

TITLE 4

BUSINESS LICENSES AND REGULATIONS

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CHAPTER 4.04

ELECTRIC FRANCHISE

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4.04.01 Electric franchise granted to North Arkansas Electric Cooperative The city of Briarcliff, Arkansas, (hereinafter called Grantor) hereby grants to the North Arkansas Electric Cooperative, 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 Briarcliff, 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).

4.04.02 Rights and responsibilities of Grantor and Grantee

- A. 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.
- B. 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.
- C. 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; 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.

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.

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.

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.

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.

4.04.07 Franchise tax During the life of this franchise, the Grantee shall pay to Grantor each year a franchise tax in an amount equal to one percent (1%) of the first One Hundred Dollars (\$100.00) of each bill starting as of July 1, 2008 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 Briarcliff, Arkansas. Payments shall be made by the Grantee to the Grantor in approximately equal quarterly installments. 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 Briarcliff, 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.

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. (Ord. No. 5-1-2008, Sec. 1.)

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.

4.04.09 Private generation facilities allowed 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 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.

CHAPTER 4.08

TELEPHONE FRANCHISE

Sections:

- 4.08.01 Authority granted for operation of telephone system
- 4.08.02 Tax imposed upon CenturyTel of Mountain Home, Inc. DBA CenturyTel
- 4.08.03 Tax shall be in lieu of other charges
- 4.08.04 Temporary moving of lines
- 4.08.05 Permission to trim trees
- 4.08.06 Ordinance does not require or permit electric light or power wire attachments
- 4.08.07 Exclusive privileges not given

4.08.01 Authority granted for operation of telephone system The CenturyTel of Mountain Home, Inc. DBA CenturyTel, 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 Briarcliff, Arkansas, (hereinafter 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 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.

4.08.02 Tax imposed upon CenturyTel of Mountain Home, Inc. DBA CenturyTel Beginning in 1984, the Telephone Company shall pay to the city for the period January 1, 1984 through December 31, 1984, inclusive and thereafter for like periods an amount equal to four percent (4%) of the access line billing within the corporate limits during the preceding year. Payments shall be in equal quarterly installments on or before the last day of March, June, September and December of each year.

4.08.03 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.

4.08.04 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.

4.08.05 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.

4.08.06 Ordinance does not require or permit electric light or power wire attachments Nothing contained in this chapter 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 a separate non-contingent agreement shall be a prerequisite to such attachments.

4.08.07 Exclusive privileges 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.

CHAPTER 4.12

BUSINESS LICENSE

Sections:

- 4.12.01 Terms and definitions
- 4.12.02 Business license required
- 4.12.03 Calendar year

4.12.04	Separate license required
4.12.05	Procedure application
4.12.06	Fees
4.12.07	False statements
4.12.08	Transfer and assignment
4.12.09	Penalty

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

Business The term “business” as used in this chapter shall mean a trade, occupation, vocation, profession, venture, pursuit, livelihood or exchange, career, employment or transaction.

City The term “city” as used in this chapter shall mean the city of Briarcliff, Arkansas.

Person The term “person” as used in this chapter shall mean a person, firm, partnership, association, corporation or venture. (Ord. No. 1-18-2011, Sec. 1.)

4.12.02 Business license required Each person engaged in a business within the city limit shall be required to procure an annual business license from the city. (Ord. No. 1-18-2011, Sec. 2.)

4.12.03 Calendar year

- A. Any business license required herein shall be for a period of one (1) year, commencing on the effective date hereof and ending on December 31, 2004, and every year thereafter.
- B. Each person shall procure said business license and pay the fees required within thirty (30) days of the date of January 1 (or within thirty (30) days after the effective date) for the calendar year, or 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, and the fees levied upon such new business shall be computed on a pro-rata basis of months remaining in the calendar year. (Ord. No. 1-18-2011, Sec. 3.)

4.12.04 Separate license required

- A. Any person engaged in two (2) or more businesses for which a license is required shall be required to obtain a license for each separate business.
- B. When a person has more than one place of business, each place of business shall be considered a separate and distinct business. (Ord. No. 1-18-2011, Sec. 4.)

4.12.05 Procedure application

- A. Each person desiring a license required by this chapter shall apply to the City Clerk, for which said City Clerk shall issue and deliver a receipt for payment and license therefore.
- B. Each person with no physical location within the city engaged in business within the corporate limits shall be required to procure a Business License from the city unless such person possesses a valid Business 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 Briarcliff. (Ord. No. 1-18-2011, Sec. 5.)

4.12.06 Fees The fee shall be Twenty-Five Dollars (\$25.00) per year, and shall be prorated at Two Dollars (\$2.00) per month with the remaining One Dollar (\$1.00) as a handling fee for the city. (Ord. No. 1-18-2011, Sec. 6.)

4.12.07 False statements It shall be unlawful for any person to knowingly make a false statement in this application for any license required by this chapter for the purpose of defrauding the city of the just license fees. (Ord. No. 1-18-2011, Sec. 7.)

4.12.08 Transfer and assignment Any person who shall sell, transfer or assign all of his interest in any business to any other person may transfer to such other person by written assignment and license by notifying the City Clerk in writing of said transfer and by endorsing such license on the reverse side thereof. (Ord. No. 1-18-2011, Sec. 8.)

4.12.09 Penalty Any person engaged in business without first having procured a license therefore as provided herein, and paid the requisite fee therefore as provided herein, shall be deemed guilty of a misdemeanor and shall, upon conviction, pay a penalty of twice the amount of such license fee due plus the cost of collection and a fine of not less than One Hundred Twenty-Five Dollars (\$125.00) nor more than Two Hundred Fifty Dollars (\$250.00), and each day of operation of such business without payment and procurement of said license shall constitute a separate and distinct offense. (Ord. No. 1-18-2011, Sec. 9.)