquent retailers in accordance with Arkansas Statutes 48-516. When such license fee and penalty is paid to the City Clerk, the Clerk shall notify the Director of Alcoholic Beverage Control that such retailer has paid said fee. (Ord. No. 87-030, Sec. 5)

4.48.06 Fee: retail package stores; liquor, beer and malt liquors The business of storing, transporting, selling and/or dispensing at retail of any and all vinous, spirituous and/or malt liquors within the city is hereby declared to be a privilege, and for the exercise of such privilege, there is hereby levied an annual privilege tax of Two Hundred Fifty Dollars (\$250.00) for each such retail store operated within the city. (Ord. No. 87-030, Sec. 6)

4.48.07 Location It shall be unlawful for any person to sell or engage in the wholesale or retail liquor business at any location other than that zoned C-1, C-2 or Industrial. (Ord. No. 87-030, Sec. 7)

4.48.08 Certificate of occupancy No person shall be granted a license at either wholesale or retail within the city, upon, in or in connection with any premises wherein there does not exist a certificate of occupancy. At the time of application, every person desiring a permit pursuant to this chapter shall file with the Clerk of the City a Certificate of Occupancy for the premises for which the permit is sought. (Ord. No. 87-030, Sec. 8)

4.48.09 Hours of sale It shall be unlawful for any person to sell, offer for sale or give away at wholesale or retail any spirituous, vinous, malt or other intoxicating alcoholic liquor before the hour of 7:00 a.m. and after the hour of 12:00 midnight and on Sunday. (Ord. No. 87-030, Sec. 9)

4.48.10 Penalty Every person who violates any section of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, the license of such person shall be revoked and such person shall be fined in a sum of not more than Five Hundred Dollars (\$500.00) and each day's violation of said section shall constitute a separate offense. (Ord. No. 87-030, Sec. 10)

4.48.11 Other licenses and fees Every person shall procure, in addition to any permit issued pursuant to this chapter, all other licenses, permits issued by the city, county and state. (Ord. No. 87-030, Sec. 11)

4.48.12 Purpose It shall be unlawful for any person to sell, store, give away or transfer any spirits, vinous, beer or malt liquor without having first procured a license as provided herein and payment of the requisite fee therefore. (Ord. No. 87-030, Sec. 12)

- A. The term "person" for the purpose of this chapter, means one (1) or more persons, a company, corporation, partnership, syndicate or association.
- B. The term "spirituous, vinous and malt liquors" shall mean for the purpose of this chapter any fermented liquor made from malt or any substitute therefore having an alcoholic content not in excess of five percent (5%) by weight; liquor distilled from fermented juices of grain, fruits or vegetables and containing more than twenty-one percent (21%) alcohol by weight; and the fermented juices of grapes, berries or other fruits or vegetables containing not more than five percent (5%) alcohol by weight. (Ord. No. 87-030, Sec. 13)

CHAPTER 4.52

GARAGE SALES

Sections:

- 4.52.01 Permits
- 4.52.02 Fee
- 4.52.03 Signs
- 4.52.04 Weather
- 4.52.05 Penalties

4.52.01 Permits It shall be unlawful for any person within the city of Mountain Home, Arkansas, to engage in or carry on any garage sale, yard sale, porch sale, patio sale, lawn sale, or any similar type of sale unless that person first obtains a permit from the City Clerk or her agent. The permit will be issued for a maximum of three (3) calendar days per sale. Two permits may be issued in a calendar year per residence. The applicant shall sign a statement stating that the yard sale shall be of personal property owned by the person or persons and that the property was not purchased for the purpose of resale. The permit with the receipt are to be displayed in a visible location at the sale. (Ord. No. 2009-11, Sec. 1.)

4.52.02 Fee Applicant shall pay a Five Dollar (\$5.00) permit fee, subject to the above conditions. (Ord. No. 2009-11, Sec. 2.)

