

TITLE 4

BUSINESS LICENSES AND REGULATIONS

Chapters:

- 4.04 Electric Franchise
- 4.08 Gas Franchise
- 4.12 Telephone Franchise
- 4.16 Cable Television Franchise
- 4.20 Occupation Tax
- 4.22 Regulation of Business Licenses
- 4.24 Ambulance Service
- 4.28 Itinerant Merchants and Vendors
- 4.30 Regulation of Right-of-Ways/Permits
- 4.32 Advertising and Promotion Commission

CHAPTER 4.04

ELECTRIC FRANCHISE

Sections:

- 4.04.01 Electric franchise granted
- 4.04.02 General rights and obligations
- 4.04.03 Standards and right-of-ways
- 4.04.04 Removal of hazards; clearing of right-of-ways
- 4.04.05 Termination procedure
- 4.04.06 Rates
- 4.04.07 City not liable for negligence of Entergy
- 4.04.08 Standards of care for facilities
- 4.04.09 Franchise tax
- 4.04.10 Street lighting
- 4.04.11 Franchise granted for annexed land

4.04.01 Electric franchise granted The city of Lonoke, Arkansas hereby grants to Entergy, its successors and assigns, the exclusive right, privilege and authority within the present and all future expansion of the corporate limits of the city of Lonoke, Arkansas, (1) to sell, furnish, transmit and distribute electric power and energy to the City 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 the City, 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. 152, Sec. 1.)

4.04.02 General rights and obligations Entergy 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. The City, in recognition of the large and continuing investment necessary for Entergy 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 the City 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 Entergy 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. 152, Sec. 2.)

4.04.03 Standards and right-of-ways All facilities of Entergy 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 Entergy'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. Entergy, 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. 152, Sec. 3.)

4.04.04 Removal of hazards; clearing of right-of-ways Entergy, 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 Entergy's facilities used or useful for the rendition of electric service; further, Entergy 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 Entergy's facilities. (Ord. No. 152, Sec. 4.)

4.04.05 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 state law. (Ord. No. 651, Sec. 2.)

4.04.06 Rates The rates which are to be charged by Entergy 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 Entergy in accordance with law or by any regulatory authority having jurisdiction thereof. (Ord. No. 152, Sec. 6.)

4.04.07 City not liable for negligence of Entergy In the construction, operation, and maintenance of its facilities, Entergy shall use reasonable and proper precaution to avoid damage or injury to persons or property and shall hold and save harmless Entergy from damage, injury, loss or expense caused by the negligence of Entergy 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. 152, Sec. 7.)

4.04.08 Standard of care for facilities Entergy 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. 152, Sec. 8.)

4.04.09 Franchise tax Beginning in 1966, and thereafter during the life of this franchise, Entergy shall pay to the City 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 Entergy by residential and commercial customers located within the corporate limits of the city of Lonoke, Arkansas. Payments shall be made by Entergy to the City in approximately equal quarterly installments beginning in January, 2007. Residential and commercial electric revenues are those revenues so classified pursuant to Entergy's uniform classification standards. The City shall have the right to examine and verify, from the records of Entergy, any data relating to the gross revenues of Entergy from customers on which said franchise tax is due. In the event of a controversy, between the City and Entergy as to the amount of gross revenues received by Entergy in the city of Lonoke 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 Entergy, for final determination, and the decision of said Commission shall be binding upon both parties hereto.

It is expressly agreed and understood by the City and Entergy that the aforesaid payment shall constitute and be considered as complete payment and discharge by Entergy, 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 City under authority conferred upon the City by law. In the event such other tax or taxes are imposed by the City, the obligation of Entergy set forth in Section 4.04.09 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. 152, Sec. 9.)

4.04.10 Street lighting Electric service furnished the City for street lighting and other purposes shall be paid for by the City in accordance with the applicable rate schedules of Entergy now on file and/or as they may in the future be filed by Entergy and approved by the Arkansas Public Service Commission or other regulatory authority having jurisdiction. Entergy shall have the privilege of crediting any amount due the City with any unpaid balances due said Entergy for electric service rendered to the City. (Ord. No. 152, Sec. 10.)

4.04.11 Franchise granted for annexed land

- A. The city of Lonoke, Arkansas, (hereafter the City) hereby grants to First Electric Cooperative Corp., its successors and assigns (hereinafter First Electric), a franchise to sell, furnish, transmit, and distribute electric power and energy to construct, maintain and operate a system for such purposes solely within certain land annexed to the city of Lonoke, Arkansas, and better described as follows:
- S ½ -SW ¼ -SW ¼ , Sec. 8, Twp. 2 N, Range 8 West; and
- SE ¼ -SW ¼ , Sec. 8 Twp 2 N, Range 8 West; and
- SW ¼ -SE ¼ , Sec. 8 Twp 2 N, Range 8 West, lying north of and west of southerly right-of-way line of Arkansas Hwy 31; and
- SE ¼ -SE ¼ , Sec. 8 Twp 2 N, Range 8 West, lying north and west of easterly right-of-way line of Arkansas Hwy 31; and
- N ½ -SW ¼ , Sec. 17, Twp 2 N, Range 8 West, lying north of southerly right-of-way line of U.S. Interstate Hwy 40, and
- West 334' of the NW ½ -NE ¼ , Sec. 17, Twp 2 N, Range 8 W, lying north of the southerly right-of-way line of U.S. Interstate Hwy 31.
- B. First Electric shall provide the City and the inhabitants of the annexed area adequate and reasonable electric service as a public utility and the facilities necessary to provide such service.
- C. Beginning in 2007, and thereafter, during the life of the franchise, First Electric shall pay to the City a franchise tax equal to four and one quarter percent (4.25%) of the gross annual revenue as derived from the annexed area. Said tax shall be paid on a monthly basis, or as the parties may otherwise mutually agree. (Ord. No. 563, Sec. 1 as amended by Ord. No. 651, Sec. 2).
- D. Said franchise shall constitute and be considered as complete payment and discharged by First Electric, of all license, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes and the general ad valorem taxes) which are now or might in the future be imposed by the City under the authority granted by law. (Ord. No. 413, Sec. 1-4.)

CHAPTER 4.08

GAS FRANCHISE

Sections:

4.08.01 Franchise tax

4.08.01 Franchise tax The franchise tax for Centerpoint Energy for the year 1963 shall be four and one quarter percent (4.25%) of the gross annual revenue derived within the corporate limits of the City by Centerpoint Energy. A certified copy of this ordinance shall be furnished Centerpoint Energy. (Ord. No. 564, Sec. 1.)

