

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 Arkansas Power and Light Company The city of Stuttgart, Arkansas, (hereinafter called Grantor), hereby grants to the Arkansas Power and Light Company, its successors and assigns, (hereinafter called Grantee), the exclusive right, privilege and authority within the present and all future expansions of the corporate limits of the City of Stuttgart, Arkansas, except for such area within the present corporate limits which at the date of enactment hereof is served by another supplier of electric energy and except for such other areas which may be later annexed, where Grantee is not allowed by law to serve, (1) to sell, furnish, transmit and distribute electric power and energy to Grantor and to all inhabitants and consumers within said limits and (2) to construct, maintain, operate and extend a system for such purposes and to enter on, under and upon and use any and all of the streets, alleys, avenues, bridges and other public grounds and ways belonging to, or under the control of Grantor, for the purpose of erecting, maintaining, repairing, replacing and operating poles, wires, anchors, stubs, transformers, substations, cables, conduits and other related facilities, appliances and apparatus which are necessary for, or useful in, the furnishing, sale, transmission or distribution of said electric service hereinafter called facilities. (Ord. No. 619, Sec. 1)

4.04.02 Rights and responsibilities of grantor and grantee Grantee shall, and does by acceptance hereof, agree to provide to the city and its inhabitants adequate and reasonable electric service as a public utility and the facilities necessary to provide such service. Grantor, in recognition of the large and continuing investment necessary for Grantee to perform its obligations hereunder, and the need and duty to promptly construct its facilities, as defined above, required to serve customers, in all areas and zones of the city, consents to the construction of such facilities as defined in Section 4.04.01 in all such areas and zones, and Grantor agrees to protect by ordinance, regulation and otherwise, to the fullest extent permitted by law, and except as otherwise, limited herein, the grants of rights and privileges to Grantee set forth in Section 4.04.01 from interference with, or duplication by, other persons, firms or corporations seeking to engage in the sale or distribution of electric energy. (Ord. No. 619, Sec. 2)

4.04.03 Rights and responsibilities of grantor and grantee All facilities of Grantee which may be located on public ways, places and public property, as authorized herein, shall be located so as to not unreasonably obstruct public use and travel. All of Grantee's facilities shall be constructed, operated and maintained in accordance with standards at least equivalent to the standards prescribed by the National Electrical Safety Code. Grantee, its successors and assigns, shall replace and repair, at its own expense, all excavations, holes or other damage caused or done by it to public streets, ways, places and public property in the construction, operation and maintenance of its facilities. (Ord. No. 619, Sec. 3)

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

growing on private property but overhanging or encroaching on public ways, places and public property which interfere or offer hazards to the construction, operation and maintenance of Grantee's facilities. (Ord. No. 619, Sec. 4)

4.04.05 Termination procedure The rights, privileges and authority hereby granted and continue until terminated in accordance with provisions of Section 44 of Act 324 of 1935 Acts of the State of Arkansas as presently enacted or hereafter amended. (Ord. No. 619, Sec. 5)

4.04.06 Rates The rates which are to be charged by Grantee for electric service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be amended by Grantee in accordance with law or by any regulatory authority having jurisdiction thereof. (Ord. No. 619, Sec. 6)

4.04.07 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. 619, Sec. 7)

4.04.08 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 appliance 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. 619, Sec. 8)

4.04.09 Franchise tax For the year 1975, and thereafter until changed, a sum equal to 6 1/4% of the gross residential and commercial electric revenues as paid to the Company by residential and commercial customers located within the corporate limits of Stuttgart during the immediately preceding calendar year, is to be payable in approximately equal quarterly installments beginning in January, 1975. (Ord. No. 793, Sec. 1)

4.04.10 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. 619, Sec. 10)

4.04.11 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. 619, Sec. 11)

CHAPTER 4.08

GAS FRANCHISE

Sections:

4.08.01	Gas franchise
4.08.02	Installation
4.08.03	Meter and connection
4.08.04	Laying lines
4.08.05	Extending mains
4.08.06	Discontinuing service
4.08.07	Material used by consumer
4.08.08	Meter deposit
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4.08.10	Franchise accepted
4.08.11	Rates
4.08.12	Franchise tax
4.08.13	Construction of article

4.08.01 Gas franchise The Arkansas Natural Gas corporation, and its successors and assigns, hereinafter referred to as Grantee, by and they are hereby exclusively authorized and empowered to erect, maintain and operate a system for the conveyance and sale of natural gas, for furnishing heat, light or power, or all, for public or private use, in the city of Stuttgart, Arkansas, for the period of twenty-five years from the passage of this ordinance, according to the following terms and conditions:

- A. The said Grantee, the Arkansas Natural Gas Corporation, is hereby exclusively authorized and empowered, for a period of twenty-five years, from and after the passage of this ordinance, to enter upon and dig and excavate in the streets, sidewalks, avenues, alleys, highways and public grounds, and under the bridges and viaducts of said city for the purpose of laying, constructing and maintaining gas mains and gas pipes, with all the necessary and proper attachments, connections and appurtenances, for the transportation, supply and distribution of natural gas in and through said city, with the rights at all times hereafter, during said period, under supervision of the city, to dig and excavate for the purpose of relaying, repairing, replacing and removing the said gas mains and gas service pipes, or any portion thereof, or make connections for the consumers with such mains and pipes; provided, however, that after such gas pipes and mains are laid, repaired, or removed, all excavations shall be refilled and thoroughly tamped,

and all sidewalks and pavements shall be replaced and relaid as found when said excavations are begun, subject to inspection by the person designated by the City Council. Should said Grantee fail or refuse to restore and replace said pavements, sidewalks and excavations, within a reasonable time, then the same may be replaced and restored by the city at the expense of said Grantee, which expense shall include attorney's fees, in event it shall become necessary for said city to bring suit to recover the money so expended by it.

- B. In the construction, repairing and operating of said gas system, said Grantee shall use every reasonable and proper precaution to avoid damages or injury to person or property, and shall hold and save harmless the said city from damage caused by the negligence of said Grantee, their agents, servants or employees in constructing, repairing and operating said plant, or in repaving or repairing any street, alley or other public place. (Ord. No. 289, Sec. I.)

4.08.02 Installation The specifications for the installations of the gas system shall be as follows:

- A. The system and mains shall be of adequate capacity to furnish sufficient quantity of gas for the present needs of the city. Provisions shall be made so that the system can be extended in any direction without interfering with the service already established.
- B. All distributing mains within the fire district and all service lines within said district shall be low pressure mains and services.
- C. No regulator stations shall be located under ground in the fire district.
- D. If it becomes necessary to run any intermediate pressure transmission lines through the fire district, or under any concrete streets, fittings constructed to withstand one hundred twenty-five (125) pounds working pressure shall be used.
- E. For extension work outside the above district weld O.D. tubing may be substituted at the option of the Grantee, provided, however, that an adequate number of expansion joints are used.
- F. Gas pressure shall be computed on a four ounce basis.
- G. Grantee agrees that all material used in the construction of the gas distributing system hereunder shall be new material.
- H. The city reserves the right to inspect the said work of construction from time to time, or to have said work inspected by a duly authorized engineer. (Ord. No. 289, Sec. II.)

4.08.03 Meter and connection The Grantee shall furnish gas at the outer edge of the sidewalk, or at the property line of the consumer, if the outer edge of the sidewalk is within said consumer's property line, and shall furnish a meter of standard type and connect same with the pipes of the consumer without charge other than the deposit hereinafter provided. All other service pipes and fixtures shall be furnished and maintained by the consumer. (Ord. No. 289, Sec. III.)

4.08.04 Laying lines The Grantee shall tunnel beneath all paved streets, alleys and sidewalks wherever practical in laying, placing and repairing pipes and mains, and this work shall be under the supervision of a representative of the city. The Grantee shall lay its lines so as not to interfere with the present sewer system within the city of Stuttgart, and if in laying additional sewers in said city, the sewer lines shall cross Grantee's pipe line at the same level, the person constructing said sewer line, may, upon giving the Grantee reasonable notice, raise or lower the Grantee's gas line so as to allow the sewer line to cross, this work to be done, however, under the supervision of a representative of the Grantee and at the Grantee's expense. (Ord. No. 289, Sec. IV.)

4.08.05 Extending mains The said Grantee shall extend its mains for the purpose of supplying new customers, where the Grantee is reasonably assured of at least one customer on an average of every one hundred and fifty (150) feet of any said extension. (Ord. No. 289, Sec. V.)

4.08.06 Discontinuing service The Grantee shall have the right to discontinue from its mains any consumer of gas who has not conformed with the rules of the Grantee covering the consumption of gas, as approved by the City Council, or who is in arrears ten days in the payment for gas furnished during the previous calendar month. (Ord. No. 289, Sec. VI.)

4.08.07 Material used by consumer The Grantee shall have the right, subject to the approval of the City Council, to make such rules, regulations and requirements relative to the manner in which connections with its mains and lateral lines may be made by consumers, and relative to the kind of equipment and materials used in said connections, and the maintenance thereof by the consumer, as may be reasonable, which rules and regulations when approved by the City Council shall be enforced between the Grantee and the consumer. (Ord. No. 289, Sec. VII.)

4.08.08 Meter deposit Before making a connection, the Grantee may require a deposit of Ten Dollars (\$10.00) for meter to be made, which amount shall be retained by the Grantee as long as the applicant is furnished gas; provided, however, the Grantee pay to the applicant interest at the rate of 6% per annum, payable annually. (Ord. No. 289, Sec. VIII.)

