

TITLE 4

BUSINESS LICENSES AND REGULATIONS

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- 4.04 Electric Franchise
- 4.08 Gas Franchise
- 4.12 Telephone Franchise
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CHAPTER 4.04

ELECTRIC FRANCHISE

Sections:

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4.04.01 Electric franchise granted to Clay County Electric Cooperative Corp. The city of Pocahontas, Arkansas, (hereinafter called Grantor) hereby grants to the Clay County Electric Cooperative Corporation, 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 Pocahontas, Arkansas, except any portion which may be located within the legally allocated territory of another utility, (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. 362, Sec. 1.)

4.04.02 Rights and responsibilities of grantor and grantee.

- A. General Rights and Obligations. 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 1 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 1 from interference with, or duplication by, other persons, firms or corporations seeking to engage in the sale or distribution of electric energy.
- B. Standards and 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.
- C. Removal of Hazards; Clearing of Right-of-Ways. 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. (Ord. No. 362, Secs. 2-4.)

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. 362, 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. 362, 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. 362, 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. 362, Sec. 8.)

4.04.07 Franchise tax. Beginning in January, 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: Five percent (5%) of the preceding month's electric revenues before the application of any adjustment clause as paid to the Grantee by consumers located within the corporate limits of the city of Pocahontas, Arkansas, applicable to the following classes of service: All classes of service. 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 revenues received by Grantee in the city of Pocahontas, 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. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee to pay Grantor the Franchise tax as set forth herein shall immediately terminate. (Ord. No. 362, 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. 362, Sec. 10.)

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. (Ord. No. 362, Sec. 11.)

4.04.10 Contract Upon written acceptance by Grantee, this ordinance shall constitute a contract between Grantor and the Grantee, and its successors and assigns. (Ord. No. 362, Sec. 12.)

4.04.11 Franchise tax paid to Arkansas Power and Light Beginning October 1, 1983, and continuing thereafter until canceled by either party, the Company shall pay to the City five percent (5%) of its then current year gross electric revenue collections of its residential and commercial customers located in the corporate limits of the City. (Ord. No. 375, Sec. 1.)

It is expressly agreed and understood by the City that said payments shall constitute and be considered as complete payment and discharge by the Company of all licenses, fees, occupation and privilege taxed, charges, imposition, or other taxes (other than automobile license fees, special millage taxes and general ad valorem taxes) which are now and may in the future be imposed by the City under authority conferred upon the City by law. (Ord. No. 213, Sec. 1.)

4.04.12 Payments made quarterly Payments to the City by the Company shall be made quarterly throughout the calendar year. (Ord. No. 375, Sec. 2.)

4.04.13 Taxes paid AP&L shall pay to the City on or about October 15, 1983, an amount which represents one-half of the accumulated difference between the city of Pocahontas franchise taxes which AP&L will have collected by the end of September, 1983, and that which AP&L will have paid to the city by the end of September, 1983. AP&L will pay the second half of such accumulated difference to the city on or about January 15, 1984. (Ord. No. 375, Sec. 3.)

4.04.14 Rates Electricity furnished by the Company to the City for street lighting and other purposes shall be paid by the City in accordance with the applicable rate schedules of the Company now on file or hereafter filed by the Company with, and approved by, the Arkansas Public Service Commission. The Company shall have the privilege of crediting any amount due the City with any unpaid balance due said Company for electric service rendered to the City. It is expressly agreed and understood between the City and the Company that if any licenses, charges, fees, impositions or taxes (other than automobile license fees, special millage taxes, and

general ad valorem taxes) be charged, imposed, or levied by the City in the future, than in such event the obligation of the Company set forth in Section 3 hereof shall immediately terminate. (Ord. No. 213, Sec. 2.)

4.04.15 Length of contract This ordinance shall remain in effect for a term of five (5) years and for successive periods of one year each unless and until canceled not more than six months, nor less than three months, prior to the expiration of the original term or any anniversary thereof. (Ord. No. 213, Sec. 3.)

CHAPTER 4.08

GAS FRANCHISE

Sections:

- 4.08.01 Gas franchise granted to Arkansas Louisiana Gas Company
- 4.08.02 Installation and construction
- 4.08.03 Maintenance
- 4.08.04 Rates
- 4.08.05 Franchise tax

4.08.01 Gas franchise granted to Arkansas Louisiana Gas Company. Arkansas Louisiana Gas Company, a division of Arkla, Inc., its successors and assigns, hereinafter called "Grantee," are hereby granted the right for the period provided by law, to construct, install, operate and maintain in this municipality, as now and hereafter constituted; pipelines and related facilities for the transportation, distribution and/or sale of gas and for such purposes to use, and excavate in, the public highways, bridges, streets, sidewalks, alleys, squares, commons, grounds and other publicly owned areas. (Ord. No. 383)