CHAPTER 4.12

TELEPHONE FRANCHISE

Sections:

4.12.01 Authority granted for operation of telephone system
4.12.02 Tax imposed upon AT&T
4.12.03 Tax shall be in lieu of other charges
4.12.04 Temporary moving of lines
4.12.05 Permission to trim trees

4.12.01 Authority granted for operation of telephone system AT&T, its successors and assigns (hereinafter referred to as "Telephone Company") shall continue to operate its telephone system and all business incidental to or connected with the conducting of a telephone business and system in the city of Lonoke, Arkansas, (hereinafter referred to as "City"). The plant construction and appurtenances used in or incidental 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 said 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. 189-A, Sec. 1.)

4.12.02 Tax imposed upon AT&T The franchise fee will be four and one quarter percent (4.25%) of the gross annual revenue derived within the corporate limits of the City by the Telephone Company. (Ord. No. 565, Sec. 1.)

4.12.03 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. 189-A, Sec. 3.)

4.12.04 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. 189-A, Sec. 4.)

4.12.05 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. 189-A, Sec. 5.)

CHAPTER 4.16

CABLE TELEVISION FRANCHISE

Sections:

4.16.01	Title
4.16.02	Grant of authority
4.16.03	Liability
4.16.04	Street occupancy
4.16.05	Payments to City
4.16.06	Rates and charges
4.16.07	Free connection and service
4.16.08	Records and reports
4.16.09	Emergency warning system
4.16.10	Comply with FCC standards
4.16.11	Activities prohibited
4.16.12	Amendment

4.16.01 Title This ordinance shall be known and may be cited as the Buford Media Group Ordinance. (Ord. No. 268, Sec. 1.)

4.16.02 Grant of authority This non-exclusive franchise by the City is in the exercise of its police powers and shall be subject to the terms and conditions as specified in the contract between the parties. There is hereby granted by the City to the Company the non-exclusive right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways, and public places now laid out or dedicated, utility or any other easements now laid out or dedicated, and all extensions or additions of any of same in the city, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures of any sort necessary or incident to the maintenance and operation in the City of a community television system for the reception and distribution of television signals, subject to use by the city of Lonoke. (Ord. No. 268, Sec. 3.)

4.16.03 Liability It is expressly understood by and between the Company and the City that the Company shall save the City harmless from all loss sustained by the City on account of any suit of any nature, including contractual, court costs, attorney fees, judgment, execution, claim or demand whatsoever, resulting from negligence on the part of the Company in the construction, operation or maintenance of the system described in this franchise. The Company shall comply with all provisions of the Workman's Compensation law of Arkansas. (Ord. No. 268, Sec. 5, as amended by Ord. No. 651, Sec. 2.)

4.16.04 Street occupancy

- A. The Company may enter into one or more contracts with Arkansas Power & Light Company, Southwestern Bell Telephone Company or the owner or lessee of an poles or posts located within the City to whatever extent such contract or contracts may be expedient and of advantage to the Company in furnishing the service covered by this franchise to its customers.
- B. The Company system, poles, wires and appurtenances shall be located, erected and maintained so that none of its shall endanger or interfere with the lives of persons, or interfere with any improvements the City may deem proper to make or hinder unnecessarily or obstruct the free use of the street, alleys, bridges, easements or public property.
- C. The Company shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixtures, water hydrant or main, and all such poles or other fixtures placed in or on any street or other easement of the City of Lonoke Utility Commission shall be placed according to the requirements of the Lonoke City Council and any city ordinance and then in such a manner as not to interfere with the usual travel on said streets, alleys and public ways or use of such easements.
- D. The City shall have the right at its own expense to designate an engineer to approve the Company's plans and, if an engineer be so designated, no construction shall be commenced without the prior approval of said engineer based upon plans submitted to him. All property shall be restored to its original condition at the cost of the Company.
- E. In the case of a street crossing or driveway, the cable Company will not cut a street or driveway unless all other alternatives have been exhausted. The Grantee will be totally responsible for restoration to original condition. (Ord. No. 268, Sec. 8.)

4.16.05 Payments to City The Company shall pay to the City, in addition to any and all privilege licenses and ad valorem or other taxes hereafter levied by the City, a sum equivalent to 4.25% of the annual gross operating revenues received by the Company for providing cable television, internet, telephone and/or other such services rendered to customers within the City during each year of operation under this franchise. (Ord. No. 268, Sec. 9, as amended by Ord. No. 717, Sec. 1).

4.16.06 Rates and charges In its rates, charges, service facilities, rules, regulations or in any other respect, the Company shall not make or grant any preference or advantage to any person or subject any person to any prejudice or disadvantage within the same classification of service. The Company shall have the right to establish different classifications of service for

residential and commercial users and to adopt charges and rate schedules to which any subscriber within those classifications shall be entitled. (Ord. No. 268, Sec. 10.)

4.16.07 Free connection and service The Company shall furnish, upon request, six (6) outlets for each local school, One (1) outlet for each municipal building or facility within its service area, and not more than one hundred fifty (150) feet from the Company's existing service facilities. An initial connection to each such building will be made free of charge; internal wiring and additional connections will be done for the cost of time and materials only. Exception: The internal wiring for the six (6) outlets for each local school will be free.

In no case will there be a monthly charge for basic Tier 1 service to such building. In addition, the Company agrees that one channel of its system will be reserved for the use of the City as a public service, educational or informational channel. The City will furnish any special equipment necessary to fee public service, educational or informational programs originated by the City into the Company's system. The Company reserves the right to use the channel described herein at anytime or during any period for which no program or use of such channel is scheduled by the City in accordance with reasonable rules to be prescribed by the Company.

Lonoke Senior High School shall have the capability of originating a closed circuit program from the Senior High School building to the other school buildings in Lonoke (primary, elementary, etc.) through the Company CATV system. The Senior High shall also have the capability of originating a program from the high school over the City Channel available to all subscribers.

The Company shall provide to subscribers at cost an optional A-B switch. This will allow the subscriber to switch from the CATV system to his existing antenna. The Company shall not remove any existing aerial TV reception antenna from any subscriber's home, place of business, etc. (Ord. No. 268, Sec. 11.)