4.08.09 Bond posted Grantee agrees that if and when this franchise is accepted by Grantee that it shall post with the city of Stuttgart a bond for the penal sum of Ten Thousand Dollars (\$10,000.00); said bond to be cash placed in escrow in some bank in the city of Stuttgart, or shall be some reputable surety company doing business within the state of Arkansas as surety

and acceptable to the city of Stuttgart, as the city may elect. In either event, bond to be conditioned, however, as follows:

That the Grantee shall construct, install and complete system for distributing gas to domestic, commercial and industrial users within the city of Stuttgart, and have gas available for use by domestic consumers within sixty days from the time that gas is being sold and delivered through the pipe line now under construction from Monroe, Louisiana, to St. Louis, Missouri by the Mississippi River Fuel Corporation. In the event Grantee fails to have an adequate supply of gas available for sale to domestic consumers on or before the expiration of the sixty day period aforesaid, then shall said cash bond be forfeited to the city of Stuttgart as liquidated damages for failure of the Grantee to comply with the terms herein, or in the event the bond is filed in lieu of cash, said surety and principal shall become liable to the city of Stuttgart for the penal sum of Ten Thousand Dollars (\$10,000.00) aforesaid as liquidated damages as aforesaid.

The Grantee at or before the time it commences the construction of the gas distributing system within the city of Stuttgart shall file with the City Clerk of said city a plat of the proposed gas distributing system. (Ord. No. 289, Sec. IX.)

4.08.10 Franchise accepted This franchise may be accepted by the Grantee by written notice of its acceptance being delivered to the City Clerk of the city of Stuttgart, which acceptance shall be delivered within ten days of the date of the passage of this ordinance. This franchise shall not be assigned, or in any manner transferred by the Grantee, until after the gas system is completed, without the consent of the City Council of Stuttgart, Arkansas. (Ord. No. 289, Sec. XI.)

4.08.11 Rates It being contemplated that the Grantee shall furnish natural gas to conform with the provisions of the franchise hereby granted to it, and a hearing as to the rate which shall be charged by it for said services having been had, and the Grantee having waived any right to notice of the fixing of said rate, the following rates to be charged by the Grantee for gas service, until such time as said rates are raised or lowered by proper action of the City Council, or other governmental agency at the time having authority to determine and fix such rates, are hereby determined and fixed:

DOMESTIC GAS RATE

The Grantee shall charge each domestic consumer of gas sold during any calendar month according to the following rates:

- A. For the first 1,000 cubic feet of gas, or fraction thereof, sold to any domestic consumer during any one calendar month, One Dollar and Seventy-Five Cents (\$1.75).
- B. For the next 4,000 cubic feet of gas sold to said consumer during said calendar month Sixty Cents (\$.60) per 1,000 cubic feet.

- C. For all gas in excess of 5,000 cubic feet sold to said consumer during said calendar month Fifty Cents (\$.50) per 1,000 cubic feet.

Each domestic consumer who pays his bill by the tenth of the month following the calendar month in which the gas for which payment is made was used shall be allowed a discount of five percent of his entire bill.

A minimum charge of One Dollars (\$1.00) per month may be made by the Grantee for each meter remaining on its system available for the service of gas to any domestic connection, if no gas is used by the consumer during that month.

Churches, schools or colleges maintained by the state, county or city, schools or colleges maintained by any religious organization, public hospitals and municipal buildings shall be allowed a gross discount of forty percent from the gross rate for domestic gas, when bills are paid by the 19th of the month following the month in which the gas, for which payment is made, was used.

The above rates shall be in force and effect during the life of this franchise unless and until gas is discovered and produced in commercial quantities within the territory adjacent to Stuttgart; in which event new rates shall be established by agreement between the city and Grantee at that time; provided, that until such agreement is reached between the city and the Grantee the above rates shall remain in force and effect.

POWER SERVICE CHARGE

First 100 m. cu. ft. of gas sold to a consumer during any calendar month, \$.55 gross, less \$.02 per m. discount – 53 net per m. if paid by the 10th of the month.

Next 200 m. cu. ft. sold during said month - \$.45 gross, less \$.02 per m. discount - \$.43 net per m. if paid by the 10th of the month.

All over 300 m. cu. ft. sold during said month - \$.40 gross, less \$.02 per m. discount - \$.38 net per m. if paid by the 10th of the month.

If bill is not paid on or before the 10th of the month next following the month in which gas is used, no discount will be allowed.

Minimum charge for power service, Ten Dollars (\$10.00) basis 20 H.P. engine.

BOILER FUEL AND INDUSTRIAL RATES

First 500m. cu. ft. of gas sold to a consumer during calendar month - \$.27 gross, less \$.02 per m. discount - \$.25 net per m. if paid by the 10th of the month.

Next 500 m. cu. ft. sold during said month \$.25 gross, less \$.02 per m. discount - \$.23 net per m. if paid by the 10th of the month.

Next 500 m. cu. ft. sold during said month \$.23 gross, less \$.02 per m. discount - \$.21 per m. if paid by the 10th of the month.

All over 1500 m. cu. ft. used in any one month subject to special contract to be entered into between gas company and consumer.

Minimum charge for industrial service under steam boiler, Twenty-Five Dollars (\$25.00) per month basis for 45 H.P.

If bill is not paid on or before the 10th of the month next following the month in which gas is used, no discount will be allowed. (Ord. No. 289, Sec. XII.)

4.08.03 Franchise tax The amount of occupation, license or franchise tax to be paid by the Gas Company for the year 1962 and subsequent years, until changed by ordinance, shall be determined and computed as follows:

At the close of the calendar year 1961 and at the close of each calendar year thereafter, the Gas Company shall determine the average number of domestic and commercial meters for the preceding year within the corporate limits of the City and shall inform the Mayor of the results of this calculation. The tax for each year shall be computed by multiplying said average number of meters by Two Dollars (\$2.00) per meter. (Ord. No. 569, Sec. 3)

In addition to the annual franchise or privilege tax to be paid to the City by Arkansas Louisiana Gas Company for the privilege of doing business in the City, as provided for by Section 4.08.02, dated December 20, 1962, there is hereby levied and the Gas Company shall pay to the City an additional tax of Fifty Cents (\$.50) per meter per month. (Ord. No. 732, Sec. 1)

Pursuant to authority of an order of the Arkansas Public Service Commission relating to and approving a formula for computation of municipal taxes which may be considered a part of the rate structure for the Gas Company which rate was fixed by said order at Two Dollars (\$2.00) per meter per year the City hereby recognizes and expects that the Gas Company will cause the additional taxes levied in Section 1 hereof, together with collection costs, to be passed on to its customers within the City. Such additional charges may be reflected on monthly statements as "City Taxes." (Ord. No. 732, Sec. 3)

4.08.04 Construction of chapter. This chapter shall not be construed to alter or change the terms or conditions of the present franchise under which the Gas Company is operating.

Nothing in this chapter shall be construed to alter or change the present rate schedule under which the Gas Company is now operating, except by order of the Arkansas Public Service Commission or other legally constituted bodies. (Ord. No. 569, 732, 497, 451, excluding ordinances 283, 289, 68 because they pertain to Gas and Electricity.)

CHAPTER 4.10

TAMPERING WITH METERS

Sections:

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| 4.10.02 | Unlawful, exception |
| 4.10.03 | Discovery of |
| 4.10.04 | Responsibility of customer |
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4.10.01 Definition As used in this Ordinance tamper or tampering is defined as interfering with, molesting, or altering any public utility meter for an unlawful or improper purpose. (Ord. No. 902, Sec. 1)

4.10.02 Unlawful, exception It shall be unlawful for any person, firm or corporation to tamper with any public utility meter in the city of Stuttgart, Arkansas. This prohibition shall not apply to authorized employees of public utilities in the performance of normal working assignments. (Ord. No. 902, Sec. 2)

4.10.03 Discovery of Discovery of tampering with any public utility meter on the premises owned, occupied or controlled by any person, firm or corporation, shall be prima facie evidence that such tampering was done with the knowledge and/or consent of the person having control of such premises. (Ord. No. 902, Sec. 3)

4.10.04 Responsibility of customer The customer shall be responsible for the meter and equipment that is on his property and shall be responsible for any damage thereto and will maintain a three foot minimum area around the meter box, clear of all obstructions. In the event of any need for repair or replacement of the meter and equipment as a result of customer's actions, the cost shall be at the customer's expense. (Ord. No. 1806, Sec. 1.)

4.10.05 Penalty. Any person found guilty of a violation of this ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00). (Ord. No. 1806, Sec. 2.)

CHAPTER 4.12

TELEPHONE FRANCHISE

Sections:

- 4.12.01 Construction and maintenance
- 4.12.02 Supervision by City of location of poles and conduits
- 4.12.03 Streets to be restored to good condition
- 4.12.04 Operation and maintenance of telephone plant
- 4.12.05 Temporary removal of wires
- 4.12.06 Tree trimming
- 4.12.07 Franchise tax
- 4.12.08 Tax shall be in lieu of other charges
- 4.12.09 Rate regulation
- 4.12.10 Termination
- 4.12.11 No exclusive privileges
- 4.12.12 Successors and assigns
- 4.12.13 Liability of City

4.12.01 Construction and maintenance The right, privilege and franchise is, and the same is hereby granted to The Southwestern States Telephone Company, hereinafter referred to as the "Telephone Company", and its successors or assigns, subject to the terms and conditions hereinafter set forth, to construct, erect, build, equip, own, maintain and operate in, along, under, over and across the streets, alleys, avenues, bridges, viaducts and public grounds of the City, any and all such appliances, structures and fixtures necessary or convenient for rendering telephone and other communication service and for conducting a communications business, including the rendition of local and long-distance telephone service. The appliances, structures, and fixtures of the Telephone Company in the City shall remain as now constructed, subject to such changes as, under the limitations and conditions herein prescribed, may be considered as necessary by the City in the exercise of its lawful powers and by the Telephone Company in the conduct of its business.

4.12.02 Supervision by City of 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 communications 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 chapter, shall be subject to the reasonable and proper regulation, control and direction of the City Council or of any city official to whom such duties have been or may be delegated.

4.12.03 Streets to be restored to good condition The surface of any street, alley, highway, or public place disturbed by the Telephone Company in building, constructing, renewing or maintaining its 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 the work and maintained to the satisfaction of the City Council, or of any city official to whom such duties have been or may be delegated, for one (1) year from the date the surface of said street, alley, highway or public place is broken for such construction or maintenance work, after which time 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.

4.12.04 Operation and maintenance of telephone plant The Telephone Company shall maintain its system in reasonable operating condition at 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.