4.08.02 Installation and construction Grantee's facilities shall be installed and operated in a workmanlike manner, and this municipality shall be held harmless from any damages caused by the negligence of Grantee's employees in the course of their employment. Grantee shall tunnel beneath paved streets, sidewalks and alleys wherever practical in laying and replacing mains. Grantee shall refill its excavations and restore sidewalks and pavements promptly, and if this is not done within a reasonable time then it may be done by this municipality at Grantee's expense. Grantee's lines shall be laid so as not to interfere with the present sewer system, and if a new sewer line crosses Grantee's pipeline at the same level, then this municipality may, if Grantee has not done so after reasonable notice, raise or lower Grantee's line at Grantee's expense, but only under Grantee's supervision. However, if any relocation of Grantee's pipelines and/or related facilities is required as a result of any project of the United States federal government, then the municipality shall pay Grantee and all costs and expenses incurred by

Grantee is relocating Grantee's pipelines and/or related facilities. This municipality may inspect Grantee's construction work at any time, or have said work inspected by a qualified engineer. (Ord. No. 383)

4.08.03 Maintenance The point of delivery of gas to the consumer shall be at the curb line or within ten (10) feet of the property line where no curb line has been determined, provided that such curb line or property line, whichever is applicable, is within sixty (60) feet of Grantee's main. In the event a consumer's curb line or property line, whichever is applicable, is greater than sixty (60) feet from Grantee's main, Grantee shall not be obligated to deliver gas to the consumer until consumer has provided Grantee with sufficient payment in advance of construction to reimburse Grantee for all reasonable expenses to be incurred in laying the necessary line beyond said sixty (60) feet to the point of delivery of gas to such consumer. All service pipes and facilities necessary to safely receive and utilize the gas at and beyond the point of delivery shall be furnished and maintained by the consumer, except that Grantee shall furnish and connect the gas meter. Title to all equipment installed by Grantee shall remain in Grantee, and Grantee shall have the right to use, extend, repair, replace, change, abandon or remove facilities installed under the authority of this grant or any other facilities as it may determine to be necessary or desirable from time to time in the conduct of its business. Grantee will not be obligated to commence, extend or continue any particular gas service by means of facilities installed under the authority of this grant or any other facilities except as Grantee may determine the prudent management and use of its present and future gas supply and facilities to permit, and in accordance with Grantee's applicable procedures, as the same may exist and be changed from time to time. Grantee may promulgate and enforce reasonable rules, regulations and requirements governing the sale, delivery, receipt and use of gas furnished by Grantee and the commencement and discontinuance of gas service. (Ord. No. 383)

4.08.04 Rates Grantee's rates currently effective in this municipality for gas service shall continue in effect until raised or lowered in the manner provided by law. (Ord. No. 383)

4.08.05 Franchise tax There is hereby levied an annual Occupation (License, Franchise, or other special city) Tax to be paid by Arkansas Louisiana Gas Company for the year 1988 and future years until changed by ordinance, the amount of which tax shall be 3% of gross revenues collected each year by said Company for natural gas consumption from domestic, industrial and commercial customers located within said municipality. Said municipality shall be paid upon completion of quarterly computations of current gross revenues each annual quarter. The amount of said tax, together with the cost of billing, collecting and remitting same, shall be passed on by the Gas Company to said domestic, industrial and commercial customers, within the corporate limits of said municipality, as a per cent of monthly gross billings, in proportion to the amount of natural gas used by said customers. (Ord. No. 416, Sec. 1.)

CHAPTER 4.12

TELEPHONE FRANCHISE

Sections:

4.12.01	Construction and maintenance
4.12.02	Location of poles and conduit
4.12.03	Streets restored
4.12.04	Operation and maintenance of plant
4.12.05	Removal of wires
4.12.06	Tree trimming
4.12.07	Franchise tax
4.12.08	Attachments on poles
4.12.09	Exclusive privileges
4.12.10	Successors and assigns
4.12.11	Partial invalidity
4.12.12	Terms

4.12.01 Construction and maintenance The poles, wires, anchors, cables, manholes, conduits and other 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 the city, shall remain as now constructed, subject to such changes as under the limitation and conditions herein prescribed may be considered necessary by the city in the exercise of its lawful powers and by the Telephone Company in the exercise of its business of furnishing telephone service, and the Telephone Company shall continue to exercise its right to place, remove, construct and reconstruct, extend and maintain its said plant and appurtenances as the business and purposes for which its 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 public grounds and places within the present limits of the city and within said limits as the same from time to time may be extended, subject to the regulations, limitations and conditions herein prescribed, and further, the Telephone Company is given the right to own and operate a telephone system in the city for the rendition of telephone service. (Ord. No. 212, Sec. 1.)