4.16.08 Records and reports The City shall have access at all reasonable hours to all of the Company's plans, contracts and engineering, accounting, financial, statistical, customer and service records relating to the property and the operation of the Company and to all other records required to be kept hereunder. The following records and reports shall be filed with an appropriate city official and shall be available in the local office of the Company:

- A. Company rules and regulations Copies of such rules, regulations, terms and conditions adopted by the Company for the conduct of its business.
- B. Annual gross operating revenues An annual report showing annual gross operating revenues and such other information which the City shall reasonably request with respect to the Company's services within the City for such period. (Ord. No. 268, Sec. 12.)

4.16.09 Emergency warning system The System will include an emergency warning system which will make it possible for a designated city official to override the audio signal on all channels to deliver emergency messages. This capability will be provided at no cost to the City. (Ord. No. 268, Sec. 15.)

4.16.10 Comply with FCC standards Any modification in the Federal Communications Commission standards applicable to the system shall be automatically incorporated in and become a part of the franchise granted the Company within one (1) year of the final adoption of any such modification by the Federal Communications Commission. (Ord. No. 268, Sec. 18.)

4.16.11 Activities prohibited The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the City. (Ord. No. 651, Sec. 2.)

4.16.12 Amendment The First Amendment to the Franchise Agreement between the City of Lonoke, Arkansas and Alliance Communications Networks is approved and the Mayor is authorized, empowered, and directed to execute such document for and on behalf the City of Lonoke. The First Amendment shall remain in effect, pursuant to the terms and conditions contained therein, until the new expiration date, until a new agreement is entered into between parties, or until the Franchise Agreement is terminated pursuant to its terms. (Ord. No. 677, Sec. 1)

CHAPTER 4.20

OCCUPATION TAX

Sections:

- 4.20.01 Annual license
- 4.20.02 Updated list
- 4.20.03 Two businesses
- 4.20.04 Transfer
- 4.20.05 Date of payment
- 4.20.06 False statement
- 4.20.07 Fine

4.20.01 Annual license It shall be unlawful for any person, firm or corporation to engage in, follow or carry on in the city of Lonoke, Arkansas, any of the following businesses, trades, occupations, vocations, callings, or professions without first having obtained and paid an annual license therefore from the city Clerk, the amount of which license is hereby fixed by this ordinance. (Ord. No. 110, Sec. 1.)

4.20.02 Fee The license fee for all businesses, trades, occupations, vocations and professions, which conduct business in the city shall be Fifty-Five Dollars (\$55.00) per year. (Ord. No. 504, Sec. 1.)

4.20.03 Two businesses When more than one of the above businesses, trades, occupations, vocations and professions, are carried on in the same building under the same management, the license fees shall be for the two principal businesses, trades, occupations, vocations, and professions listed herein. (Ord. No. 110, Sec. 2.)

4.20.04 Transfer No license issued under this ordinance shall be transferred. (Ord. No. 110, Sec. 3.)

4.20.05 Date of payment All license fees herein provided for, except those for periods of less than one (1) year, shall be paid in advance not later than the 15th day of August of each year, and all license fees for periods of less than one (1) year as provided shall be payable in advance. All persons, firms, or corporations failing to pay to the City Clerk the annual license fee due on or before the 15th day of August of each year of the license fees for shorter periods of time as provided in advance, shall be subject to fine and fixed in 4.20.08. (Ord. No. 110, Sec. 5.)

4.20.06 False statement It shall be unlawful for any person, firm or corporation to knowingly and willfully make a false written or verbal statement in making application for a license to the City Clerk for the purpose of defrauding the city of Lonoke, Arkansas, by procuring a license for a less sum that is lawfully due. It shall be unlawful for any person, firm or corporation to fail to furnish the City Clerk any such further reasonable proof as may be demanded by the Clerk to properly determine the amount of the license. (Ord. No. 110, Sec. 6.)

4.20.07 Fine Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than double the amount of the annual license, and each day said violation shall continue shall constitute a separate offense. (Ord. No. 110, Sec. 7.)

CHAPTER 4.22

REGULATION OF BUSINESS LICENCES

Sections:

4.22.01	Unlawful Practices
4.22.02	Notice of Noncompliance/Suspension
4.22.03	Correction of Noncompliance
4.22.04	Appeal Procedure
4.22.05	Revocation
4.22.06	Future Restriction
4.22.07	Violations

The Lonoke Municipal Code is amended to add the following:

4.22.01 Unlawful Practices In addition to those offenses provided for in Ordinance 110, it shall be unlawful for a business to operate when it is out of compliance with or in violation of any City Ordinance. Examples of ordinances that can apply to a business include:

- A. Advertising and Promotion taxes – any business failing to pay its advertising and promotion tax within the time designated is subject to a penalty under that Ordinance. Any business failing to pay within thirty days following the deadline shall be in noncompliance.
- B. Payment of City Utilities – any business failing to pay its water or sewer or other bill sent to such business by the City shall, in addition to the penalties for nonpayment, be considered in noncompliance thirty days after the deadline to pay.
- C. Noncompliance with Ordinance 110 and 504 relating to business licenses – any business failing to obtain a business license, failing to pay, or violating the approved use for such license shall be considered in noncompliance immediately.
- D. Failure to pay fines or penalties – any business failing to timely pay business license fees or other fines and penalties shall be considered in noncompliance immediately.
- E. Other Ordinances – failure to comply with other Ordinances shall subject the business to noncompliance immediately. (Ord. No. 671, Sec. 1).

4.22.02 Notice of Noncompliance/Suspension When a business is out of compliance with City ordinance, the Mayor or his/her designee shall send a Notice of Noncompliance and Intent to Suspend to such business either by certified mail or hand delivery to the owner, manager, or the individual listed as the contact person on the business license application.

- A. The suspension shall take effect 10 business days following the delivery of such notice. Should the business not voluntarily cease to operate during the suspension, the City Police Department has the authority to post a notice on the door of the business and order it to cease operations. (Ord. No. 671, Sec. 2).

4.22.03 Correction of Noncompliance Any business receiving a notice of suspension will be given the opportunity to bring such business into compliance within the 10 business day period. Should the business not take action necessary to bring it back into compliance within the timeframe, an additional penalty of One Hundred Dollars (\$100) or Ten Percent (10%) of the amount owed, whichever is greater. This penalty shall be in addition to any other penalties that apply within the individual Ordinances. (Ord. No. 671, Sec. 3).

4.22.04 Appeal Procedure A business wishing to appeal the determination of suspension or revocation may do so in writing to the Mayor. The Mayor will review the information and may request additional information prior to making a determination. The Mayor will make a decision regarding the appeal within 10 business days of the date all information required from the business is received. (Ord. No. 671, Sec. 4).