4.12.05 Temporary 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 (48) hours advance notice to arrange for such temporary wire changes.

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, the trimming shall be done under the supervision and direction of the City Council or any city official to whom said duties have been or may be delegated.

4.12.07 Franchise tax To indemnify the City for any and all possible damages to its streets, alleys, and public grounds which may result from the placing and maintenance therein or

thereon of the Telephone Company's poles, conduits, or other equipment or apparatus, and to compensate the City for its superintendence of this agreement, and as the cash consideration for the same, the Telephone Company agrees to pay to the City annually during the continuance of this agreement a sum of money equal to two (2%) per cent of the annual gross receipts for the preceding year received by the Telephone Company from the rendition of local exchange telephone transmission service within the corporate limits of the City.

4.12.08 Tax should be in lieu of other charges The City agrees that the consideration set forth in the preceding section hereof shall be paid and received in lieu of any tax, license, charge, fee, street or alley rental or any other character of charge for use and occupancy of the streets, alleys, and public places of the City; in lieu of any pole 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. Should the City not have the legal power to agree that the payment of the foregoing cash consideration shall be in lieu of the taxes, licenses, charges, fees, rentals, and easement or franchise taxes aforesaid, then the City agrees that it will apply so much of the payment as may be necessary to the satisfaction of the Telephone Company's obligations, if any, to pay any such taxes, licenses, fees, rentals, and easement or franchise taxes.

4.12.09 Rate regulation It is mutually understood and agreed that the rates to be charged to inhabitants of the City for local exchange telephone service shall be fixed and regulated by the governing body of the City (provided such City, at such time, retains statutory rate-making authority) in accordance with the statutes and laws of the state of Arkansas; provided, however, that such rates and charges shall be sufficient to provide the Telephone Company with a fair return upon the fair value of all of its property used and useful in the rendition of local exchange telephone service in the Stuttgart, Arkansas exchange.

4.12.10 Termination This chapter shall be in force and effect for a full term and period of thirty-five (35) years from and after its effective date hereinafter provided.

4.12.11 No exclusive privileges Nothing herein contained shall be construed as giving to the Telephone Company any exclusive privilege.

4.12.12 Successors and assigns The rights, powers, limitations, duties and restrictions herein provided for shall inure to and be binding upon the parties hereto and upon their respective successors and assigns.

4.12.13 Liability of City During the period this chapter is in existence and enjoyed by the Telephone Company, the Telephone Company shall indemnify and hold harmless the City from any and all claims for losses, damages and injuries occasioned to or sustained by any persons, firms or corporations, or their property by reason of the existence, maintenance, operation or continuance of this chapter and the exercise of all rights herein contracted for, except as herein otherwise provided.

CHAPTER 4.16

CABLE TV FRANCHISE

Sections:

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4.16.04	Regulation by franchising authority
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4.16.07	Forfeiture
4.16.08	Unauthorized reception
4.16.09	Miscellaneous provisions

14.16.01 Definitions

Affiliate means an entity which owns or controls, is owned or controlled by, or is under common ownership or control with Grantee.

Basic cable means the tier of cable service regularly provided to all subscribers that includes the retransmission of local broadcast television signals.

Cable service means (i) the one-way transmission to subscribers of video programming or other programming service, and (ii) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

Cable system means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other equipment that is designed to provide cable service and other service to subscribers.

FCC means Federal Communications Commission, or successor governmental entity thereto

Franchise means the initial authorization or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the cable system for the purpose of offering cable service or other service to subscribers.

Franchising Authority means the city of Stuttgart, Arkansas.

Grantee means Friendship Cable of Arkansas, Inc. d/b/a Suddenlink Communications, or the lawful successor, transferee, or assignee thereof

Gross revenues shall include all revenue derived by Grantee from the operation of the cable system to provide cable service within the franchise area. Gross revenues shall not include:

- A. Bad debt or any refunds or credits made to subscribers;
- B. Any revenue paid by subscribers to home shopping programmers directly from the sale of merchandise through any home shopping channel offered as part of the video services but not excluding any commissions that are paid as compensation for promotion or exhibition of any products or services on the cable system such as a home shopping or a similar channel;
- C. Any revenues received from the provision of cable service to customers at no charge, including without limitation the provision of such service to public institutions, public schools, or governmental entities;
- D. Any tax of general applicability imposed upon the holder of a certificate of franchise authority or upon subscribers by a city, state, federal, or any other governmental entity and required to be collected by the holder of a certificate of franchise authority and remitted to the taxing entity, including sales and use tax, gross receipts tax, excise tax, utility users' tax, public service tax, and communication taxes.

Person means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

Public way means the area on, below, or above a public roadway, highway, public sidewalk, alley, waterway or utility easement, dedicated for compatible uses.

Service area means the present municipal boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.

Subscriber means a user of the cable system who lawfully receives cable service with Grantee's express permission.

Video programming means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, cable service, or digital television service. (Ord. No. 1890, Sec. 1)

4.16.02 Grant of franchise

- A. **Grant** Franchising Authority hereby grants to Grantee a non-exclusive franchise which authorizes the Grantee to construct and operate a cable system and offer cable service and other service in, along, among, upon, across, above, over, under, or in any manner connected with public ways within the service area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any public way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the cable system.
- B. **Term** The Franchise granted pursuant to this ordinance shall be for an initial term of ten (10) years from the date signed by the Grantee unless otherwise lawfully terminated in accordance with the terms of this ordinance.
- C. **Acceptance** Grantee shall accept the franchise granted pursuant hereto by signing this ordinance and filing same with the City Clerk or other appropriate official of agency of Franchising Authority within thirty (30) days after the passage and final adoption of this ordinance.
- D. **Favored nations** In the event Franchising Authority enters into, or has entered into, a franchise, permit, license, authorization, or other agreement of any kind with any person other than grantee to enter into Franchising Authority's street and public ways for the purpose of constructing or operating a cable system or providing cable service or video service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

If another provider of cable service, video services or other television services utilizing any system or technology requiring use of the rights-of-way in the service area, is lawfully authorized by any governmental entity or otherwise exempt from obtaining a franchise to provide such services Franchising Authority hereby agrees that, upon receiving a written request from Grantee stating the specific terms and/or conditions in the competitive franchise or agreement that are more favorable or less burdensome than those contained in this agreement as a matter of law upon receipt of any such notice, the Grantee and the City agree to open discussion and consider modifications to this agreement in order to insure a competitive environment between the providers of cable service or similar services with any amendments subject to the mutual agreement of both parties.

The Grantee and City agree that this section does not require a word-for-word identical franchise or agreement for a new video service provider so long as the regulatory and financial burdens on each entity are materially equivalent.

- E. **Change of law** In the event the federal, state or local law, rules or regulations are amended, modified or created that have the effect of modifying the terms and conditions of this franchise during the term or any extension thereof, the Grantee has the sole option to terminate this franchise upon ninety (90) days' notice to the Grantor.
- F. **Police powers** Grantee shall at all times during the term of this franchise be subject to all lawful exercise of the police power of the city. The right is hereby reserved to the City to adopt, in addition to the provisions herein contained and any other existing applicable ordinances, such additional applicable ordinances as it shall find necessary in exercise of its police power, provided, however, that such additional ordinances shall be reasonable, shall not conflict with or alter in any manner the rights granted herein, and shall not conflict with the laws of the state of Arkansas, the laws of the United States of America, or the rules, regulations and policies of the FCC. (Ord. No. 1890, Sec. 2.)

4.16.03 Standards of service

- A. **Conditions of street occupancy** All transmission and distribution structures, poles, other lines, and equipment installed or erected by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said public ways.
- B. **Restoration of public ways** If during the course of Grantee's construction, operation, or maintenance of the cable system there occurs a disturbance of any public way by Grantee, it shall, at its expense, replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.
- C. **Relocation at request of Franchising Authority** Upon its receipt of reasonable advance notice, not to be less than thirty (30) days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way, or remove from the public way, any property of the Grantee when lawfully required by Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the Franchising Authority, but, the Grantee shall

in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right of way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the Grantee.

- D. **Relocation at request of third party** The Grantee shall, on the request of any person holding a building moving permit issued by the Franchising Authority, temporarily raise or lower its wires to permit the moving of such building, provided:
1. The expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such payment in advance; and
 2. The Grantee is given not less than ten (10) business days' advance written notice to arrange for such temporary wire changes.
- E. **Trimming of trees and shrubbery** Grantee shall have authority to trim trees or other natural growth overhanging any of its cable system in the service area so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment. Grantee shall be permitted to charge persons who own, or are responsible for, such trees or natural growth for the cost of such trimming, provided that similar charges are assessed by and paid to the utilities of Franchising Authority for tree trimming. Grantee shall reasonably compensate the Franchising Authority or property owner for any damages caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the system undertaken by Grantee. Such replacement shall satisfy any and all obligations Grantee may have to the Franchising Authority or property owner pursuant to the terms of this section.
- F. **Safety Requirements** Construction, installation, and maintenance of the cable system shall be performed in an orderly and workman-like manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations. The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.
- G. **Aerial and underground construction** In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground, provided that such facilities are actually

capable of receiving Grantee's cable and other equipment without technical degradation of the cable system's signal quality. In those areas of the service area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, Grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground.

Nothing contained in this section shall require Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this section, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this ordinance, Grantee shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

- H. **Required extensions of service** The cable system, as constructed as of the date of the passage and final adoption of this ordinance, substantially complies with the material provisions hereof. Grantee is hereby authorized to extend the cable system as necessary, as desirable, or as required pursuant to the terms hereof within the service area. Whenever Grantee shall receive a request for service from at least fifteen (15) subscribers within 1320 cable-bearing strand feet (one-quarter cable mile) of its trunk or its distribution cable, it shall extend its cable system to such subscribers at no cost to said subscribers for the system extension, other than the usual connection fees for all subscribers, provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the cable system, or as provided for under the section of this ordinance.
- I. **Subscriber charges for extensions of service** No subscriber shall be refused service arbitrarily. However, for special circumstances, such as a subscriber's request to locate the cable drop underground, existence of more than one hundred fifty (150) feet of distance from distribution cable to connection of service to subscribers, or a density of less than fifteen (15) subscribers or a density or fewer than fifteen (15) subscribers per 1320 cable-bearing strand feet of trunk or distribution cable, cable service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. Potential subscribers will bear the costs of the construction and other costs on a prorate basis. Grantee may require that the payment in advance of the capital construction in aid borne by such potential subscribers.