4.12.02 Location of poles and conduit All poles to be placed shall be of sound material and reasonably straight, and shall be so set that they will not interfere with the flow of water in any gutter or drain, and so that the same will interfere as little as practicable with the ordinary travel, on the street or sidewalk. The location and route of all poles, stubs, guys, anchors, conduits and cables to be placed and constructed by the Telephone Company in the construction and maintenance of its telephone system in the city, and the location of all conduits to be laid by the Telephone Company within the limits of the city under this ordinance, shall be subject to the reasonable and proper regulation, control, and direction of the Mayor or of any City official to whom such duties have been or may be delegates. (Ord. No. 212, Sec. 2.)

4.12.03 Streets restored The surface of any streets, alley, highway, or public place disturbed by the Telephone Company in buildings, constructing, renewing, or maintaining its telephone plant and system shall be restored within a reasonable time after the completion of the work to as good a condition as before the commencement of work and maintained to the satisfaction of the Mayor or of any city official to whom such duties have been or may be delegated, for one year from the date the surface of said street, alley, highway, of public place is broken for such construction or maintenance work, after which the responsibility for the maintenance shall become the duty of the city. No street, alley, highway, or public place shall be encumbered for a longer period than shall be necessary to execute the work. (Ord. No. 212, Sec. 3.)

4.12.04 Operation and maintenance of plant The Telephone Company shall maintain its system in reasonable operating condition oot all normal times during the continuance of this agreement. An exception to this condition is automatically in effect when service furnished by the Telephone Company is interrupted, impaired, or prevented by fires, strikes, riots, or other occurrences beyond the control of the Telephone Company, or by storms, floods or other casualties, in any of which events the Telephone Company shall do all things, reasonably within its power, to do, to restore normal service. (Ord. No. 212, Sec. 4.)

4.12.05 Removal of wires 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 bulky structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the benefited party or parties, and the Telephone Company may require such payment in advance. The Telephone Company shall be given not less than forty-eight hours advance notice to arrange for such temporary wire changes. (Ord. No. 212, Sec. 5.)

4.12.06 Tree trimming The right, license, privilege and permission is hereby granted to the Telephone Company, its successors and assigns, to trim trees upon and overhanging the streets, alleys, sidewalks and public places of the city, so as to prevent the branches of such trees from coming in contact with the wires or cables of the Telephone Company and when so ordered by the city, said trimming shall be done under the supervision and direction of the Mayor or of any city officials to whom said duties have been or may be delegated. (Ord. No. 212, Sec. 6.)

4.12.07 Franchise tax The City and Telephone Company agree that the Telephone Company will, effective the 1st day of August, 1961, pay quarterly to City an amount equivalent to 2 ½ % of its gross revenues derived from its exchange station service rendered within the City during the preceding quarter, such quarterly installments to be paid within thirty (30) days following the expiration of the quarter for which same are payable. The payment above provided shall be due and payable quarterly in arrears. The City agrees that the foregoing quarterly payments shall be received by it in lieu of any tax, license, charge, fee, street or alley rental or other character of charge for use and occupancy of the streets, alleys, and public places of the City; in lieu of any poll tax or inspection fee tax; in lieu of any easement of franchise tax, whether levied as an ad valorem, special or other character of tax; and in lieu of any imposition other than the usual general or special ad valorem taxes now or hereafter levied. (Ord. No. 212, Sec. 7.)

4.12.08 Attachments on poles Nothing in this ordinance contained shall be construed to require or permit any electric light or power wire attachments by the city or for the city, nor to require or permit any electric light or power wires to be placed in any duct used by the city in the Telephone Company's conduits. If light or power attachments are desired by the City or for the City, or if the City desires to place electric light or power wires in any duct used by the City, then a further separate not-contingent agreement shall be prerequisite to such attachments or such use of any duct used by the City.

Nothing shall herein contained obligate or restrict the Telephone Company in exercising its right voluntarily to enter into pole attachment, pole usage, joint ownership, and other wire space and facilities agreements with light and power companies and with other wire using companies which may be privileged to operate within the City. (Ord. No. 212, Sec. 8.)

4.12.09 Exclusive privileges Nothing herein contained shall be construed as giving to the Telephone Company and exclusive privilege. (Ord. No. 212, Sec. 9.)

4.12.10 Successors and assigns The rights, powers, limitation, duties and restrictions herein provided for shall inure to and be binding upon the parties hereto and upon their respective successors and assigns. (Ord. No. 212, Sec. 10.)

4.12.11 Partial invalidity If any section, sentence, clause or phrase of this ordinance is for any reason held to be illegal, ultra vires or unconstitutional, such invalidity shall not affect the validity of the remaining portions of this ordinance. All ordinances and agreements and parts of ordinances and agreements in conflict herewith are hereby repealed. (Ord. No. 212, Sec. 11.)

4.12.12 Terms Term under with the Southwestern States Telephone Company operated under this ordinance is for a period of 15 years from and after the date of the passage of this ordinance, and said company may continue after the expiration of said 15 years term to operate, as permitted by the laws of the state of Arkansas, and specified in Section 44 of Act 324 of the Acts of the state of Arkansas for 1935. (Ord. No. 212, Sec. 12.)