4.22.05 Revocation The license of the business with a suspension status that is not corrected within sixty days of the Notice of Noncompliance shall advance from suspension to revocation. Should a business license be suspended three times in any twelve-month period, its license will be revoked. (Ord. No. 671, Sec. 5).

4.22.06 Future Restriction Before an individual or entity can apply for a new business license, any suspensions or penalties or fines still in arrears from a previous business owned by that individual, entity, or by another entity in which that individual was a principal must be satisfied. In extenuating circumstances, a waiver of this requirement may be sought by petition to the Mayor. This requirement shall apply whether the owner is reopening the same business or is applying for a license to operate a new business. (Ord. 671, Sec. 6).

4.22.07 Violations A violation of this Ordinance shall be a misdemeanor violation of City Ordinance and shall be punishable by the District Court through the fines and penalties set forth in this and any other City Ordinance and through any other remedies under the Court's jurisdiction. (Ord. No. 671, Sec. 7).

CHAPTER 4.24

AMBULANCE SERVICE

Sections:

- | | |
|---------|-------------------|
| 4.24.01 | Franchise granted |
| 4.24.02 | Contract |
| 4.24.03 | Acceptance |

4.24.01 Franchise granted The Lonoke Municipal Code is amended as follows: Southern Paramedic Services, Inc., is hereby granted and awarded the sole and exclusive franchise, license and privilege to provide ambulance services within the City of Lonoke, Arkansas, pursuant to the terms and conditions contained in the Contract approved by the City Council at its meeting on January 12, 2015. (Ord. No. 680, Sec. 1.)

4.24.02 Contract A true and correct copy of the contract is attached hereto and incorporated herein by reference. (Ord. No. 680, Sec. 2.)

4.24.03 Acceptance By the acceptance of the license and privilege to perform and the actual performance of the ambulance services within the city, Southern accepts and agrees to be bound by the terms of the contract attached hereto. (Ord. No. 680, Sec. 3.)

CHAPTER 4.28

ITINERANT MERCHANTS AND VENDORS

Sections:

- | | |
|---------|------------------------------|
| 4.28.01 | Definitions |
| 4.28.02 | Application |
| 4.28.03 | Bond |
| 4.28.04 | Non-profit peddler/solicitor |
| 4.28.05 | Permit |
| 4.28.06 | Fine |

4.28.01 Definitions For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Non-profit organization One that is organized to achieve a purpose other than generating profit and is a public charity under section 501(c)(3) of the U.S. Internal Revenue Code which is tax-exempt status giving a non-profit credibility with potential donors showing that the organization has a legitimate charitable purpose, a formal structure for accomplishing its goals, and is publicly accountable.

Peddler or solicitor Any individual person, firm, company, partnership, corporation, society, religious sect, organization, or league including, but not limited to, a trustee, receiver, agent, or similar representative of the same, who engages in peddling or soliciting, whether or not payment is collected at the time of such transaction.

Peddling or soliciting Engaging in conduct whereby a person, organization, society, corporation, or its agent, member of representative seeks property, financial aid, gifts, money, or any article representing monetary value, or sells or offers to sell merchandise, goods, any article of value, service, publication, ticket, advertisement or subscription. (Ord. No. 654, Sec. 1.)

4.28.02 Application Any person desiring license as an itinerant merchant, vendor, solicitor, door-to-door canvasser, photographer or salesman shall file with the City Clerk/Treasurer a written application containing:

- A. Applicant's name and home address;
- B. Type of license applied for;
- C. Name of employer;
- D. Last two cities worked in;
- E. Address of business or premises to be used in the city;
- F. Period for which license is desired.

(Ord. No. 654, Sec. 2.)

4.28.03 Bond The applicant for license shall also file with the City Clerk/Treasurer a bond with sureties approved by the City Clerk/Treasurer in the sum of Five Thousand Dollars (\$5,000.00). Said bond shall be made payable to the city for the use and benefit of all patrons or customers of said license. The bonds shall be conditioned for the faithful performance of the licensee's promises and contracts made in the course of his business in the city and said bond shall further provide that any person injured by the breach of any obligation which said bond secures may sue on such bond in his own name to recover such damages as he may have sustained a result of such breach. (Ord. No. 654, Sec. 3.)

4.28.04 Non-profit peddler/solicitor Any non-profit peddler/solicitor seeking to solicit donations within the corporate city limits on public property must obtain a permit, without bond, at no charge, from the City Clerk's office. Any non-profit peddler/solicitor must provide proof of non-profit status to the City Clerk's office in order to obtain the permit. The permit shall be limited to one (1) permit per year with a time limit for soliciting of one (1) day per year and no more than twelve (12) hours on the permit day. The city reserves the right to allow an additional time allowance in the event of extenuating circumstances. The additional time allowance must be approved in advance by the Mayor. (Ord. No. 654, Sec. 4.)

4.28.05 Permit The permit or copy thereof shall be on the person or in the immediate possession of each peddler/solicitor. (Ord. No. 654, Sec. 5.)

4.28.06 Fine Violation of this ordinance shall constitute a Class A misdemeanor and shall be punishable up to one (1) year in jail and a fine of Two Hundred Fifty Dollars (\$250.00) per offense. Each act of solicitation and each house contacted shall constitute a separate offense. (Ord. No. 654, Sec. 6.)

CHAPTER 4.30

REGULATION OF RIGHT-OF- WAYS/PERMITS

Sections:

- 4.30.01 Purpose, Authority, Scope, and Definitions
- 4.30.02 Required Construction Permits
- 4.30.03 Required Minimum Standards
- 4.30.04 Restoration of Property
- 4.30.05 Inspections
- 4.30.06 Other approvals, permits, and agreements
- 4.30.07 Penalties
- 4.30.08 Aesthetic standards
- 4.30.09 Other provisions

The Lonoke Municipal Code is amended to add the following:

4.30.01 Purpose, Authority, Scope, and Definitions

- A. Purpose. This ordinance prescribes the minimum requirements for the accommodation of public and private utilities within the Right-of-Way within the municipal boundaries of Lonoke, Arkansas.
- B. Authority. Under Arkansas Code Annotated § 14-200-101 the City of Lonoke has the authority to determine the terms and conditions upon which a Public Utility may be permitted to occupy the streets, highways, or other public places with the municipality.
- C. Scope. The provisions of this Ordinance shall apply to all Utilities and Facilities occupying the Rights of Way as provided herein.
- D. Definitions:

City means the City of Lonoke, Arkansas.