4.52.03 Signs Two (2) off-premise yard sale signs will be permitted for each yard sale. Signs may erected twenty-four (24) hours before the sale and must be removed within forty-eight (48) hours after the sale. Directional signs may not be attached in any manner to sign posts, utility posts or placed on public right-of-ways. (Ord. No. 2009-11, Sec. 4.)

4.52.04 Weather In case of inclement weather, the permit will be extended for seven (7) days. (Ord. No. 2009-11, Sec. 4.)

4.52.05 Penalties

- A. The first violation may carry a fine of up to Twenty-Five Dollars (\$25.00).
- B. A second violation, if within two (2) years of the first violation, shall result in a fine of not less than Fifty Dollars (\$50.00).
- C. A third violation and each subsequent violation thereafter which occurs within two (2) years of the first violation, shall result in a minimum fine of One Hundred Dollars (\$100.00) for each violation. (Ord. No. 2009-11, Sec. 5)

CHAPTER 4.56

FARMERS' MARKET

Sections:

- 4.56.01 Title
- 4.56.02 Exemption
- 4.56.03 Months, days and hours of operation
- 4.56.04 Location and parking restrictions
- 4.56.05 Application and permit procedure
- 4.56.06 Signage
- 4.56.07 Definitions
- 4.56.08 Permitted items for sale
- 4.56.09 Sampling of products
- 4.56.10 Set-up
- 4.56.11 Sanitation/clean-up
- 4.56.12 Sales tax and permits
- 4.56.13 Use of public street for business prohibited; exception
- 4.56.14 Holding the city harmless
- 4.56.15 Disputes
- 4.56.16 Severability
- 4.56.17 Constitutionality
- 4.56.18 Penalty

4.56.01 Title The chapter shall be known as "The Farmers' Market Regulation Ordinance. (Ord. No. 2007-12, Sec. 1)

4.56.02 Exemption

- A. An occupation or privilege license as required by Ord. No. 2005-41, shall not be applicable to those persons who produce and offer for sale, at the "Farmers' Market" either in person or through a legally authorized agent, any fruits, vegetables, nuts, honey, eggs, flowers or a by-product of producer-grown items, as set forth in A.C.A. 14-140-101 and 14-140-102.
- B. Any person reselling a product or by-product shall not be exempt from Ord. No. 2005-41. Each individual stand shall have a separate license, and all applicable permits. (Ord. No. 2007-12, Sec. 2.)

4.56.03 Months, days and hours of operation The "Farmers' Market" may be held on Wednesdays and Saturdays only. Hours of operation shall be from 6:00 a.m. until 1:00 p.m. No vendor shall be allowed to occupy a site earlier than one hour prior to the designated start time for purposes of set-up and shall occupy the site no longer than one hour after the designated closing time for clean-up. The hours of operation strictly prohibit forestalling by vendors or their agents. (Ord. No. 2007-12, Sec. 3.)

4.56.04 Location and parking restrictions The thirty-six inner square parking spaces, located adjacent to the Baxter County Courthouse on the north, east and south side of the Courthouse building, will be available to qualified vendors other than herein specifically excepted. Resellers are restricted to the north side of the Courthouse building; Processors are restricted to the east side of the Courthouse; and Growers may locate on either the north, south or east side of the Courthouse. However, from October 1st to April 30th each year, neither Growers, Processors, nor Resellers shall be restricted to their assigned spaces, but may occupy any space that is otherwise unrestricted. Vendors are prohibited from utilizing the six spaces designated for handicap parking, and the two spaces on the east side of the square reserved for the County Judge and County Clerk's offices. Vendors shall be permitted to back their vehicles into the marked spaces with the backs of the vehicles facing the curbs, provided no vehicle extends into the street thereby obstructing traffic in any manner. No vehicle shall be parked within fifteen feet of any fire hydrant. In addition, no one shall park a produce trailer or carry on any vending operation on the west side of the Baxter County Courthouse (Highway 62B). (Ord. No. 2008-5, Sec. 1.)