CHAPTER 4.16

CABLE TV FRANCHISE

Sections:

- 4.16.01 Franchise granted to Pocahontas TV Cable, Inc.
- 4.16.02 Poles and wires
- 4.16.03 Construction period
- 4.16.04 Subscribers
- 4.16.05 Renewing the franchise

4.16.06	Rates
4.16.07	Services
4.16.08	Modifications or amendments
4.16.09	Two new channels
4.16.10	Federal Communications Commission

4.16.01 Franchise granted to Pocahontas TV Cable, Inc. That Pocahontas TV Cable, Inc., its successors and assigns, be and its is hereby granted the non-exclusive right and/or franchise to furnish direct wire reception of television programs to the citizens and residents of the city of Pocahontas, Randolph County, Arkansas, by means of the establishment of a master control antenna system utilizing a special tower and antennas, a master control unit and amplifiers, and relaying the television signals directly into the individual television receivers for a period of fifteen years from the effective date of the Amendment to Ordinance No. 202-A. Together with the right to erect and maintain such poles, fixtures, etc., along the alleys of this city as may be necessary and convenient for its business as a television signal furnisher in supplying the citizens in said city and the public in general, and to use and occupy for its television cables, the bridges, lanes, alleys, and public grounds and places within said municipality subject to the approval of the City Council for the purpose of erecting, constructing, laying, owning, leasing or otherwise acquiring, maintaining and operating such system) all such right and use to be and continue on the conditions and terms as herein stated: present utility poles may be used with permission of owners. (Ord. No. 308, Sec. 1.)

4.16.02 Poles and wires Said poles and wires shall be placed and maintained so as not to interfere with travel or use of such streets, alleys or public ways of said city, and said Pocahontas TV Cable, Inc., its successors and assigns, shall hold said city free and harmless from damages arising from any abuse or negligence of said company. Said poles and wires shall be laced so as not to interfere with the flow of water in any sewer, drain, or gutter, or with any gas or water pipe lines; and this grant is made and is to be enjoyed subject to all such reasonable regulations and ordinances of a police nature as said city may authorize or may see proper from time to time to adopt not destructive of the rights herein granted. (Ord. No. 202-A, Sec. 2.)

4.16.03 Construction period Any right, privilege or franchise granted by virtue of this ordinance shall become absolutely and entirely void should Pocahontas TV Cable, Inc., its successors and assigns, fail to commence construction of said community antenna system within a period of twelve (12) months from the date of this ordinance. By the same token, the ordinance shall become void if at any time, service is discontinued by franchise holder for a period of three (3) months after service has been in operation. (Ord. No. 202-A, Sec. 3.)

4.16.04 Subscribers The yearly subscription fee paid to the city of Pocahontas pursuant to Ord. No. 369, is hereby increased from One Dollars (\$1.00) to Two Dollars (\$2.00) for each subscriber per year. That said sum is to be payable on a monthly basis by the 10th day of each month. This payment shall be accompanied with a report showing the number of subscribers as the 1st day of each month. (Ord. No. 03-11, Sec. 1.)

4.16.05 Renewing the franchise That Pocahontas TV Cable, inc., its successors and assigns, be and it is hereby granted, an option to renew this non-exclusive right and/or franchise, at the end of the fifteen-year period specified in Section 1 of Ord. No. 202-A, as amended, for an additional fifteen-year period, after giving due notice in writing to the City Council at least ninety days (90) prior to the expiration of this right and/or franchise, and conditioned upon a review of the Grantee's qualifications and performance, and approval thereof by the City Council. (Ord. No. 308, Sec. 3.)

4.16.06 Rates The maximum rates to be charged by Pocahontas TV Cable Inc., its successors and assigns, shall be as follows:

Plan A

Installation fee of \$19.50 and a monthly fee of \$6.95 per month for the first outlet. Additional outlets shall bear an installation fee of \$10.00 and an additional monthly fee of \$1.00 per month for each additional outlet. (Ord. No. 369, Sec. 1.)

Plan B

No installation fee and a monthly fee of \$7.95 for the first outlet. Additional outlets shall bear an installation fee of \$10.00 and an additional monthly fee of \$1.00 per month for each additional outlet. (Ord. No. 369, Sec. 2.)

Rates

- A. The initial charge for installation of a single residential television cable connection, extra outlet, reconnection, etc., shall not exceed Twenty Five Dollars (\$25.00).
- B. Commercial installation charges will be for recovery of labor and materials only.
- C. The service charge for a single residential cable connection shall not exceed Eight Dollars (\$8.00) per month for the first connection.
- D. The service charge for an additional connection shall not exceed One Dollar and Fifty Cents (\$1.50) per month. (Ord. No. 373, Sec. 2.)

All subsequent changes in said rates, shall be subject to prior approval of the City Council after an appropriate public hearing is held thereon affording due process to all interested parties. (Ord. No. 308, Sec. 7.)