- J. **Pole attachments** Utility poles owned by the Franchise Authority or an affiliated entity shall be available for use by Grantee.
- K. **Compliance with applicable law** The franchise is governed by and subject to all applicable rules, regulations and policies of the Federal Communications Commission and by the laws of the state of Arkansas. Grantee shall also comply with the customer service requirements under 47 C.F.R. 76.309(c) or its successor. (Ord. No. 1890, Sec. 3.)

4.16.04 Regulation by Franchising Authority.

- A. **Franchise fee** In consideration of the terms of this franchise, Grantee agrees to pay the City a sum of money equal to five percent (5%) of Grantee's gross revenues per year. Any payments due under this provision shall be made on a quarterly basis. Each quarterly payment shall be made within forty-five (45) days of the end of each of Grantee's fiscal quarters together with a report showing the basis for the computation. In the event that a franchise fee payment is not received by the City on or before the date due, simple interest at a rate equal to that for judgments shall apply to franchise fee payments past due. The City may, no more than once annually, audit the business records of the Grantee to the extent necessary to ensure payment in accordance with this franchise. Grantee shall keep business records showing any gross revenues, even if there is a change in ownership for a period of three (3) years after the revenue is recognized by the Grantee in its books and records. Payment of an undisputed amount or refund due the City or Grantee is required within sixty (60) days after it is recognized, plus the interest as computed on civil judgments.
- B. **Conditions of sale** Except to the extent expressly required by federal or state law, if a renewal or extension of the franchise is denied or the franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the cable system valued as a going concern.

Grantee and Franchising Authority agree that in the case of a lawful revocation of the franchise, at Grantee's request, which shall be made in its sole discretion, Grantee shall be given a reasonable opportunity to effectuate a transfer of its cable system to a qualified third party. The Franchising Authority further agrees that during such a period of time, it shall authorize the Grantee to continue to operate pursuant to the terms of its prior franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation.

If, at the end of that time, Grantee is unsuccessful in procuring a qualified transferee or assignee of its cable system which is reasonably acceptable to the Franchising Authority, Grantee and Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that Grantee's continued operation of its cable system during the six (6) month period shall not be deemed a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee. Notwithstanding anything to the contrary set forth in Section 4.16.04, neither Franchising Authority nor Grantee shall be required to violate federal or state law.

- C. **Transfer of franchise** All of the rights and privileges and all of the obligations, duties and liabilities created by this franchise shall pass to and be binding upon the successors of the Franchising Authority and the successors and assigns of Grantee, and the same shall not be assigned or transferred without the written approval of the City Council, which approval shall not be unreasonably withheld, provided, however, that this section shall not prevent the assignment or hypothecation of the franchise by Grantee as security for debt without such approval, and provided further that transfers or assignments of this franchise between any parent and subsidiary corporation or between entities of which at least fifty percent (50%) of the beneficial ownership is held by the same person, persons, or entities which are controlled or managed by the same person, persons, or entities, shall be permitted without the prior approval of the Franchising Authority (“intra-company transfers”). Grantee shall notify Franchising Authority in writing within thirty (30) days of the closing of such intra-company transfer. (Ord. No. 1890, Sec. 4.)

4.16.05 Compliance and monitoring

Books and records Grantee agrees that the Franchising Authority may review such of Grantee's books and records, during normal business hours and on a non-disruptive basis, as is reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. Franchising Authority agrees to treat any information disclosed to it by Grantee as confidential, and to disclose it only to employees, representatives, and agents of Franchising Authority that have a need to know, or in order to enforce the provisions hereof. (Ord. No. 1890, Sec. 5)

4.16.06 Insurance, indemnification and bonds or other securities.

- A. **Insurance requirements** Grantee shall maintain in full force and effect during the term of the franchise, at its own cost and expense, Comprehensive General Liability Insurance and automobile liability insurance in the amount of One Million Dollars (\$1,000,000) for bodily injury or personal injury, death, or property damage or loss as a result of any one (1) occurrence or accident, regardless of the number of persons injured or the number of claimants, arising out of a negligent or otherwise wrongful act or omission of the Grantee's employees or agents. Said insurance shall designate the Franchising Authority as an additional named insured.
- B. **Indemnification** The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its cable system, including, but not limited to, reasonable attorneys' fees and costs.
- C. **Bonds and other surety** Except as expressly provided herein, Grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the franchise or continuing its existence. Franchising Authority acknowledges that the legal, financial, and technical qualifications of Grantee are sufficient to afford compliance with the terms of the franchise and the enforcement thereof. Grantee and Franchising Authority recognize that the costs associated with bonds and other surety may ultimately be borne by the subscribers in the form of increased rates for cable service or other service.

In order to minimize such costs, Franchising Authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefor. Franchising Authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than Twenty Thousand Dollars (\$20,000.00) conditioned upon the substantial performance of the material terms, covenants, and conditions of the franchise. Initially, no bond or other surety shall be required. In the event that one is required in the future, Franchising Authority agrees to give Grantee at least thirty (30) days' prior written notice thereof stating the exact reason for the requirement. (Ord. No. 1890, Sec. 6)

4.16.07 Forfeiture If Grantee should violate any of the terms, conditions, or provisions of this franchise or if Grantee should fail to comply with any reasonable provisions of any ordinance of the City regulating the use by Grantee of the street, alleys, public utility, easements or public ways of the City, and should Grantee further continue to violate or fail to comply with the same for a period of thirty (30) days or such longer period specified by the City as is

reasonable under the circumstances, after Grantee shall have been notified in writing by the City to cease and desist from any such violation or failure to comply so specified, then Grantee may be deemed to have forfeited and annul all rights and privileges granted by this franchise, provided, however, that such forfeiture shall be declared only by written decision of the City Council after an appropriate public proceeding before the City Council affording Grantee due process and full opportunity to assess the evidence used in rendering said declaration and to be heard in response to any such notice of violation or failure to comply, and provided further that the City Council may, in its discretion and upon finding of violation or failure to comply, impose a lesser penalty than forfeiture of this franchise or excuse the violation or failure to comply upon showing by Grantee of mitigating circumstances.

Grantee shall have the right to appeal any finding of violation or failure to comply and any resultant penalty to any court of competent jurisdiction. In the event that forfeiture is imposed upon Grantee, it shall be afforded a period of six (6) months within which to sell, transfer, or convey this cable television system to a qualified purchaser at an equitable price based on the fair market value of the franchise itself and the cable system as a going concern. Reasonable extension of time in which to effect said sale, transfer, or conveyance shall be granted by resolution of the City Council. During a sixty (60) month period, which shall run from the effective date of the final order or decision imposing forfeiture, including any appeal, Grantee shall have the right to operate this cable system pursuant to the provisions of this franchise.

Grantee shall not be held in default of the provisions of the franchise, nor suffer any enforcement or penalty relating thereto, where such alleged default is caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control. (Ord. No. 1890, Sec. 7.)

4.16.08 Unauthorized reception

Misdemeanor In addition to those criminal and civil remedies provided by state and federal law, it shall be a misdemeanor for any person to create or make use of any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the cable system without the express consent of Grantee. Further, without the express consent of Grantee, it shall be a misdemeanor for any person to tamper with, remove, or injure any property, equipment, or part of the cable system or any means of receiving cable service or other service. Subject to applicable federal and state law, Franchising Authority shall incorporate into its criminal code, if not presently a part thereof, criminal misdemeanor law which shall enforce the intent of this section. (Ord. No. 1890, Sec. 8.)

4.16.09 Miscellaneous provisions

- A. **Preemption** If the FCC or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the franchise, then to the extent such jurisdiction shall preempt and superseded or

preclude the exercise of the like jurisdiction by Franchising Authority, the jurisdiction of Franchising Authority shall cease and no longer exist.

- B. **Employment requirements** Grantee shall afford equal opportunity in employment to all qualified persons. No person shall be discriminated against in employment because of race, color, religion, national origin or sex. Grantee shall maintain and carry out a continuing program of specific practices designed to assure equal opportunity in every aspect of its employment policies and practices.
- C. **Actions of Franchising Authority** In any action by Franchising Authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.
- D. **Notice** Unless expressly otherwise agreed between the parties, every notice or response to be served upon the Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service.

The notices or responses to the Franchising Authority shall be addressed as follows:

City of Stuttgart
Attention: Mayor
304 South Maple Street
Stuttgart AR 72160

The notices or responses to the Grantee shall be addressed as follows:

Suddenlink Communications
Attention: Reginald Jaramillo
2500 Dallas Parkway, Ste. 650
Plano TX 75093

Cc: Suddenlink Communications
Attention: Michael Zarrilli
12444 Powerscourt Drive
Suite 140
St. Louis MO 63131

Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other party.

- E. **Descriptive headings** The captions to sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein. (Ord. No. 1890, Sec. 9.)

CHAPTER 4.20

TAXICAB FRANCHISE

Sections:

- 4.20.01 Permit required
- 4.20.02 Application
- 4.20.03 Rates
- 4.20.04 Transfer prohibited
- 4.20.05 Revoking of permit
- 4.20.06 Taxicab numbers
- 4.20.07 Age of taxicab, inspection
- 4.20.08 Driver's certificate
- 4.20.09 Certificate revoked
- 4.20.10 Number of passengers
- 4.20.11 Franchise tax, posting
- 4.20.12 Insurance
- 4.20.13 Hearing
- 4.20.14 Hearing, issue of permit, suspension of drivers
- 4.20.15 Penalty

4.20.01 Permit required It shall be unlawful for any person, firm, or corporation to operate a motor driven vehicle as a taxicab for hire without a permit issued by the City.