4.56.05 Application and permit procedure

- A. Each vendor shall obtain a permit application in the form and content specified by the City Clerk, along with a copy of this ordinance. Applications will contain pertinent information such as: name of vendor, physical address, telephone number, and a product list of items to be sold. A duly authorized agent shall present a written, signed letter stating the authorization to represent the vendor/permitee.

- B. Resellers will be required to apply for and obtain a business license from the Mountain Home City Clerk in accordance with Section 8 of Ord. No. 2005-41 pertaining to "Itinerate Sales."
- C. Qualified vendors, other than resellers will apply for and obtain a non-fee permit from the City Clerk to occupy a space(s) on the east and south side. Permits will be issued on a first come, first serve basis. Permits are non-transferable. No vendor may hold a permit for more than two spaces. Each space must have a separate permit. Each permitted space must be supervised by a permittee or a permittee's legally authorized agent. No permittee or permittee's legally authorized agent may supervise more than one space.
- D. Vendors who obtain permits and do not attend the "Farmers' Market" on a regular basis, or no longer wish to utilize the space are required to contact the City Clerk. This will provide other qualified vendors the opportunity to participate. In the case that all spaces are occupied, a waiting list will be compiled.
- E. Any space for which a permit has been issued which is not occupied by the permit holder by 7:00 a.m. may be occupied by another permit holder on a first come, first serve basis.
- F. Each permit shall be valid for the calendar year in which such permit is issued. (Ord. No. 2007-12, Sec. 5.)

4.56.06 Signage All vendors, whether growers or resellers, shall display on their stand a sign which shall be a minimum of 8 ½ " by 11", which includes their name, physical address and phone number, and whether the vendor is a "grower" or a "reseller." (Ord. No. 2007-12, Sec. 6.)

4.56.07 Definitions

Agent – any person legally authorized by the vendor/permittee to represent and sell their product(s).

Grower – a person or entity that plants, raises and harvests a farm-grown commodity and offers it for sale to the public. (Ord. No. 2008-5, Sec. 1.)

High value products – meat, poultry, eggs, milk and cheese.

Itinerate/peddler – vendors who buy fruits or vegetables for reselling at the "Farmers' Market."

Processed food – products such as jam, jelly, cider, vinegar, pickles, salsa, vegetable and or herbal spreads, and bread items which must be made in a licensed kitchen and comply with Arkansas State Health Department regulations.

Processor – a person or entity that incorporates farm-grown products, e.g., tomatoes, peppers, peaches into a processed product, e.g., salsa, pies, bread for sale to the public for human consumption. (Ord. No. 2008-5, Sec. 1.)

Producer – A farmer who raised and sells his/her own product.

Product list – list of products the vendor plans to sell.

Reseller – a person or entity that purchases a farm-grown commodity from a grower or supplier or distributor and offers it for sale to the public. (Ord. No. 2008-5, Sec. 1.)

Vendor/permittee – a farmer or other person designated as having the right to participate in the "Farmers' Market." (Ord. No. 2007-12, Sec. 7.)

4.56.08 Permitted items for sale Every attempt has been made to provide and promote the widest variety and selection to consumers, while maintaining the original spirit and intention of the "Farmers' Market." The following items, and no others shall be permitted for sale:

- A. Raw vegetables and fruits, edible plants, honey, molasses, sorghum, shelled peas and beans, cut, washed and unwashed bagged vegetables, dried fruits and vegetables, nuts, garlic, spices, grains, herbs, bedding plants, cut flowers, dried flowers, herbal vinegars, fruit syrups, jellies, jams, preserves, herbal and vegetable spreads, fresh fruit and vegetable juices, cider, canned and pickled products, relishes, salsa and bread products.
- B. High value products such as meat, poultry, eggs, milk and cheese.
- C. Craft-type items are limited to those locally grown and produced by the vendor, such as beeswax candles, wood carvings and dried flower arrangements.
- D. Processed foods shall comply with Arkansas State Health Department regulations. A certificate of approval must be presented prior to issuance of a city permit to participate as a vendor.
- E. High value products as listed above, shall meet the following criteria:
 - 1. Meat products – All meat products must be 100% from animals raised from weaning by the farmer/producer. Animals may be butchered or processed off-farm. Processing must comply with all Arkansas State Health Department regulations. Farmers/producers shall supply documentation of such compliance prior to issuance of a city permit to participate as a vendor.
 - 2. Milk, dairy and cheese – Fresh milk must be 100% from the farmer/producer's own herd. Cheese and other dairy products must be made by the farmer/producer. At least 60% of the milk used for cheese dairy products must be from the farmer/producer's own herd. Production and preparation must comply with all Arkansas State Health Department regulations. Documentation of such compliance must be submitted prior to issuance of a city permit to participate as a vendor.