4.16.07 Services Pocahontas TV Cable, Inc., its successors and assigns, shall render good and efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system. Upon receipt of a complaint regarding the quality of service, equipment malfunctions, and similar matter, the Grantee shall promptly investigate such complaints within twenty-four (24) hours of receipt. Resolution of such service complaints shall be made promptly. For the purpose of investigation and resolution of regular service complaints, the Grantee shall maintain a local business office located within the city of Pocahontas. In addition, the Grantee shall maintain a toll-free business telephone, so operated that complaints and requests for repairs or adjustments may be received at any time. (Ord. No. 308, Sec. 8.)

4.16.08 Modifications or amendments Should the Federal Communications Commission modify or amend the provisions of Section 76.31 of its Rules and Regulations entitled “Franchise Standards,” such modifications or amendments shall be incorporated into this ordinance within one (1) year of adoption of the modification or amendment, or at the time of renewal at the expiration of this franchise, pursuant to Section 5 hereof as amended, whichever occurs first. (Ord. No. 308, Sec. 9.)

4.16.09 Two new channels Pocahontas TV Cable, Inc. shall add two new channels to its service which initially shall be ESPN and WGN, Chicago. (Ord. No. 369, Sec. 4.)

4.16.10 Federal Communications Commission The Mayor is hereby authorized and directed to file two completed F.C.C. Forms 328 by registered mail (not certified mail) with return receipt requested to:

Federal Communications Commission
Cable Franchising Authority Certification
P.O. Box 18539
Washington, D.C. 20036

The Mayor is further directed to mail a completed copy of this form 328 to our local operator at the address listed on the form by certified mail, return receipt requested, on the same day copies are mailed to the F.C.C. (Ord. No. 477, Sec. 1.)

CHAPTER 4.20

OCCUPATIONAL LICENSE

Sections:

4.20.01	Procuring license
4.20.02	Definition
4.20.03	Permit required
4.20.04	Privilege license
4.20.05	Permit fees
4.20.06	Fine
4.20.07	Penalties
4.20.08	Exclusions

4.20.01 Procuring license From and after the passage, approval and publication of this ordinance, it shall be unlawful for any person, firm, corporation, individual, company or association to engage in, carry on or follow any trade, business, vocation, calling or profession within the corporate limits of the city of Pocahontas, Arkansas, without first procuring from the City Clerk of the city of Pocahontas, Arkansas, a license in the form of a peddler's permit, occupation permit or privilege license as the case may be and having paid the fees therefore as hereinafter provided and set forth and declared in this ordinance, for the privilege of engaging in, carrying on or following the said trade, business, vocation, calling or profession within the city limits of the city of Pocahontas, Arkansas. (Ord. No. 99-9, Sec. 1.)

4.20.02 Definition A peddler's permit shall be required for any individual who is solely engaged in any business or trade which is mobile and seasonal in nature, who has no employee(s) or contract laborers, who does not maintain a business address within corporate limits of the city of Pocahontas and said business is part time; part time being defined as the owner operating the business less than six (6) months of the calendar year. For any such individual there shall be assessed a Twenty-Five Dollar (\$25.00) annual fee payable upon the issuance of the peddler's permit. (Ord. No. 99-9, Sec. 2.)

4.20.03 Permit required An occupation permit shall be required for every business, person, individual, firm, company, corporation, association or agent carrying on or occupying any place of business within the corporate limits of the city of Pocahontas, Arkansas, in which the character or kind of business requires or necessitates the keeping therein of goods, wares or merchandise or any material for the purpose of engaging in retail sales. This definition is specifically intended to exclude inventory maintained on hand by a service oriented business as opposed to a retail sales business. The City Clerk shall determine whether a business is a service oriented business or a retail sale business. If the entity disagrees with the determination of the City Clerk, they may appeal the decision to the City Council.

All retail businesses having or carrying an amount in value of goods, wares, merchandise or any other material for the sale or exchange or any other use in the sums as follows shall pay as follows:

\$0.00 to 3,000.00	\$25.00
\$3,001.00 to 4,999.00	\$35.00
\$5,001.00 to 10,000.00	\$50.00
\$10,000.00 to 20,000.00	\$75.00
\$20,000.00 to 40,000.00	\$100.00
\$40,000.00 to 60,000.00	\$150.00
\$60,000.00 to 90,000.00	\$200.00
\$90,000.00 to 125,000.00	\$250.00
\$125,000.00 to 175,000.00	\$300.00
\$175,000.00 to 225,000.00	\$350.00
\$225,000.00 to 275,000.00	\$400.00
\$275,000.00 to 325,000.00	\$450.00
\$325,000.00 to 400,000.00	\$500.00
\$400,000.00 to 500,000.00	\$600.00
\$500,000.00 to 750,000.00	\$750.00
\$750,000.00 to 1,000,000.00	\$1000.00
Over \$1,000,000.00	\$1,500.00

(Ord. No. 99-09, Sec. 3.)

