

## **TITLE 4**

### **BUSINESS LICENSES AND REGULATIONS**

Chapters:

- 4.04 Electric Franchise to Southwestern Electric Power Company
- 4.08 Electric Franchise to Carroll Electric Cooperative
- 4.12 Gas Franchise
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- 4.20 Cable TV Franchise
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### **CHAPTER 4.04**

#### **ELECTRIC FRANCHISE TO SOUTHWESTERN**

#### **ELECTRIC POWER COMPANY**

Sections:

- 4.04.01 Electric franchise granted to Southwestern Electric Power Company
- 4.04.02 Franchise tax
- 4.04.03 No other fees
- 4.04.04 Franchise takes effect
- 4.04.05 Raising and lowering of wires
- 4.04.06 Permission for tree trimming
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4.04.01 Electric franchise granted to Southwestern Electric Power Company That Southwestern Electric Power company, its successors and assigns, shall continue to operate its electrical power system and all business incidental to or connected with the conducting of business system engaged in the sale of electric power and energy within the city limits of the city of Pea Ridge, Arkansas, as heretofore allocated to Southwestern Electric Power Company by the Arkansas Public Service Commission. The plant construction and appurtenances used in or incident to the giving of electrical power service and to the maintenance of an electrical power service business shall remain as now constructed, subject to such changes as may be considered necessary by the city of Pea Ridge, Arkansas, in the exercise of its inherent power and by

Southwestern Electric Power Company in the conduct of its business and by the Arkansas Public Service Commission in its regulatory power of public utilities. Said Southwestern Electric Power Company shall continue to exercise its right to place, remove, construct, extend and maintain its said plant and appurtenances thereto, along, over, across, on, through, above and under all public streets, alleys, avenues, and the public grounds and places in certain areas heretofore allocated by the Arkansas Public Service Commission and within the corporate limits of the city of Pea Ridge, Arkansas, as said corporate limits are now located or as may hereafter be located within the area assigned to Southwestern Electric Power Company by the Arkansas Public Service Commission. (Ord. No. 99, Sec. 1.)

4.04.02 Franchise tax That Southwestern Electric Power Company shall pay to the city of Pea Ridge, Arkansas, for the period commencing January 1, 1981, and ending December 31, 1986, a sum equal to four percent (4%) of its gross sales of electrical power to domestic and commercial consumers within the territory served by Southwestern Electric Power Company within the corporate limits of the city of Pea Ridge, Arkansas, as said corporate limits now exist or may hereafter exist; said sum to be paid in quarterly-annual payments. Southwestern Electric Power Company shall have thirty (30) days from the end of each quarter to compute and make the payments provided for herein. Insofar as payment of an annual Franchise Tax, said payment shall be continued from year to year following December 31, 1986, unless the city of Pea Ridge, Arkansas, or Southwestern Electric Power Company shall terminate this agreement at the end of any year after giving sixty (60) days advance notice of intention to terminate. (Ord. No. 99, Sec. 2.)

4.04.03 No other fees Quarterly payments herein required shall be in lieu of all other charges, licenses, fees or impositions (other than the usual general or special ad valorem taxes) which may be imposed by the city of Pea Ridge, Arkansas, under authority conferred by law. (Ord. No. 99, Sec. 3.)

4.04.04 Franchise takes effect This franchise shall take effect and continue and remain in force as provided in A.C.A. 14-200-103 as same may be amended from time to time. (Ord. No. 99, Sec. 4.)

4.04.05 Raising and lowering of wires Southwestern Electric Power Company on the request of any person shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting the same, and the Southwestern Electric Power Company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes. (Ord. No. 99, Sec. 5.)

4.04.06 Permission for tree trimming Permission is hereby granted to Southwestern Electric Power Company to trim trees upon and overhanging streets, alleys, sidewalks, and public places of said city so as to prevent the branches of such trees from coming in contact with the wires and cables of Southwestern Electric Power Company; all of the said trimming to be done under the supervision and direction of any city official to whom said duties have been or may be delegated. (Ord. No. 99, Sec. 6.)

4.04.07 Separate agreement Nothing in this ordinance contained shall be construed to require or permit any electric light or power wire attachments by the city, or for the city. If light or power attachments are desired by the city or for the city, then a separate non-contingent agreement shall be a prerequisite to such attachments. (Ord. No. 99, Sec. 7.)

4.04.08 No exclusive privileges Nothing herein contained shall be construed as giving to Southwestern Electric Power Company any exclusive privileges, nor shall it affect any prior or existing rights of Southwestern Electric Power Company to maintain an electrical power system within the city of Pea Ridge, Arkansas. (Ord. No. 99, Sec. 8.)

## **CHAPTER 4.08**

### **ELECTRIC FRANCHISE TO CARROLL ELECTRIC COOPERATIVE**

#### Sections:

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| 4.08.01 | Franchise granted to Carroll Electric Cooperative |
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| 4.08.06 | Permission for tree trimming                      |
| 4.08.07 | Separate agreement                                |
| 4.08.08 | No exclusive privileges                           |

4.08.01 Franchise granted to Carroll Electric Cooperative That Carroll Electric Cooperative, its successors and assigns, shall continue to operate its electrical power system and all business incidental to or connected with the conducting of business systems engaged in the sale of electric power and energy within the city limits of the city as heretofore allocated to Carroll Electric Cooperative by the Arkansas Public Service Commission. The plant construction and appurtenances used in or incident to the giving of electrical power service and to the maintenance of an electrical power service business shall remain as now constructed, subject to such changes as may be considered necessary by the city of Pea Ridge, in the exercise of its inherent power and by Carroll Electric Cooperative in the conduct of its business and by the Arkansas Public Service Commission in its regulatory power of public utilities.