Any person making any charge or accepting any gratuity for motor vehicle transportation from one point to another within the city and having no permit to operate a taxicab business shall be deemed in violation of this chapter. (Ord. No. 656, sec. 1)

4.20.02 Application. Any person, firm, or corporation desiring to operate a taxicab business in the city shall make written application to the City Clerk, which application shall set forth the following: The name of the person applying; if a partnership the addresses and interest in the business of each partner; if a corporation, the name, address, and interest of each stockholder, the names and addresses of the President, Vice-president, Secretary, and Treasurer and the name and address of the properly designated agent for service; the local address and telephone number of the business; and a complete detailed statement of rates proposed to be charged.

There shall be filed a complete list of all automobiles and equipment to be used in the business; such list shall show the make, model, seating capacity, motor and serial numbers, the individual cab number to be displayed on the cab as hereinafter provided, together with the names of the owners of the vehicles and the name and interest of any lien holder.

The application shall specify the trade name under which the business is to be operated.

The written application shall be in the form of a sworn statement, and all the information required shall be furnished by each taxicab operator on or before the 15th day of January of each year. (Ord. No. 656, Sec. 2)

4.20.03 Rates. The rates to be charged by the taxicab operator shall be approved by the City Council after a hearing held as provided by State Law. The operator shall file with the City Clerk a rate schedule approved by the City Council and containing a complete list of all charges, showing the minimum and maximum charges for all types of services rendered. No passenger shall be charged any amount other than the approved rate shown in the schedule and the rates shall be permanently displayed inside the passenger compartment of each vehicle. (Ord. No. 656, Sec. 3)

4.20.04 Transfer prohibited. No taxicab operator shall transfer or assign his business to any other person, firm or corporation except with the express consent of the Mayor and City Council, after a hearing held by the Council. (Ord. No. 656, Sec. 4)

4.20.05 Revoking of permit. The permit to operate a taxicab business in the City may be revoked by the majority vote of the City Council and the approval of the Mayor for violation of or failure to comply with the terms of any ordinance of this city or any provision of the laws of Arkansas.

Before revoking a permit, the City Council shall have a written notice to be served on such taxicab operator by any police officer; such notice shall notify the operator that a hearing will be held by the City Council not less than five (5) days thereafter, to determine whether such permit shall be revoked. Such operator shall be entitled to be represented by counsel at such hearing but the vote of a majority of the City Council shall be final. In the event a permit is revoked, the operator nor any person acting for him shall thereafter engage in such business within the city until or unless the revocation is set aside or modified by a majority vote of the City Council. (Ord. No. 656, Sec. 5)

4.20.06 Taxicab numbers. Each vehicle operated as a taxicab shall be assigned a cab number and each such cab number shall be painted on the cab in letters not less than three (3) inches high. Such cab number shall appear on each front door and on the trunk of the vehicle. In addition, the trade name of the cab operator shall be painted in letters not less than three (3) inches high on each side and at the rear of each vehicle. (Ord. No. 656, Sec 6)

4.20.07 Age of taxicabs, inspection. No vehicle shall be operated as a taxicab except under the following conditions:

- A. It shall be no older than four (4) model years. As used herein, years shall mean automobile model years and shall not be interpreted to mean calendar years.
- B. Every taxicab operated in the City shall be inspected by a State Licensed Motor Vehicle Inspector during each calendar quarter; the Inspector shall execute a form which the operator shall immediately file with the City Clerk, which form shall certify the mechanical condition of the vehicle. If the Inspector finds any mechanical defects in or on the vehicle, the operator shall not permit the vehicle to be operated until all such defects have been properly repaired, and the repair garage or mechanic repairing the defects shall file a certificate with the City Clerk certifying to such repairs.
- C. Every vehicle registered with the City Clerk for operation as a taxicab in the City shall be subject to visual inspection by the Chief of Police, such visual inspection to determine the appearance, cleanliness and state of repair of the vehicle (other than mechanical) if, upon such inspection, a condition is found to exist which requires immediate correction, the Chief of Police shall notify the operator in writing of such defects, which notice shall forbid the operation of such vehicle until the condition is corrected; if, upon such inspection, the Chief of Police discovers a condition which should be corrected, but which is not immediately required, he shall give written notice of such defect to the operator, and the operator shall be allowed not to exceed fifteen (15) days after the delivery of such written notice to correct such condition; in either event, the Chief of Police shall deliver a copy of such written notice to the Chairman of the Police Committee of the City Council. Any decision of the Chief of Police concerning such inspection may be appealed to the Chairman of the Police Committee of the City Council who may determine any questions contained in such appeal, or the Chairman may

ask the entire Police Committee to hear and determine such appeal.

- D. It shall be unlawful to operate any vehicle as a taxicab in the City except in strict compliance with the preceding section and in accordance with applicable Arkansas Law. (Ord. No. 703, Sec. 1)

4.20.08 Driver's certificate No person shall drive a taxicab, nor shall any taxicab operator employ a driver unless the driver shall first obtain from the City Clerk a "driver's certificate" entitling him to drive a taxicab. No person shall drive a taxicab, nor shall any taxicab operator continue to employ a driver, unless the driver's certificate shall remain in force and is renewed as herein provided. The certificate shall be in addition to any license required by law or ordinance. A certificate to drive may be obtained by filing with the City Clerk a sworn application including:

- A. Name, age and address.
- B. Where applicant has been employed for the past five (5) years, giving names and addresses of his former employers.
- C. Attach a certificate from a reputable physician to the effect that he is physically and mentally sound and that he is free from any communicable disease.
- D. A statement from Chief of Police stating his reputation is good and that he should be granted a certificate.

The certificate must be obtained on or before January 1st of each year. The certificate is valid for the calendar year only for which it is issued. The City Clerk shall either issue a certificate or mark "refused" on the application stating the reason why it was not issued. If refused the applicant may by request obtain a hearing before the City Council. The Council may, after the hearing either affirm the action of the City Clerk or order the certificate issued. (Ord. No. 656, Sec. 8)

4.20.09 Certificate revoked The driver's certificate provided in the proceeding section may be revoked or suspended for violation of the traffic laws and ordinances of the city. An appeal from the decision suspending the driver's certificate shall not stay a suspension. (Ord. No. 656, Sec. 9)

4.20.10 Number of passengers A cab with not more than two seats shall not be permitted to carry more than five passengers. (Ord. No. 656, Sec. 10)

4.20.11 Franchise tax, posting Each person, firm, corporation or association operating a taxicab or taxicabs in the city shall pay the city at the office of the City Clerk the following license:

For one taxicab owned and operated by any person, firm, or corporation or association the fee shall be Seventy-five (\$75.00) Dollars per year, and where the same person, firm, corporation

or association owns two or more taxicabs, the license shall be Seventy-five (\$75.00) Dollars for one taxicab and Twenty-five (\$25.00) Dollars for each additional cab.

The license provided for shall be issued by the City Clerk and shall be plainly attached to or exhibited upon each taxicab, and such license shall be an annual license payable on the first day of January of each year. Any taxicab that commences operation in the city on or after the first day of July in any year shall be required to pay one-half (1/2) the license fee for the remaining portion of the year in which operation is commenced. (Ord. No. 656, Sec. 11)

4.20.12 Insurance. Every person operating a taxicab in the city shall file with the City Clerk a certificate of liability insurance as required by A.C.A. 27-14-1501. A new certificate of liability insurance shall be filed with the City Clerk before the expiration of the existing certificate. (Ord. No. 656, Sec. 12.)

4.20.13 Hearing. Any person, firm or corporation desiring to enter the taxicab business in the City may file with the City Clerk a petition for a hearing, and upon payment of a fee of Twenty (\$20.00) Dollars, the Clerk shall submit such petition to the City Council. Upon receipt of such petition, the City Council shall set a date for a hearing. The hearing is to be within thirty (30) days from the filing of the petition, at which time the applicant may submit evidence supporting his petition, and any interested person may appear in opposition. It shall then be within the discretion of the City Council whether such petition shall be granted and a new permit issued. (Ord. No. 656, Sec. 13)

4.20.14 Hearing, issue of permit, suspension of drivers. Applicant shall give location of his office and phone number. If there are no objections by property owners or tenants within fifty (50) feet, and it is approved by the City Police, he shall be given a permit by the City Council to operate from that location.

All drivers and owners must have a drivers certificate, which shall cost Two Dollars and fifty cents (\$2.50) per year. Certificate will be suspended for thirty (30) days on any driver if convicted on first offense, in court for traffic violation and for the second offense, certificate shall be revoked for twelve (12) months. (Ord. No. 656, Sec. 14)

4.20.15 Penalty. Any person, firm, corporation or association which violates any provisions of this chapter, upon conviction shall be fined for each offense in any sum not exceeding Two Hundred Fifty (\$250.00) Dollars, and where such violation is of a continued nature, each day a violation continues shall constitute a separate offense. (Ord. No. 656, Sec. 15)

CHAPTER 4.24

BOWLING ALLEY

Sections:

4..24.01	Privilege
4.24.02	Application
4.24.03	Hours of operation
4.24.04	Gambling prohibited
4.24.05	Revoking of license
4.24.06	Minors

4.24.01 Privilege The conducting of the business of operating bowling alleys within the city is hereby declared to be a privilege. (Ord. No. 511, Sec. 1)

4.24.02 Application Written application for a license to conduct such a business shall be submitted to the City Clerk. The applications shall contain the names and addresses of the owners and the operators of such proposed business. The applicant or applicants shall submit with such application, an affidavit stating that each owner and each operator is of good moral character and has not been convicted of any crime of moral turpitude. The license shall be issued by vote of the City Council after a majority of the members have determined the fitness of the owners and operators to conduct such business in a lawful manner. (Ord. No. 511, Sec. 2)

4.24.03 Hours of operation Such licensed business may be operated between the hours of 8:00 A.M. and 12:00 midnight daily except Sunday. On Sundays such business may be operated between the hours of 1:00 P.M. and 10:00 P.M.. (Ord. No. 511, Sec. 3)