4.20.04 Privilege license A privilege license shall be required for every business, person, individual, firm, company, corporation, association or agent carrying on or occupying any place of business within the corporate limits of the city of Pocahontas, Arkansas, who is not otherwise paying an occupation tax or peddler's tax as defined in the above provisions and same shall be charged with and subject said entity's number of employees and according to the following schedule:

Owner/only employee	\$50.00
1-3	\$75.00
4-6	\$85.00
7-10	\$95.00
11-13	\$105.00
14-16	\$115.00
17-19	\$135.00
20-29	\$175.00
30-39	\$195.00
40-49	\$215.00
50-69	\$235.00
70-100	\$250.00
Over 100	\$270.00

It shall be the duty of every business, person, individual, firm, company, corporation, association or agent to disclose to the City Clerk its employees and contract laborers, so as in the case of contract laborers, said individual may be accessed accordingly. (Ord. No. 99-9, Sec. 4.)

A privilege license is not required for individuals who operate dwelling units of real estate for rental, provided that a license to operate in the city may be required for individuals who employ others, or they engage in other activities that required a license pursuant Ord. No. 99-9.

For purposes of this classification, dwelling unit means any room or group of rooms within a dwelling that forms a single habitable unit with facilities which can be used, or are intended to be used for living, sleeping, cooking, and eating, whether such unit is occupied or vacant. The term “dwelling unit” shall be construed as if followed by the words “or any part thereof.” (Ord. No. 2013-17, Sec. 1.)

4.20.05 Permit fees That all privilege licenses and occupation permits granted and issued under this ordinance shall be due and payable on the 1st day of July of each calendar year and shall extend and terminate on the last day June of each year unless the issued permit or license specifically designates the day, week or month in which said permit or license expires. The city Clerk shall have the authority to pro rate the permit or license for new businesses, in order that each entity’s permit or license will become due and payable at the same time.

All peddler’s permit fees are due and payable at the time the permit is issued by the City Clerk. No peddler’s permits will be issued until said fee is paid. (Ord. No. 99-9, Sec. 5.)

4.20.06 Fine Any person, firm, corporation, partnership or association who is found in violation of this ordinance shall be fined in a sum not to exceed One Hundred Dollars (\$100.00) and each day of violation shall constitute a separate offense. (Ord. No. 99-9, Sec. 6.)

4.20.07 Penalties In addition to the penalties set forth in the previous section, the City Clerk shall collect civil penalties for failure to pay the fees prescribed in this ordinance as follows:

- A. Payment within 30 days - no penalty
 - B. Payment made more than 31 days but less than 61 days after due date - 10% penalty
 - C. Payment made more than 61 days but less than 90 days after due - 20% penalty
 - D. Payment made more than 90 days past due - 90% penalty.
- (Ord. No. 99-9, Sec. 7.)

4.20.08 Exclusions

- A. No person, firm or corporation, who is in anyway indebted to the city of Pocahontas or any of its political subdivisions, shall be issued any permit or license by any agency, department or division of the city, nor shall such person, firm or corporation be allowed to establish a new or to reconnect a discontinued municipal utility service. For purposes of this ordinance, “indebted” shall mean any remuneration lawfully due to the city or any of its political subdivision which is over ninety (90) days in arrears.
- B. Any person, firm or corporation affected by this ordinance may file a notice of appeal of any such a denial of a permit, license or municipal utility service with the City Clerk, to be considered by the City Council of Pocahontas, which may, at its discretion, elect to hear such an appeal as part of its agenda at any duly-called meeting of the Council. (Ord. No. 2013-10, Sec. 1-2.)

CHAPTER 4.24**AMBULANCE FRANCHISE**Sections:

4.24.01	Franchise granted
4.24.02	Definitions
4.24.03	Requirements
4.24.04	Franchise exclusively
4.24.05	Requirements for issuance
4.24.06	Terms and rates
4.24.07	Ownership
4.24.08	Advanced life support
4.24.09	Required residency
4.24.10	Rates
4.24.11	Transfer consent
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4.24.14	Application form
4.24.15	Public hearing
4.24.16	Payment of application fee
4.24.17	Franchise revocation

4.24.18	Discontinuance of service
4.24.19	Equipment
4.24.20	Standards for disease control
4.24.21	Policy manual
4.24.22	Penalty
4.24.23	Exemptions
4.24.24	State rules included
4.24.25	Powers of the Council
4.24.26	Dispatching
4.24.27	Franchise granted

4.24.01 Franchise granted The City Council hereby finds and determines that the granting of an exclusive franchise for privilege of utilizing city streets, alleys, public rights-of-ways, and public grounds for the purpose of operating a motor ambulance service business within the City of Pocahontas is in the best interest of the citizens and inhabitants of the City.