Codified Ordinances The Codified Ordinances of the City of Lonoke, Arkansas.

Construct Means but shall not be limited to, dig, bore, tunnel, trench, excavate, obstruct, install or remove signs, or Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construct shall also include the act of opening and/or cutting into the surface of any paved or improved surface that is any part of the Right of Way.

Construction Means but shall not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing or removing signs or Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construction shall also include the act of opening, boring and/or cutting into the surface of any part of the Right of Way.

Director The Mayor, or his or her designee.

Emergency A condition that poses a clear and immediate danger to life, health, or safety of a person, or of significant damage or loss of real or personal property;

Facility or Facilities Any tangible thing, including but not limited to pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, appurtenances, appliances and future technology of any Utility in, on, along, over, or under any part of the Rights of Way within the City.

Facilities Representative(s) The specifically identified agent(s)/employee(s) of a Utility who are authorized to direct field activities of that Utility and serve as official notice agent(s) for Facilities related information. Utility shall be required to make sure at least one (1) of its Facilities Representatives available at all times to receive notice of, and immediately direct response to, Facilities related emergencies or situations.

FCC The Federal Communications Commission or any successor thereto.

Permit An authorization which grants permission to conduct specific regulated activities on, in, over, under or within any right-of-way, and which may be subject to conditions specified in a written agreement with the City or in a related provision of this Code of Ordinances

Right(s) of Way The surface and space in, on, above, within, over, below, under or through any real property in which the City has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, or any other place, area, or real property owned by or under the legal or equitable control of the City, now or hereafter, that consistent with the purposes for which it was dedicated, may be used for the purposes of constructing, operating, repairing or replacing Facilities

Service(s) The offering of any service by a Utility for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision of any service by a Utility between two or more points for a proprietary purpose to a class of users other than the general public

Service Agreement A valid license agreement, service agreement, franchise agreement, or operating agreement issued by the City or state pursuant to Law and accepted by a Utility or entered into by and between the City and a Utility, which allows such Utility to operate or provide service within the geographic limits of the City.

Street or Streets The surface of, as well as the spaces above and below, any and all the streets, alleys, avenues, roads, bridges, tunnels and public places of the City within the corporate limits of the City, as the same now exist or may be hereafter extended or altered, and any location thereon, thereover or thereunder, and any portion thereof.

Transfer The disposal by the Utility, directly or indirectly, by gift, assignment, sale, merger, consolidation, or otherwise, of more than fifty percent (50%) at one time of the ownership or controlling interest in the Facilities, or of more than fifty percent (50%) cumulatively over the term of a written approval of Registration of such interests to a corporation, partnership, limited partnership, trust, or association, or person or group of persons acting in concert.

Unused Facilities The Facilities located in the Rights of Way which have remained unused for twelve (12) months and for which the Utility is unable to provide the City with a plan detailing the procedure by which the Utility intends to begin actively using such Facilities within the next twelve (12) months, or that it has a potential purchaser or user of the Facilities who will be actively using the Facilities within the next twelve (12) months, or, that the availability of such Facilities is required by the Utility to adequately and efficiently operate its Facilities.

Utility or Utilities All privately, publicly, or cooperatively owned systems for producing, transmitting, or distributing communication, data, information, telecommunication, cable television, video services, power, electricity, light, heat, gas, oil, crude products, water/sewer, steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, Utility, service, contractor or subcontractor, or any agent thereof, of any above-described utility or utility facility. (Ord. No. 767, Sec. 1)

4.30.02 Construction Permits Required

- A. Permit Required. It shall be unlawful for any Utility to excavate or to construct, install, maintain, renew, remove or relocate Facilities in, on, along, over or under the public roads of the City without a Utility permit from the department of Planning and Environmental Services in accordance with the terms of this Ordinance.
- B. Permit Procedure. Utility Permits shall be obtained from the Mayor's Office (or such other person as the Mayor may designate) upon application made on forms prescribed by the City. The written application shall include the following:
 - 1. The name and address of the Utility
 - 2. The nature, extent, and location of any work proposed to be done, along with satisfactory plans as attachments showing in detail the location of the proposed Facility or operations as described in the Permit application. The plans shall show the size or capacity of Facilities to be installed; their relationship to Street features such as right-of-way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the Street and its operation;
 - 3. The name and address of the person or firm who is to do such work
 - 4. The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more Facilities Representative(s) .
 - 5. The projected dates for the work to be started and finished;

6. An indemnity bond or other acceptable security in an amount to be set by the City to pay any damages to any part of the City road system or other City property or to any city employee or member of the public caused by activity or work of the Utility performed under authority of the permit issued;

7. A copy, if requested, of the Registrant's certificate of authority (or other acceptable evidence of authority to operate) from the Arkansas Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements; and

8. A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the Utility to use or occupy the Right of Way for the purpose described in the application.

C. Permit Fees The City shall charge a permit fee of \$250.00 per application to be paid by the Utility upon submission of the application.

D. Issuance of Permit If the Director determines the Applicant has satisfied the following requirements, the Director may issue a permit.

1. Whether issuing of the approval will be consistent with this Ordinance; and

2. Whether Applicant has submitted a complete Application and has secured all certificates and other authorizations required by law, if applicable, in order to construct Facilities in the manner proposed by the Applicant; and

3. The impact on safety, visual quality of the streets, traffic flow, and other users of the right of way and the difficulty and length of time of the Project, construction or maintenance.

E. Emergency Situations.

1. Each Utility shall, as soon as reasonably practicable, notify the Director of any event regarding its Facilities which it considers to be an Emergency. The Utility may proceed to take whatever actions are necessary in order to respond to the Emergency. A Utility who engages in an emergency excavation shall take all reasonable precautions to avoid or minimize damage to any existing facilities.

2. In the event that the City becomes aware of an Emergency regarding Utility Facilities, the City may attempt to contact the affected Utility or Facilities Representative. The City may take whatever action it deems necessary in order to respond to the Emergency, including cut or move any of the wires, cables, amplifiers, appliances, or other parts of the Facilities. The City shall not incur any liability to the Utility, for such emergency actions, and the cost of such shall be paid by each Utility affected by the Emergency.

F. Effective Period of Permit.

1. Each permit shall have a set commencement and expiration date based on information provided in the applicant's permit application.