4.24.04 Gambling prohibited Gambling shall not be permitted on said licensed premises at any time. Likewise, profanity and intoxication shall be strictly prohibited. (Ord. No. 511, Sec. 4)

4.24.05 Revoking of license The City Council may, by a majority vote, revoke the license of any such business which may be conducted in a disorderly or unlawful manner or which permits disorderly or unlawful conduct on such premises. (Ord. No. 511, Sec. 5)

4.24.06 Minors It shall be unlawful for any minor to engage in any game in any licensed room, and the person or persons holding such license shall forfeit their license for allowing any minor to engage in any game so licensed, together with a fine of not less than Ten (\$10.00) Dollars nor more than Twenty-five (\$25.00) Dollars. On failure to pay such fine the Police Chief shall seize such bowling alley, sell the same, apply the money to pay the fine imposed, and return the balance to the owner. (Ord. No. 70, Sec. 6)

CHAPTER 4.28

BILLIARD AND POOL TABLES

Sections:

4.28.01	License
4.28.02	Refusing license
4.28.03	Gambling prohibited
4.28.04	Revoking license
4.28.05	Minors
4.28.06	Hours of operation
4.28.07	Penalty

4.28.01 License It shall be unlawful for any person, firm or corporation to engage in, exercise or pursue the vocation and business of operating and maintaining billiard or pool tables within the limits of the city without first having obtained a license from the proper city authorities. The amount of which license shall be, for each billiard or pool table, the sum of Five Dollars (\$5.00) per annum. The fee for any such license which is issued during the last six (6) months of the calendar year shall be Two Dollars and Fifty Cents (\$2.50). (Ord. No. 197, Sec. I as amended by Ord. No. 1197, Sec. 1)

4.28.02 Refusing license The City Clerk shall have the right to refuse to issue any pool room or billiard hall a license if he regards them unfit to engage in the business, unless upon application to the City Council, a majority shall vote in favor of issuing such licenses. (Ord. No. 39, Sec. 1)

4.28.03 Gambling prohibited It shall also be unlawful for any person or persons to engage in any game of cards in any pool or billiard room or hall. (Ord. No. 39, Sec. 3.)

STATE LAW REFERENCE-See A.C.A. 5-66-103 et seq.

4.28.04 Revoking license Shall any person or persons holding a license under this chapter, keep a disorderly house, the City Council may by a majority vote, revoke the license and unearned license money shall be forfeited. (Ord. No. 39, Sec. 5)

4.28.05 Minor. It shall be unlawful for any minor to engage in any game in any licensed room, and the person or persons holding a license, shall forfeit their license for allowing any minor to engage in any game so licensed, together with a fine of not less than Ten Dollars (\$10.00) or more than Twenty-Five Dollars (\$25.00), and on failure to pay the fine, the Police Chief shall seize the table or tables, sell the same, apply the money to pay the fine so imposed, and return the balance to the owners. (Ord. No. 39, Sec. 6)

4.28.06 Hours of operation It shall be unlawful for any person, firm or corporation to engage in, exercise or pursue the vocation and business of operating and maintaining billiard or pool tables within the limits of the city on Sunday or between the hours of twelve (12:00) o'clock midnight and six (6:00) o'clock in the morning. (Ord. No. 688, Sec. 1)

4.28.07 Penalty Any person, firm or corporation violating Section 4.28.06, shall upon conviction, be fined in any sum not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) and each day the violation shall continue constitutes a separate offense. (Ord. No. 688, Sec. 2)

CHAPTER 4.32

DANCING ESTABLISHMENTS

Sections:

4.32.01	Privilege
4.32.02	Compliance
4.32.03	Defined
4.32.04	Permit
4.32.05	Dance committee
4.32.06	Grounds for refusal
4.32.07	Disorderly dance defined
4.32.08	Violation
4.32.09	Hours
4.32.10	Permit, days issued
4.32.11	Penalty

4.32.01 Privilege. The holding of public dances within the city is hereby declared a privilege. (Ord. No. 305, Sec. 1)

4.32.02 Compliance. It shall be unlawful for any person or persons to hold a public dance within the city unless such person or persons shall have first complied with the provisions of this chapter. (Ord. No. 305, Sec. 2)

4.32.03 Defined. A public dance is hereby defined as any dance for which an admission price or fee is charged and collected. (Ord. No. 305, Sec. 3)

4.32.04 Permit Any person or persons desiring to hold a public dance within the City shall apply to the Dance Committee to be appointed by the Mayor as hereinafter set forth, for a permit to hold such dance and in applying for such permit shall state the price to be charged, the hours, date and place that the dance is to be held, and shall accompany said application with a fee of Two Dollars and Fifty Cents (\$2.50), which said fee in the event the permit is not granted shall be returned to the applicant, and in the event it is granted shall be paid into the general revenue fund of the city. (Ord. No. 333, Sec. 4)

4.32.05 Dance committee The Mayor shall appoint a committee of three (3) to be known as the Dance Committee and they shall have power to supervise the dances, issue permits for holding of dances, and their power to issue permits or refuse to issue them shall be discretionary with said committee. (Ord. No. 346, Sec. 2)

4.32.06 Grounds for refusal In the event any person or persons applying for a permit to hold a public dance at any given time shall have, in the opinion of the Dance Committee held a disorderly dance before, the Committee may refuse to grant the permit. (Ord. No. 305, Sec. 6)

4.32.07 Disorderly dance defined A disorderly dance is hereby defined to mean: Any public dance at which fights, brawls, disturbances of the peace, drunkenness and other disorderly conduct occurs. (Ord. No. 305, Sec. 7)

4.32.08 Violation Any person playing any musical instrument for any dance without having first obtained a permit herein required, shall be guilty of violating this chapter. (Ord. No. 305, Sec. 8)

4.32.09 Hours No dance shall be held within the city after one o'clock (1:00) a.m. (Ord. No. 305, Sec. 9)

4.32.10 Permit, days issued The Dance Committee may, in its discretion, allot certain days of the week or month to any individual or organization for the holding of a dance, but the allotment of such days shall not bind the Committee to issue the permit and no permit shall be issued more than two (2) weeks in advance of the holding of such dance. (Ord. No. 305, Sec. 10)

4.32.11 Penalty Upon conviction, anyone violating this chapter shall be subject to a fine of Twenty-Five Dollars (\$25.00) for the first offense and Fifty Dollars (\$50.00) for the second and subsequent offenses. (Ord. No. 305, Sec. 11)

CHAPTER 4.36

PEDDLING

Sections:

- 4.36.01 Permit
- 4.36.02 Penalty

4.36.01 Permit. Permit for peddlers shall be issued by the City Clerk upon the payment of \$50.00 per day. (Ord. No. 1631, Sec. 1)

4.36.02 Penalty. Anyone peddling without a permit shall upon conviction be subject to a fine not less than \$25.00 or more than \$500.00 and jurisdiction shall lie in Municipal court. (Ord. No. 1631, Sec. 2)

CHAPTER 4.37

FISH AND/OR SEAFOOD

Sections:

- 4.37.01 Privilege declared
- 4.37.02 Permit required
- 4.37.03 Excluded businesses
- 4.37.04 Display of permit
- 4.37.05 Penalty

4.37.01 Privilege declared. The peddling or sale of rough or dressed fish and/or seafood within the City of Stuttgart is hereby declared to be a privilege. (Ord. No. 1284, Sec. I)

4.37.02 Permit required. From and after the passage of this ordinance, every person, firm or entity engaging in the peddling or sale of rough or dressed fish and/or seafood shall first obtain from the City Clerk a Fish / Seafood Peddler's Permit. Such permit shall be valid for a period of one (1) year from the date of issuance. A fee in the sum of One Hundred Dollars (\$100.00) for issuance of such permit shall be payable in advance.

In order to obtain a permit, the applicant must present to the City Clerk a current

certificate or letter from the Arkansas Department of Health indicating that the applicant has met all applicable Arkansas health codes or regulations governing the sale of rough or dressed fish and/or seafood. (Ord. No. 1284, Sec. II)

4.37.03 Excluded businesses. The permit requirement imposed herein shall not apply to wholesale or retail businesses having a permanent business location within the city of Stuttgart and which are subject to periodic inspection by the Arkansas Department of Health. (Ord. No. 1284, Sec. III)

4.37.04 Display of permit. The annual permit issued pursuant to this ordinance shall be conspicuously displayed in public view at all times during which the permit holder shall sell or offer for sale any fish and/or seafood. (Ord. No. 1284, Sec. IV)

4.37.05 Penalty. Any person, firm or other entity found to be in violation of this ordinance shall, upon conviction, be fined in a sum of not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) and each day the violation shall continue shall constitute a separate offense. (Ord. No. 1284, Sec. V)

CHAPTER 4.40

ALCOHOLIC BEVERAGES

Sections:

4.40.01	Privilege
4.40.02	License
4.40.03	Retail area
4.40.04	Period of license
4.40.05	Voiding license
4.40.06	Posting of license
4.40.07	Hours of operation
4.40.08	License required
4.40.09	Adoption of state law
4.40.10	Application
4.40.11	Restrictions
4.40.12	Penalty
4.40.13	Selling prohibited in parks
4.40.14	Restrictions on license to sell near parks
4.40.15	Penalty for violating Sections 4.40.15 and 4.40.16
4.40.16	Sale to minors

4.40.01 Privilege. The business of storing, transporting and/or selling spirituous, vinous (except wines) and/or malt liquors at wholesale or retail within the City of Stuttgart, Arkansas, is hereby declared to be a privilege and may be only exercised after full and complete compliance with this chapter. (Ord. No. 334, Sec. 1)

4.40.02 License. The wholesale dealer shall pay a license of Two Hundred Dollars (\$200.00); the retail dealer shall pay a license of Two Hundred Dollars (\$200.00). Each license is to be for a twelve (12) month period, as hereinafter set forth. (Ord. No. 334, Sec. 2)