(Ord. No. 2017-19, Sec. 1)

4.24.02 Definitions The following words and phrases as used in this ordinance shall, for the purposes of this chapter, have the following meaning:

Ambulance means any motor vehicle that is constructed or equipped for and intended to be used for transportation of a person because of his or her illness, injury, or disability.

Ambulance business means the owning, operating, managing, or maintaining as principal or agent of any ambulance as defined herein, for compensation, so that the owning, operating, managing, or maintaining as principal or agent of a special purpose ambulance within industry and not receiving compensation therefore is not considered an ambulance business.

Ambulance operator means any person or board who, as owner, agent, or otherwise, furnishes or operates, advertises or otherwise professes to be engaged in the business of furnishing or operating ambulances in providing the ancillary and necessary emergency medical services or medical transfer services.

Operation means the receiving, picking up or embarking within the city of Pocahontas, Arkansas, of a sick or injured person for transportation or conveyance to any point within or without the city of Pocahontas, Arkansas, and the providing of emergency medical services to those persons.

Person means individuals either male or female, partnerships, firms, corporations (whether non-profit or for-profit) and association of every kind, and their agents, servants or employees. (Ord. No. 2012-4, Sec. 2.)

4.24.03 Requirements The requirements of Ordinance No. 2012-04 shall apply to the franchise herein granted and ProMed Ambulance, Inc. shall comply with all the requirements thereof, including, but not limited to, the requirements of this Ordinance, the requirements of the Application for Ambulance Franchise, and any standards, rules, regulations and requirements established by the State of Arkansas. (Ord. No. 2017-19, Sec. 3.)

4.24.04 Franchise exclusively The City Council hereby finds and determines that ProMed Ambulance, Inc. should be and is hereby granted such an exclusive franchise. (Ord. No. 2017-19, Sec. 2)

4.24.05 Requirements for issuance Said franchise shall be granted only upon written application therefore filed with the City Clerk of the city of Pocahontas, Arkansas, and shall be granted only when the City Council of the city of Pocahontas, Arkansas, in its discretion, shall determine that the public convenience and necessity requires the issuance of same, and to determine such public convenience and necessity, of the City Council may hold such hearings and in such manner as hereinafter provided. (Ord. No. 2012-4, Sec. 5.)

4.24.06 Terms The franchise granted herein shall be for a term of five (5) years. (Ord. No. 2017-19, Sec. 6.)

4.24.07 Ownership No franchise shall be granted to any person who is not the actual bona fide owner, or bona fide operator, thereof and who is not fully responsible for the operations of said business. (Ord. No. 2012-4, Sec. 7.)

4.24.08 Advanced life support No franchise shall be granted to any person who does not provide bona fide advanced life support (ALS) paramedic service as part of all of its ambulance business, said ALS service to be licensed by the Arkansas Department of Health, so that all emergency transportation shall be done so that a certified paramedic is present. (Ord. No. 2012-4, Sec. 8.)

4.24.09 Required residency No franchise shall be granted to any person whose ambulance operation is not located in the city of Pocahontas, Arkansas, or at a location approved by the Pocahontas City Council including crew quarters and appropriate facilities for ambulances, medical supplies, and medical equipment. (Ord. No. 2012-4, Sec. 9.)

4.24.10 Rates The rates submitted in the application of ProMed Ambulance; Inc. are hereby approved. ProMed Ambulance, Inc. shall charge such rates as set by this Ordinance. (Ord. No. 2017-19, Sec. 5)

4.24.11 Transfer consent No permit issued under the terms of this ordinance shall be sold, transferred, assigned, leased or otherwise disposed of without the written approval of the City Council. (Ord. No. 2012-4, Sec. 5)

4.24.12 Liability insurance Before the City Council shall grant any franchise hereunder, as a minimum requirement, the owner or operator of said business applying for same shall deposit with the City Clerk of said city, and keep in effect at all times, a policy of liability insurance issued by a responsible insurance company or companies duly authorized and licensed to transact such business in the state of Arkansas, insuring the owner, operator and any and all persons driving any vehicles of said permittees as follows: Against liability up to and including One Million Dollars (\$1,000,000.00) for personal injuries or death as to one occurrence and up to and including Two Million Dollars (\$2,000,000.00) on account of any accident resulting in personal injuries or death on more than one occurrence. (Ord. No. 2012-4, Sec. 12.)

4.24.13 License fee Each person issued a franchise hereunder shall pay to the city of Pocahontas, Arkansas, for the privilege of so engaging in said business an annual license fee, the amount of which shall be One Hundred Dollars (\$100.00) per year, which shall be paid at the time of the granting of said franchise and on the same date of each succeeding year during the term of which said franchise shall have been granted, provided, however, that no franchise shall be terminated for failure to pay a fee unless the City Clerk grants ten (10) days' notice to the franchisee. (Ord. No. 2012-4, Sec. 13.)