2. The Permit shall remain in place Construction is completed or until its expiration date unless the Utility is in default. The Director may give written notice of default to a Utility if it is determined that a Utility has

- a. Violated any provision or requirement of the issuance or acceptance of a Permit application or any law of the City, state, or federal government;
- b. Attempted to evade any provision or requirement of this Ordinance;
- c. Practiced any fraud or deceit upon the City; or
- d. Made a material misrepresentation or omission of fact in its Permit application.

G. Cancellation for Cause. If a Utility fails to cure a default within twenty (20) Working Days after such notice is provided to the Utility by the City, then such default shall be a material breach and City may exercise any remedies or rights it has at law or in equity to terminate the Permit. If the Director decides there is cause or reason to terminate, the following procedure shall be followed:

1. City shall serve a Utility with a written notice of the reason or cause for proposed termination and shall allow a Utility a minimum of fifteen (15) calendar days to cure its breach.
2. If the Utility fails to cure within fifteen (15) calendar days, the City may declare the Permit terminated.

- H. Expiration of Permit. If work is not begun within six (6) months of the date of issuance, the permit will automatically expire. (Ord. No. 767, Sec. 2)

4.30.03 Required Minimum Standards

- A. Utility Accommodation Manual Adopted. The 2010 Utility Accommodation Policy manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, promulgated by the Arkansas State Highway and Transportation Department, as may be amended from time to time is hereby adopted by reference and incorporated in the article as if fully set forth herein, subject to the amendments and modification contained in this Ordinance. A copy of the manual shall be maintained at the offices of the Director or his designee and open for public inspection. Any conflicts between the provisions of this ordinance and the manual shall be resolved in favor of the manual. References to State personnel, agencies, and fees shall be interpreted, where required, as meaning the City of Lonoke municipal equivalents.
- B. Protection of Traffic and Roadway. Unless specifically in the Permit, no Utility may occupy the City Rights of Way unless sufficient space is available so that the free flow and safety of traffic and other capacity considerations are not unduly impaired and the installation does not prevent the Department from reasonably maintaining the streets, structures, traffic control devices and other appurtenant facilities, and further provided that maintenance and operations of the Facilities do not jeopardize the traffic, street structure, other users of the right of way or the right of way itself.
- C. Grading. If the grades or lines of any street within the City Right of Way are changed at any time by the City during the term of the permit and this change involves an area in which the Utility's Facilities are located, then the Utility shall, at its own cost and expense and upon the request of the City upon reasonable notice, protect or promptly alter or relocate the Facilities, or any part thereof, so as to conform with such new grades or lines. In the event the Utility refuses or neglects to so protect, alter, or relocate all or part of the Facilities, the City shall have the right to break through, remove, alter, or relocated all or any part of the Facilities without any liability to the Utility and the Utility shall pay to the City the costs incurred in connection with such breaking through, removal, alteration, or relocation.
- D. Installation of Poles and Other Wire holding Structures and Relocation. Unless otherwise provided in a valid service agreement, no placement of any pole or wire holding structure of the Utility is to be considered a vested interest in the Right of Way, and such poles or structures are to be removed, relocated underground, or modified by the Utility at its own expense whenever the City determines that the

public convenience would be enhanced thereby. The Facilities shall be so located and installed as to cause minimum interference with the rights and convenience of property owners.

- E. Notice of Intent to Excavate or Demolish. As provided in Arkansas Code Annotated § 14-271-112 and other applicable state law currently in place or as amended, no Utility shall commence, perform, or engage in blasting or in excavating with mechanized excavating facilities unless and until the Utility planning the blasting or excavating has given 48 hours' notice by submitting a locate request to the One Call Center, beginning the next Working Day after such notice is provided, excluding hours during days other than Working Days. (Ord. No 767, Sec. 3)

4.30.04 Restoration of Property

- A. Each Utility shall be responsible for the cost of repairing any Facilities in the Rights of Way and adjoining property or other Facilities which it or its Facilities damage.
- B. A Utility shall be liable, at its own cost and expense, to replace, restore or repair, any Street, Facilities or property or structure thereon, thereunder, thereover or adjacent thereto that may become disturbed or damaged as a result of the Construction or installation, operation, upgrade, repair or removal of Facilities to a condition as good as or better than its condition before the work performed by the Utility that caused such disturbance or damage. If the Utility does not commence such replacement or repair after twenty (20) Working Days following written notice from the City, the City or the owner of the affected structure or property may make such replacement or repair and the Utility shall pay the reasonable and actual cost of the same. (Ord. No. 767, Sec. 4)

4.30.05 Inspection

- A. The Utility shall make the Construction site available to the Director and to all others as authorized by Law for inspection at all reasonable times during the execution and upon completion of the Construction.
- B. At any time, including the time of inspection, the Director may order the immediate cessation of any work which poses a serious threat to the health, safety, or welfare of the public, violates any law, or which violates the terms and conditions of the Permit and/or this Ordinance or issue an order to correct work which does not conform to the Permit and/or applicable standards, conditions or codes.
- C. When the Construction under any Permit is completed, the Utility shall notify the Director. (Ord. No. 767, Sec. 5) 37.7

4.30.06 Other Approvals Permits and Agreements

S-1

- A. Additional Permits Required. The Utility shall obtain all construction, building or other permits or approvals as according to City ordinance, state or federal law. In addition, a Permittee shall comply with all requirements of laws, shall complete work in a way as to not cause any unnecessary or unauthorized obstructions of sidewalks, streets, waterways or railways, and is responsible for all work done in the Rights of Way regardless of who performs the work. No Rights of Way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an Emergency as outlined in Section 2 (e). (Ord. No. 767, Sec. 6)

4.30.07 Penalties

- A. Every Utility convicted of a violation of any provision of this Ordinance shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) per violation. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits. (Ord. No. 767. Sec. 7)

4.30.08 Aesthetic Standards

- A. Authority and Scope. Under Arkansas Code Annotated § 14-200-101 the City of Lonoke has the authority to determine the terms and conditions upon which a Public Utility may be permitted to occupy the streets, highways, or other public places with the municipality. Further, 47 U.S.C. § 253(c) provides that the City has authority to manage its rights of way.
- B. The City finds it is in the best interest of the City and its residents and businesses to establish aesthetic requirements and other specifications and reasonable conditions regarding placement of facilities in the rights of way. These requirements, specifications and conditions are adopted in order to protect the public health, safety and welfare of the residents and businesses of the City and to reasonably manage and protect the rights of way and its uses in the City.
- C. The objective of this Section is to ensure use of the rights of way: (i) is consistent with the design, appearance and other features of nearby land uses; (ii) protects the integrity of historic, cultural and scenic resources; and (iii) does not harm residents' quality of life.