4.40.03 Retail area. No retail liquor license shall be issued to any person, persons, firm or corporation for the conducting, transacting or carrying on of a retail liquor business at any place within the City of Stuttgart, Arkansas, except in the territory between First Street on the North, Sixth Street on the South, College Street on the East and Maple Street on the West; and except on Michigan Street between Buerkle Street on the West and Leslie Street on the East; and except on Washington Street between Lowe Street on the West and Porter Street on the East; and except on South Main Street between Twentieth Street and Twenty-Second Street; and the West side of North Main Street between Harrison Street and Cleveland Street; and except an area on the West side of Park Avenue fifty by one hundred six and six-tenths feet (501 x 106.61) located immediately adjacent to and North of the alley right-of-way in Block 3, Oaklawn Addition, more particularly described as the South fifty (50) feet of Lots 1 and 2, in said block; and except on South Main Street between Eighteenth Street and Nineteenth Street. (Ord. No. 662, Sec. 1)

4.40.04 Period of license. Each license shall run concurrently with the licenses issued by the State Government. It is provided the City Clerk shall have the right to accept installment payments of license fees due the City for such periods of time as the State Commissioner of Revenues grants for the payment of State license fees. (Ord. No. 334, Sec. 4)

4.40.05 Voiding license. Each and every license issued shall be issued only upon condition that the recipient shall comply with all the terms and conditions of this chapter, the State law, National law, regulations prescribed from time to time by the State Commissioner of Revenues, or such other legally constituted authority as may be empowered to issue and promulgate regulations effecting the business of selling, transporting, storing liquors, either in wholesale or retail; and in the event any licensee or permittee shall fail or refuse, for any reason to comply, his license shall be void. (Ord. No. 334, Sec. 5)

4.40.06 Posting of license. Each licensee shall have in his possession and upon the premises where liquors are being sold and dispensed at retail, a copy of his State License. (Ord. No. 334, Sec. 6)

4.40.07 Hours of operation. It shall be unlawful for any retail dealer or dispenser to sell, give away, or otherwise dispose of spirituous, vinous (except wines), and/or malt liquors between the hours of twelve (12) o'clock midnight and seven (7) A. M. on any week day. (Ord. No. 334, Sec. 7)

4.40.08 License required. It shall be unlawful for any person, persons, firm or corporation to sell, give away, barter or otherwise dispose of any spirituous, vinous (except wines) and/or malt liquors at wholesale or retail within the City without first having applied for and obtained a license to conduct such business. (Ord. No. 334, Sec. 8)

4.40.09 Adoption of state law. Any person, persons, firm or corporation violating any of the terms of the law known as the Arkansas Beverage Alcoholic Control Act shall be deemed violating this chapter and shall be subject to the same fine and/or imprisonment as provided by the law. (Ord. No. 334, Sec. 9)

4.40.10 Application. Whenever any person, persons, firm or corporation shall wish to obtain license to transact liquor business, either wholesale or retail, within the City, he shall make written application, sworn to, setting forth the name of the business sought to be licensed, the names and addresses of all persons owning or holding any interest in said business, either directly or indirectly, the location of the proposed business, the owner or owners of the building or premises in which the business is to be located, and shall have his State and Federal License. The application shall be considered by the Council at its next regular or special session and the license shall only be issued after having received the approval of the majority of the elected Councilmen, and it shall be wholly discretionary with the Council as to whether or not any person, persons, firm or corporation applying for license shall receive a license. (Ord. No. 334, Sec. 10)

4.40.11 Restriction. It shall be unlawful for any permittee or licensee to conduct any character of business permitted to be licensed by this chapter other than that for which he is specifically licensed. (Ord. No. 334, Sec. 11)

4.40.12 Penalty. Any person, persons, firm or corporation violating Sections 4.40.02 and 4.40.10 of this chapter shall be upon conviction, fined in any sum not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, and each day shall constitute a separate offense; any person, persons, firm or corporation violating Section 4.40.07 of this chapter upon conviction, shall be fined in any sum not less than One Hundred (\$100.00) Dollars nor more than Two Hundred-Fifty (\$250.00) Dollars. (Ord. No. 334, Sec. 12)

4.40.13 Selling Prohibited in parks. It shall be unlawful for any person, firm, or corporation to sell or offer to sell any intoxicants in any form, including beer, wine, and whiskey, within three hundred (300) feet of any public park owned and operated by the city. (Ord. No. 458, Sec. 1)

4.40.14 Restrictions on license to sell near park. It shall be unlawful for any official to issue any license to any person, firm, or corporation for the sale of any intoxicants, including beer, wine, and whiskey, within three hundred (300) feet of any public park owned and operated by the city and all such areas are declared to be zones with which the licensing for the sale of all intoxicants, is prohibited as authorized by A.C.A. 3-5-213 (Ord. No. 458, Sec. 2)

4.40.15 Penalty for violating Sections 4.40.15 and 4.40.16. Any person violating Sections 4.40.15 and 4.40.16 shall be punished by a fine of not less than Twenty-Five Dollars (\$25.00), nor more than Fifty Dollars (\$50.00), and each day any establishment may remain open and offer for sale any intoxicants as forbidden by Section 4.40.15 hereof shall constitute a separate offense. (Ord. No. 458, Sec. 3)

4.40.16 Sale to minors.

- A. It shall be unlawful for any person under the age of twenty-one (21) years to misrepresent his or her age for the purpose of obtaining liquor, beer, or alcoholic beverages. (Ord. No. 1457, Sec. I)
- B. It shall be unlawful for any person under the age of twenty-one (21) years to attempt to purchase or otherwise obtain any alcoholic beverage from a retail dealer who sells such beverages for off-premises consumption or from a public tavern, restaurant, or other establishment which sells such beverages for on-premises consumption. (Ord. No. 1457, Sec. II)
- C. It shall be unlawful for any person under the age of twenty-one (21) years to attempt to purchase or otherwise obtain any alcoholic beverage at a private club. (Ord. No. 1457, Sec. III)
- D. Any person convicted of violating Section 1, 2, or 3 above shall be punished by a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00). (Ord. No. 1457, Sec. IV)
- E.
 - 1. The manager of any public establishment which sells alcoholic beverages for on-premises or off-premises consumption, and the manager of any private club which serves alcoholic beverages for on-premises consumption shall be required to post in a conspicuous place a notice stating:

"NOTICE TO PERSON UNDER 21 YEARS OF AGE"

You are subject to a \$500.00 fine for:

1. Misrepresenting your age for the purpose of obtaining liquor, beer or alcoholic beverages.
2. Attempting to purchase or otherwise obtain liquor, beer, or alcoholic beverages.
3. The size of the notice shall not be less than eight and one-half inches by eleven inches (8h" x 1111). The lettering on the notice shall be clearly legible.
4. Any establishment which sells alcoholic beverages at a drive-in window shall post a separate notice at each drive-in window. (Ord. No. 1457, Sec. V)

CHAPTER 4.44

OCCUPATIONAL LICENSE

Sections:

4.44.01	Required, schedule
4.44.02	Definitions
4.44.03	Payment
4.44.04	Licenses required, information of
4.44.05	Violation
4.44.06	Penalty
4.44.07	Collection
4.44.08	False statement, penalty

4.44.01 Required, schedul. The conducting and carrying on of all trades, businesses, occupations, vocations, callings, and professions, except those specifically exempted by the Laws of the State of Arkansas, and also excepting public utilities otherwise taxed by the city is hereby declared to be a privilege and each such trade, business, occupation, vocation, calling or profession, shall apply for and pay for a license in the amount and in the manner hereinafter set out.

Business conducted by owner or by owner and spouse no employees	\$25.00
Business having 1 - 5 employees each employee	\$50.00 plus an additional \$10.00 for
Business having 6 - 10 employees each employee	\$75.00 plus an additional \$10.00 for
Business having 11 - 25 employees for each employee	\$100.00 plus an additional \$10.00
Business having 26 - 50 employees for each employee	\$125.00 plus an additional \$10.00
Business having 51 or more employees for each employee	\$250.00 plus an additional \$10.00

(Ord. No. 1003, Sec. 1)

4.44.02 Definitions The following definitions shall apply in construing Section 4.44.01:

The term "Business" as used in the foregoing section shall mean any and all trades, occupations, businesses, vocations or callings which are conducted within the limits of the City.

The Ten Dollar (\$10.00) charge for each employee shall be determined as follows:

Each person, firm or corporation subject to the provisions of this chapter shall make application to the City Clerk, estimating the average number of persons to be employed during the succeeding year. The City Clerk shall issue a license, charging according to each estimate, on or before March 10th of the year following the year in which such license was issued. The person, firm or corporation shall file with the City Clerk a true statement of the average number of employees employed during the previous year, and shall pay any excess due the city by reason of the previous estimate having been too low. At the time (on or before March 10th) such person, firm or corporation shall furnish an estimate of the average number to be employed during said year of application. The specific purpose and intent of this provision is that all persons, firms or corporations shall furnish the City Clerk accurate information concerning the number employed by them and shall be charged on the basis of the average number employed. (Ord. No. 1003, Sec. 2 as amended by Ord. No. 1305, Sec. 1)

4.44.03 Payment. The period governed by any license shall be for one (1) year beginning April 1st and ending March 31st and all licenses shall be paid annually in advance; provided, however, at the option of the licensee, said license may be paid in two (2) equal installments on or before May 1st and November 1st, respectively of each year. Any person, firm or corporation beginning business in any calendar quarter shall pay a pro-rated fee for the remainder of the year; such computation to include the calendar quarter in which the business began. Said license fee may be transferred one (1) time per year if ownership or location is changed. (Ord. No. 1046, Sec. 1 as amended by Ord. No. 1305, Sec. 2)

4.44.04 License required, information on The City Clerk shall issue a written license to the licensee upon proper application and payment. With respect to businesses involved in the sale of foods to the public, a copy of the Arkansas State Health Department Permit and Approval to Operate Such Business shall accompany the application. No license will be issued without the Arkansas State Health Department Permit and Approval. The license is to specify and designate the place where such businesses are being conducted. If a fixed place of business is not required by such trade, vocation, occupation, business, calling or profession, such license shall specify the home address of said licensee. For each of two or more places at which the occupation is carried on at one and the same time a separate license fee shall be paid. (Ord. No. 1690, Sec. 1.)