4.24.14 Application form The application of ProMed Ambulance, Inc. and all materials submitted and attached thereto are incorporated herein by reference. (Ord. No. 2017-19, Sec. 4)

4.24.16 Payment of application fee Any owner or person desiring to operate any ambulance business on any street in the city shall, at the time of filing the application for a license with the City Clerk, pay to the City Clerk a license application fee of Twenty-Five Dollars (\$25.00) payable upon presentation of the application to the City Clerk. (Ord. No. 2012-4, Sec. 16.)

4.24.17 Franchise revocation A franchise may be evoked by the City Council upon the following grounds:

- A. The franchise holder knowingly and after written notice from the city fails to operate his business in accordance with the provisions of this ordinance and any and all state or federal laws, regulations, requirements or accreditation standards applicable to the emergency medical services or ambulance business or operation including the lack of certified paramedics as required hereinabove.
- B. The franchise holder shall abandon its operations of the ambulance business for a period of one (1) or more days. Acts of God, labor disputes, and other acts beyond the control of the franchise holder which cause abandonment or limitation of service shall not be considered abandonment within the meaning of this section.

- C. The franchise holder has failed to render satisfactory service.
- D. The City Council shall hold a hearing after ten (10) days' notice to the franchise holder before any suspension shall become effective.
- E. The franchise holder fails to comply with any provisions of the franchise ordinance. (Ord. No. 2012-4, Sec. 17.)

4.24.18 Discontinuance of service The ambulance business holding the franchise shall, before such franchise is issued, guarantee the city of Pocahontas, Arkansas, uninterrupted ambulance service, except that by giving ninety (90) days' notice to the city, such ambulance operator shall be authorized to discontinue service without penalty. (Ord. No. 2012-4, Sec. 18.)

4.24.19 Equipment Upon making application for a franchise, each ambulance operator shall submit a list of equipment to be carried in each ambulance. This list shall be subject to approval of the City Council at the time that the applicant's license is before the Council for consideration. The list shall be subject to review and approval annually and at the time of the renewal of the franchise and shall be filed with the City Clerk. Each ambulance operated by the ambulance business or operation must be continually equipped according to the regulations and requirements of the Arkansas Department of Health. (Ord. No. 2012-4, Sec. 19.)

4.24.20 Standards for disease control An ambulance carrying a patient afflicted with contagious or infectious disease and the services therefore shall operate in accordance with the Federal OSHA requirements, Arkansas Department of Health, and Center for Disease Control standards in handling patients with contagious and infectious diseases. (Ord. No. 2012-4, Sec. 20.)

4.24.21 Policy manual The ambulance business or operation shall also have and maintain a written policies and procedures manual which will include personnel, operational, and medical policies and procedures, and a copy of this or these manuals shall be made available for inspection upon request by the Pocahontas City Council or by the Mayor of Pocahontas. The ambulance business or operation shall thereafter operate in accordance with its policies and procedures manual or manuals. (Ord. No. 2012-4, Sec. 21.)

4.24.22 Penalty Any person who shall fail to comply with any or all of, or who shall violate, the provisions of this ordinance shall be deemed guilty of a violation, and upon conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), and these penalties shall occur per violation, a violation to be considered per unauthorized ambulance run or operations. (Ord. No. 2012-4, Sec. 22.)

4.24.23 Exemptions The provisions of this ordinance shall not apply to any person engaged in rendering an ambulance operation whose place of business, operation, and vehicles are located in another municipality and whose ambulances transport persons or patients in or through the city of Pocahontas, Arkansas, so long as this transportation or business originates in a location outside the limits of Pocahontas, Arkansas, and furthermore, the provisions of this ordinance shall not apply to any ambulance business or operation whose place of business and vehicles are located in another municipality even if engaged in rendering emergency medical services if the franchisee has waived the rights granted under its franchise and authorized any such other ambulance business or operation to render such emergency services within Pocahontas, Arkansas, such as in cases of rendering of mutual aid during mass casualty or disaster response and when requested by the franchised ambulance operator. (Ord. No. 2012-4, Sec. 23.)

4.24.24 State rules included The standards, rules, regulations, and requirements established by the state of Arkansas concerning emergency medical services, emergency medical technicians, paramedics, emergency and non-emergency ambulances, and ambulance companies as set forth by the Arkansas Department of Health Office of Emergency Medical Services and Trauma Systems are hereby incorporated with this ordinance by reference. (Ord. No. 2012-4, Sec. 24.)

4.24.25 Powers of the Council The City Council of Pocahontas, Arkansas, shall have, possess, and exercise all of those powers that could be granted to an emergency medical services board and may perform those responsibilities or may delegate certain or said powers to the Board of Directors of the ambulance business of a nonprofit organization operated for the public benefit according to Arkansas law. (Ord. No. 2012-4, Sec. 25.)

4.24.26 Dispatching The city of Pocahontas, Arkansas is to require that all 911 calls or referrals will be dispatched directly to the franchisee or ambulance business or operation. (Ord. No. 2012-4, Sec. 26.)