Individual vendors are responsible for obtaining all licenses and/or permits required by the Arkansas State Health Department. Copies of all licenses/permits must be on file with the Mountain Home City Clerk prior to selling at the "Farmers' Market." Resellers may bring only fresh fruits and vegetables and must maintain on file the source of the produce by date sold and furnish that information to any consumer or their designated representative, who requests such information. (Ord. No. 2007-12, Sec. 8.)

4.56.09 Sampling of products It is the sole responsibility of the vendor to contact the Arkansas State Health Department with regard to providing samples of their product(s) to consumers. The vendor/permittee must comply with all applicable regulations. (Ord. No. 2007-12, Sec. 9.)

4.56.10 Set-up Items for sale, canopies and umbrellas must be placed in a manner that will not obstruct sidewalks, allowing pedestrians ample room to move freely. (Ord. No. 2007-12, Sec. 10.)

4.56.11 Sanitation/clean-up Vendors shall be responsible for cleanliness and sanitation of their selling areas at the close of each market day. All vendors agree to bring a broom and trashcan and keep the market area free of any debris generated by market activity. Vendors shall not use public trash receptacles for disposal of product boxes and unsold products. (Ord. No. 2007-12, Sec. 11.)

4.56.12 Sales tax and permits Each vendor is responsible for collecting his/her own sales taxes, where it is applicable. (Ord. No. 2007-12, Sec. 12.)

4.56.13 Use of public street for business prohibited; exception It shall be unlawful for any person to use any public street, public parking place or public sidewalk as a place of business, except as authorized by this ordinance. Provided further, the City Council may approve temporary use of a public street, place or sidewalk as a marketplace where such use is a part of an event, activity, or celebration of general public interest. The City Council may impose reasonable conditions on such use as is necessary to safeguard the public health, safety and welfare. (Ord. No. 2007-12, Sec. 13.)

4.56.14 Holding the city of Mountain Home harmless

- A. The city of Mountain Home shall be held harmless for any accidents, injuries or other occurrences in relation to the "Farmers' Market."
- B. Vendors/permittees or their agent shall be held responsible for any damage to city or county property due to negligence. (Ord. No. 2007-12, Sec. 14.)

4.56.15 Disputes Vendors should make every attempt to resolve minor disputes between themselves, especially if it clearly does not involve violation of this ordinance, which is designed to set forth rules, regulations and guidelines pertaining to the safety and welfare of the city of Mountain Home and its inhabitants. (Ord. No. 2007-12, Sec. 15.)

4.56.16 Severability The provisions of the ordinance shall be deemed severable, and the invalidity, unenforceability, or unconstitutionality of any clause, phrase, sentence or part thereof of any section or provision of this ordinance shall not invalidate any other section or provision of this ordinance, and such other sections and provisions shall remain in full force and effect. (Ord. No. 2007-12, Sec. 16.)

4.56.17 Constitutionality If any part of this ordinance should be held unconstitutional, such ruling shall in n way impair the validity of the remaining parts of this ordinance. (Ord. No. 2007-12, Sec. 17.)

4.56.18 Penalty Any person deemed of violating any provision of this ordinance shall be deemed guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00), and each day will be deemed a separate offense. In addition, the vendor's permit may be revoked or suspended depending on the severity of the violation. (Ord. No. 2007-12, Sec. 18.)

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