4.44.05 Violation It shall be unlawful for any person, firm or corporation, whether as principal or agent, to commence, engage in or carry on any trade, business, occupation, vocation, calling or profession in the city without having first procured a license and the commencing, engaging in or carrying on of any such trade, business, occupation, vocation, calling or profession without first procuring a license from the city to do so, shall constitute a violation of this chapter and each day that such activity is carried on without procuring such license, shall constitute a separate offense. (Ord. No. 490, Sec. 6)

4.44.06 Penalty All annual licenses shall be obtained prior to May 1st of each year and all semi-annual licenses shall be obtained prior to May 1st (first payment) and November 1st (second payment) of each year. In the event that the final date for payment shall fall on a Saturday, Sunday or legal holiday, payment shall be deemed to be timely made if paid in person on the first regular business day thereafter or, if paid by mail bearing a postmark dated on or before the final date for payment. Failure to obtain and pay for such licenses on or before the dates herein specified shall be deemed a delinquency. All such delinquents shall pay a penalty of ten percentum (10%) of the amount due in addition to the amount of license payable if such payment is made without court action, which court action shall be taken at the expiration of sixty (60) days after the due date May 1st or November 1st as specified. If court action is brought against such delinquent, any person, firm or corporation violating any provision of this chapter upon conviction shall be fined in any sum not less than Five Dollars (\$5.00) and not more than double the amount of such license paid or due from such violator. The payment of the license fee after committing a violation of this chapter shall not relieve the violator from paying the fine

or penalty imposed by the District Court. Neither shall the payment of the fine or penalty relieve the violator of liability for the amount of license fee due the city. There shall be nothing in this chapter which shall be construed to make it mandatory on any employee or official of the city to give notice of the license fee due as a condition precedent to the filing of any action and the fact that any violator has not received written notice of license fee due shall be no defense. (Ord. No. 1261, Sec. 1 as amended by Ord. No. 1305, Sec. 3)

4.44.07 Collection. In addition to the penal provisions contained in the foregoing section, the amount of license imposed by this chapter shall be deemed a debt due the city and the city shall have the right to file an action in any court of competent jurisdiction for the collection of such debt. (Ord. No. 490, Sec. 8)

4.44.08 False statement, penalty. Any person, firm or corporation required by this chapter to furnish certain information to the City Clerk, who willfully furnishes false information for the purpose of defrauding the city of any portion of the fee rightfully due or who fails to furnish the information requested shall be deemed in violation of this chapter and upon conviction, shall be fined double the amount of the license fee paid or due. (Ord. No. 490, Sec. 9)

CHAPTER 4.48

PAWNBROKERS

Sections:

- 4.48.01 Records
- 4.48.02 Rules

4.48.01 Records. That from and after passage and approval of this ordinance every person engaged in business as a pawnbroker shall keep a well bound book and a particular minute and detailed description of each and every article pawned or sold and the number thereof, with the name, color and residence of the person pawning or selling such article, which book shall be indexed. The pawnbroker shall give the pawner a receipt or pawn ticket corresponding with the description in said book or register. The pawnbroker shall keep such book or register open at all times to the inspection of the police. Every person engaged in business as a pawnbroker shall prepare and deliver to the Chief of Police before 8:00 p.m. each business day a current copy from such register of the description of all properties, bonds, notes, pledges, powers of attorney or other securities received on deposit or purchased during the preceding twenty-four (24) hours, with the name of each party making a deposit, pledge or sale together with the description of the person by whom left in pledge or from whom the same was purchased. The

copy from the register hereinbefore mentioned shall be typewritten and on a form approved by the Chief of Police. A copy of said form is attached and made a part hereof. (Ord. No. 1073, Sec. 1)

4.48.02 Rules. That no bond, power of attorney, pledge or security of personnel property of any kind received on such deposit purchased or pledged by any pawnbroker shall be sold or permitted to be redeemed or removed from the pawnbroker's place of business within Twenty-Four (24) hours after the copy and statements provided in this article have been delivered. (Ord. No. 1073, Sec. 4)

CHAPTER 4.52

FLEA MARKETS

Sections:

- 4.52.01 Privilege declared
- 4.52.02 Definition
- 4.52.03 Permit required
- 4.52.04 Parking and traffic control
- 4.52.05 Maintenance of premises
- 4.52.06 Prohibited activities
- 4.52.07 Excluded organizations
- 4.52.08 Penalty

4.52.01 Privilege declared The conducting of a business in the nature of a flea market within the City of Stuttgart is hereby declared to be a privilege. (Ord. No. 1232, Sec. 1)

4.52.02 Definition For purposes of this ordinance, the term "Flea Market" shall mean a person, firm, corporation or other entity which provides booths, space, etc. to independent vendors and/or peddlers for the purpose of displaying, taking orders for and/or selling merchandise, goods or services. The term flea market specifically excludes produce markets, farmers markets and garage sales. (Ord. No. 1232, Sec. 2)

4.52.03 Permit required From and after the passage of this ordinance, every person, firm, corporation or other entity engaging in a business in the nature of a flea market shall first obtain from the City Clerk a flea market permit. Such permit shall be issued annually. The fee for issuance of such permit shall be payable in advance and shall be based upon the number of available spaces/booths as described below:

1 - 25 booths	\$ 250.00	S-38
26 - 50 booths	500.00	
51 - 75 booths	750.00	
76 or more booths	1000.00	

The annual permit shall at all times during the operation of the flea market be conspicuously displayed in public view. (Ord. No. 1232, Sec. 3)

4.52.04 Parking and traffic control Any person, firm or entity which operates a flea market shall provide one (1) off-street parking space for each available space or booth. Such person, firm or entity shall be responsible for insuring that streets and alleys are not blocked by patrons or exhibitors and that sufficient clearance remains on such streets and alleys so that emergency vehicles shall at all times have access through such streets and alleys. (Ord. No. 1232, Sec. 4)

4.52.05 Maintenance of premises The premises upon which a flea market is operated, including parking areas, shall at all times, be maintained in a neat and orderly fashion, free from the accumulation of litter or debris. (Ord. No. 1232, Sec. 5)

4.52.06 Prohibited activities No person, firm or entity operating a flea market nor any exhibitor or vendor shall offer for sale any alcoholic beverages or farm produce. (Ord. No. 1232, Sec. 6)

4.52.07 Excluded organizations Provisions of this ordinance shall not apply to markets or sales which are conducted or sponsored by nonprofit or charitable organizations or to markets or sales at which all exhibitors and vendors consist of nonprofit or charitable organizations. (Ord. No. 1254, Sec. 1)

4.52.08 Penalty Any person, firm, corporation or other entity found to be in violation of this ordinance shall, upon conviction, be fined in a sum of not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) and each day the violation shall continue shall constitute a separate offense. (Ord. No. 1232, Sec. 8)

CHAPTER 4.55

YARD SALES-PERMITS, PARKING, VIOLATION

Sections:

4.55.01	Sales subject to rule
4.55.02	Permit required
4.55.03	Duration of issuance
4.55.04	Parking
4.55.05	Violation

4.55.01 Sales subject to rule For the purpose of these rules and regulation, it is of no significance whether the sale is called garage sale, yard sale, tent sale or by other name. Any sale or attempted sale of personal property which involves three (3) or more items of property for which any person does not obtain a business, occupational or peddlers license or permit, shall be subject to the following rules. (Ord. No. 1923, Sec. 1)

4.55.02 Permit required It shall be unlawful for any person(s) or business within the City of Stuttgart to engage in or carry on any sale of the nature described above or any shelter type of sale unless that person first obtains a permit from the City Clerk, or her agent. Each permit shall cost ten dollars (\$10.00). The applicant shall sign a statement stating that the sale shall be of personal property was not purchased for the purpose of resale. The permit and the receipt are to be displayed in a visible location at the sale. (Ord. No. 1923, Sec. 2)

4.55.03 Duration of issuance Each permit shall be issued for a maximum of three (3) consecutive calendar days per sale. (Ord. No. 1923, Sec. 3)

Two (2) permits may be issued in a calendar year per address. (Ord. No. 1923, Sec. 4)

4.55.04 Parking Any person(s) or business conducting a sale described in this division shall be responsible for providing adequate parking to avoid the creation of a hazardous traffic condition at or near the sale location. (Ord. No. 1923, Sec. 5)

4.55.05 Violation Any person(s) or business violating any rule or regulation set out in this division shall be liable for a fee not to exceed one hundred dollars (\$100.00). The violation of any rule set out in this division shall be considered a separate violation from other violations of the division. (Ord. No. 1923, Sec. 6)

CHAPTER 4.56

YARD SALE SIGNS

Sections:

4.56.01	Definitions
4.56.02	Sign specifications
4.56.03	Location of signs
4.56.04	Time limitations
4.56.05	Penalties

4.56.01 Definitions

"Yard Sale" shall mean and include all sales entitled "carport sale", "attic sale", "garage sale", "moving sale", "rummage sale" or "back yard sale" or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of said sale.

"Person" shall mean and include individuals, partnerships, voluntary associations, civic groups and corporations. (Ord. No. 1392, Sec. 1)

4.56.02 Sign specifications All signs advertising a "yard sale" shall state the date(s), time(s) and location of said sale. A sign advertising a "yard sale" shall be attached to its own stake for support and shall not be greater than two (2) feet square in size and shall stand no higher than three (3) feet above the ground. (Ord. No. 1392, Sec. 2)

4.56.03 Locations of signs No person shall place a sign advertising a "yard sale" more than three hundred (300) feet from the location of said sale.

No person shall attach a sign advertising a "yard sale" to a utility pole or street sign post in any manner. (Ord. No. 1392, Sec. 3)

4.56.04 Time limitations Signs advertising "yard sales" shall be erected no earlier than forty-eight (48) hours prior to said sale and shall be removed no later than forty-eight (48) hours after said sale is concluded. (Ord. No. 1392, Sec. 4)

4.56.05 Penalties Any violation of any section of this ordinance shall be construed as a misdemeanor. (Ord. No. 1392, Sec. 5)