- D. This Section applies to all requests to locate facilities in the Rights of Way and ongoing use of the Rights of Way for such facilities. This Section is established pursuant to City Charter and applicable law. This Section is administered by the Planning and Community Development Department.
- E. Placement or modification of facilities in the Right of Way shall comply with this Section at the time the permit for installation or modification is approved and as amended from time to time. Permittees are required to comply with City Code and applicable law and regulations.
- F. Definitions. Unless otherwise defined in Section 1d, terms used in this Section are as defined in Arkansas Code Annotated, Title 23, Chapter 17, Subchapter 5 (the "Small Wireless Facility Deployment Act"). Definitions in this Section include references and citations to applicable federal and state laws. In the event that any referenced section is amended, the definition in the referenced section, as amended, shall control.
- G. Facilities Standards.
1. To the extent possible, Facilities should be compatible in size,
 2. and should be painted to match as closely as possible the color of similar facilities in the same zoning area, with a goal of minimizing the physical and visual impact on the area.
 3. Facilities should be located in alignment with existing trees and/or facility
- H. Undergrounding. Facilities shall be installed underground to conform with areas where utilities are already underground so long as placement underground will not materially impact the provision of service.
- I. Camouflaging. Facilities must be designed using camouflaging techniques that make them as unobtrusive as possible as possible if:
- J. Concealment. Facilities shall incorporate specific concealment elements to minimize visual impacts.
- K. Installation and Modification Standards. Installation of new facilities in, on, along, over, or under the rights of way or modification of existing facilities in, on, along, over, or under the Rights of Way shall:
1. Minimize risks to public safety; 37.9

2. Ensure that placement of facilities on existing structures is within the tolerance of those structures; and
 3. Ensure that use of the Rights of Way does not interfere with the primary uses of the Rights of Way, or hinder the ability of the City or other government entities to improve, modify, relocate, abandon, or vacate the Right of Way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the Right of Way.
- M. Contact Information. Every facility placed in the rights of way shall at all times display signage that accurately identifies the facility owner and provides the facility owner's unique site number, and also provides a local or toll-free telephone number to contact the facility owner's operations center. (Ord. No. 767, Sec. 8)

4.30.09 Other Provisions

- A. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.
- B. Reservation of Regulatory and Police Powers. The City by issuing a Permit under this Ordinance, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or may be hereafter vested in the City under the Constitution and Laws of the United States, State of Arkansas and the City Charter, and under the provisions of the City's Codified Ordinances to regulate the use of the Rights of Way. The Utility by applying for and being issued a written Permit, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Utility is deemed to acknowledge that its interests are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws enacted by the City pursuant to such powers. In particular, all Utilities shall

comply with City zoning and other land use requirements pertaining to the placement and specifications of Facilities to the extent they comply with state law.

- C. Compliance. No Person shall be relieved of its obligation to comply with any of the provisions of this Ordinance by reason of any failure of City to enforce compliance.
- D. Appeal of Administrative Decisions. All appeals provided for by this Ordinance and any notification to the City required by this Ordinance shall be in writing and sent via certified mail to the Director as specified in this Ordinance.
- E. Ordinance Headings. Ordinance headings are for convenience only and shall not be used to interpret any portion of this Ordinance. (Ord. No. 767, Sec. 9)

CHAPTER 4.32

ADVERTISING AND PROMOTION COMMISSION

Sections:

- 4.32.01 Commission
- 4.32.02 Activities Subject to Tax
- 4.32.03 Permit
- 4.32.04 Assessments
- 4.32.05 Enforcement
- 4.32.06 Disposition of Revenues

The Lonoke Municipal Code is amended to add the following:

4.32.01 Commission

- A. Authorization. The City of Lonoke hereby authorizes the Advertising and Promotion Commission (“Commission”) to be composed of seven (7) members, under Ark. Code Ann. §26-76- 605, as appointed by the Mayor and approved by the City Council.
- B. Meetings. The Commission shall meet within two weeks of its appointment and shall be organized by electing a chairman and a secretary. After that, the Commission shall meet as often as may be necessary and shall also be subject to special call by the chairman.

- C. Rules/Regulations. The Commission shall promulgate rules and regulations and prescribe all forms as necessary or required for the enforcement and collection of the A&P tax. The Commission shall have the authority to alter, change, or amend such rules and regulations from time to time.
- D. Representatives. The Commission may designate representatives who are authorized to act for the Commission whenever not otherwise prohibited by law. (Ord. No. 626, Sec. 1)

4.32.02 Activities Subject to Tax

- A. The gross receipts or gross proceeds from renting, leasing, or otherwise furnishing hotel, motel, house, cabin, bed and breakfast, campground, condominium, or other similar rental accommodations for sleeping, meeting, or party room facilities for profit in Lonoke, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more; and
- B. The portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delicatessens, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, or similar businesses as shall be defined in the levying ordinance from the sale of prepared food and beverages for on-premises or off-premises consumption.
- C. Such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under 26 U.S.C. § 501(c)(3).
- D. The person selling such food or furnishing such accommodations shall collect the tax from the purchaser or user of the food or accommodations.
- E. The Commission shall establish the procedures for collection of the A&P tax.
- F. It shall be the duty of the person collecting the tax to submit to the City on or before the twentieth day of each month all collections of the tax for the preceding month, accompanied by reports on forms to be prescribed by the Commission. A copy of the state sales tax report for that same period shall be attached to the report. The permit holder shall be liable to file a report every month thereafter even if no tax is due. (Ord. No. 626, Sec. 2).

4.32.03 Permit

- A. It shall be unlawful for any person subject to the A&P tax to transact business within the City prior to the issuance and receipt of an A&P tax permit from the City.
- B. Any person subject to the tax shall file with the Commission an application for an

A&P tax permit to conduct that business, the form and contents of which application shall be as prescribed by the Commission from time to time.

- C. The A&P tax permit shall at all times be conspicuously displayed at the location thereon designated.
- D. Whenever a person to whom an A&P tax permit has been issued fails to comply with any provision of this ordinance, including any rule or regulation prescribed by the Commission from time to time, written notice of an intent to revoke the A&P permit shall be given via personal hand delivery by an agent of the Commission who shall verify service by affidavit of service or via registered mail.
- E. The Commission's procedures shall allow any taxpayer who wishes to protest the proposed revocation to file with the Commission no later than thirty days following the date of the proposed Assessment, a written protest under oath, signed individually or by his authorized agent, setting forth the taxpayer's reasons for opposing the proposed Assessment. The Commission shall review any Information submitted and shall affirm its decision to revoke. provide the person with additional time to comply or withdraw its intent to revoke. This decision shall be mailed in writing to the person at the last address provided by that person to the Commission.
- F. The person shall be entitled, within thirty (30) days from the date of the revocation of the A&P tax permit to appeal to the Circuit Court of Lonoke County, Arkansas, where the action shall be tried de nova.
- G. The Commission shall determine the circumstances under which a person may apply for renewal of any revoked or suspended permit. (Ord. No. 626, Sec. 3).

4.32.04 Assessments If a taxpayer shall fail to comply with certain provisions of this ordinance, the City of Lonoke further authorizes the Commission to assess the following penalties and additions to the tax:

- A. The Commission shall have the authority to set procedures for issuing Assessments (the Commission's determination of a violation of this Ordinance) against any taxpayer that fails to file any return or files a return that appears to be under-reporting tax obligations.
- B. The Commission's procedures shall allow any taxpayer who wishes to protest the proposed Assessment to file with the Commission no later than thirty days following the date of the proposed Assessment, a written protest under oath, signed individually or by his authorized agent, setting forth the taxpayer's reasons for opposing the proposed Assessment.
- C. The Commission may authorize the imposition of penalties for failure to pay in

addition to the amount required to be shown as tax on the A&P return. Such penalties and fines may include, but are not limited to:

1. Five percent (5%) of the total amount of the A&P tax if the failure to pay is not more than one month, with an additional five (5%) percent for each additional month or fraction thereof during which the failure continues, not to exceed thirty-five percent (35%) in the aggregate, and
 2. Simple interest on any unpaid A&P tax shall be assessed at the rate of ten percent (10%) per annum from the delinquency date.
- D. The Commission may assess unpaid or unreported tax within three (3) years of the date the tax is due. This time may be extended during a period following an Assessment or a notice of delinquency issued by the Commission to the taxpayer. The Commission and the taxpayer may enter into an agreement to extend this period. Whenever a taxpayer requests an extension of time to file or pay, the limitation of time for assessing any tax shall be likewise extended.
- E. In addition to any civil penalties provided in this Ordinance, in the Commission's rules and regulations, or elsewhere, any person or entity liable for payment of said tax that fails to pay following an Assessment by the Commission for a period of sixty (60) days or more shall be charged in the Lonoke District Court with a violation of this Ordinance and shall be subject to such fines and penalties in an amount up to \$250.00 per month per offense plus restitution in an amount equal to the unpaid tax. In addition, the Commission can seek reimbursement for its cost of collection.
- F. The Commission may adopt the procedures set forth in Ark. Code Ann. §26-75-603(d-e). The Commission shall have all remedies and may take all proceedings for the collection of the tax that may be taken for the recovery of a judgment at law.
- G. The person shall be entitled, within thirty (30) days from the date of the Assessment to appeal to the Circuit Court of Lonoke County, Arkansas, where the action shall be tried de novo.(Ord. No.626, Sec. 4).

4.32.05 Enforcement The administration and enforcement and all actions shall be by and in the name of the City of Lonoke Advertising and Promotion Commission through the proper Commission officials or agents, including the city attorney. The Commission shall have the authority to sue and be sued in its name.

- A. The Commission is authorized to adopt and use procedures consistent with and in similar form to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. and the Arkansas-Tax Procedure Act, § 26-18-101 et seq., the provisions of which, including the rules, regulations, forms of notice, Assessment procedures, and the enforcement

and collection so far as is practicable, shall be deemed incorporated herein as applicable with respect to the enforcement and collection of the A&P tax.

- B. The provisions of this ordinance shall be cumulative of any other procedures available to enable the Commission or its agent to enforce the tax.
- C. The Commission, for the purpose of determining the accuracy of a return or fixing any liability hereunder may authorize the examination or investigation of the place of business, the tangible personal property, equipment, facilities, and the books, records, papers, vouchers, accounts, and documents of any taxpayer or other person. No notice to the taxpayer is required if, in the discretion of the Commission, the taxpayer is attempting to evade payment of taxes or is reporting its tax collections inaccurately. Every taxpayer or other person and his agents and employees shall exhibit to the Commission these places of business and items and facilitate any examination or investigation. The Commission Is authorized to examine the records and files of any person, except where privileged by law, any other business, institution, financial institution, the records of any state agency, agency of the United States Government, or agency of any other state where permitted by agreement or reciprocity. This shall specifically include any person or business employed by the taxpayer to prepare tax returns, books of accounts or audit the tax preparers books and records. Further, it shall include accountants, CPA's and any other business or individual bank accounts of the tax preparer or any or all owners of a business subject to this Ordinance.
- D. The Commission may compel production of these records by summons.
- E. In the case of a fraudulent return or failure to file a report or return required hereunder, the Commission may compute, determine, and assess the estimated amount of tax due from any information in its possession or may begin an action in court for the collection of the tax without Assessment, at any time.
- F. The Commission may provide procedures for summons and may compel production of records through the Lonoke District Court which may hold the party in contempt of court.
- G. The statute of limitations on collection by levy or proceeding in court is ten years after the date of the assessment of the tax.
- H. No person shall be prosecuted, tried, or punished for any of the various criminal offenses arising under the provisions of this ordinance unless the indictment of the taxpayer is instituted within six years after the Commission of the offense.

- I. The Commission shall give notice to the taxpayer of any Assessment, demand, decision, or investigation that directly involves the taxpayer.
- J. All notices required to be given by the Commission to the taxpayer shall either be served by personal service or sent by mail to that taxpayer's last address on record with the Commission and may be posted at the place of business. If the mail is returned unclaimed or refused, then proper notice shall have been given and the Commission may take any action permitted by this ordinance or otherwise by law. (Ord. No. 626, Sec. 5).

4.32.06 Disposition of Revenues All taxes, interest, penalties, and costs collected pursuant to a tax levied by the city as authorized in this ordinance shall be deposited into a special fund to be used for the development, construction, repair, reconstruction, maintenance, administration, improvement, equipping and operation of city parks or other similar recreation facilities. The funds shall be disbursed by the mayor upon approval of the city council. (Ord. 626, Sec. 6).