Said Carroll Electric Cooperative shall continue to exercise its right to place, remove, construct, extend and maintain its said plant and appurtenances thereto, along, over, across, on, through, above and under all public streets, alleys, avenues, and the public grounds and places in certain areas heretofore allocated by the Arkansas Public Service Commission and within the corporate limits of the city of Pea Ridge, as said corporate limits are now located or as may

hereafter be located within the area assigned to it by Arkansas Public Service Commission. (Ord. No. 100, Sec. 1.)

4.08.02 Franchise tax That Carroll Electric Cooperative shall pay to the city of Pea Ridge, Arkansas, for the period commencing January 1, 1981, and ending December 31, 1986, a sum equal to four per cent (4%) of its gross sales of electrical power to domestic and commercial consumers within the territory served by Carroll Electric Cooperative within the corporate limits of the city of Pea Ridge, as said corporate limits now exist or may hereafter exist; said sum to be paid in quarterly-annual payments. Carroll Electric Cooperative shall have thirty (30) days from the end of each quarter to compute and make the payments provided for herein. Insofar as payment of an annual Franchise Tax, said payment shall be continued from year to year following December 31, 1986, unless the city of Pea Ridge or Carroll Electric Cooperative shall terminate this agreement at the end of any year after giving sixty (60) days advance notice of intention to terminate. (Ord. No. 100, Sec. 2.)

4.08.03 No other fees Quarterly payments herein required shall be in lieu of all other charges, licenses, fees or impositions (other than the usual general or special ad valorem taxes) which may be imposed by the city of Pea Ridge, Arkansas, under authority conferred by law. (Ord. No. 100, Sec. 3.)

4.08.04 Franchise takes effect This franchise shall take effect and continue and remain in force as provided in A.C.A. 14-200-103 as same may be amended from time to time. (Ord. No. 100, Sec. 4.)

4.08.05 Raising and lowering of wires Carroll Electric Cooperative on the request of any person shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting the same, and the Carroll Electric Power Company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes. (Ord. No. 100, Sec. 5.)

4.08.06 Permission for tree trimming Permission is hereby granted to Carroll Electric Cooperative to trim trees upon and overhanging streets, alleys, sidewalks, and public places of said city so as to prevent the branches of such trees from coming in contact with the wires and cables of Carroll Electric Power Company; all of the said trimming to be done under the supervision and direction of any city official to whom said duties have been or may be delegated. (Ord. No. 100, Sec. 6.)

4.08.07 Separate agreement Nothing in this ordinance contained shall be construed to require or permit any electric light or power wire attachments by the city, or for the city. If light or power attachments are desired by the city or for the city, then a separate non-contingent agreement shall be a prerequisite to such attachments. (Ord. No. 100, Sec. 7.)

4.08.08 No exclusive privileges Nothing herein contained shall be construed as giving to Carroll Electric Power Company any exclusive privileges, nor shall it affect any prior or existing rights of Carroll Electric Power Company to maintain an electrical power system within the city of Pea Ridge, Arkansas. (Ord. No. 100, Sec. 8.)

## **CHAPTER 4.12**

### **GAS FRANCHISE**

#### Sections:

- 4.12.01 Gas franchise granted to Arkansas Western Gas Company
- 4.12.02 Rights and responsibilities of Gas Company and city
- 4.12.03 Grantee shall guard all excavations and obstructions
- 4.12.04 City is held harmless
- 4.12.05 Rates
- 4.12.06 Grantee shall furnish information
- 4.12.07 Franchise tax
- 4.12.08 Amendments
- 4.12.09 Severability

4.12.01 Gas franchise granted to Arkansas Western Gas Company The city of the Arkansas Western Gas Company the exclusive right, privilege and authority within the present and all future expansions of the corporate limits of the city of Pea Ridge (1) to sell, furnish, transmit and distribute natural gas to all inhabitants and consumers within the said limits; and (2) subject to the terms, conditions and stipulations mentioned in this ordinance, consents and the right, permission and franchise is hereby given to the Arkansas Western Gas Company, a corporation organized and existing pursuant to the laws of the State of Arkansas, Grantee, and to its successors, lessees, and assigns to lay, construct, equip, operate, repair, and maintain a system of gas mains, pipes, conduits, feeders and the appurtenances for the purpose of supplying and distributing natural gas for light, fuel, power, and heat and for any other purpose, to the residents or inhabitants of the said city; and further, the right to lay, construct, operate and maintain a system of gas mains, pipe lines, pipe conduits and feeders and the necessary attachments, connection, fixtures and appurtenances for the purpose of conveying, conducting or distributing natural gas from any point beyond said city limits in order to enable the said Grantee to distribute and sell natural gas to the said city and to the residents or inhabitants thereof, and to others. As used in this ordinance the terms “natural gas” and “gas” shall be defined as including, in addition to natural gas, such alternate, substitute or supplemental fuels as (without necessarily limited to) liquefied natural gas, liquefied petroleum gas, synthetic natural gas and propane - air. (Ord. No. 98, Sec. 1.)

4.12.02 Rights and responsibilities of Gas Company and city The Grantee herein is expressly given the permit (subject to the provision hereinafter contained) to use the streets, avenues, roads, highways, alleys, sidewalks and other public places, as now laid out, or hereafter to be established, for the purpose of laying gas mains, pipe lines, conduits and feeders, and the necessary attachments, fixtures, connections and appurtenances for the purpose of conveying or conducting natural gas from any point within the said city or to any point beyond the city limits of the said city, or to any other point, through and beyond the city limits of said city, and to operate and maintain a system of pipe lines, pipe, conduits, feeders and the necessary attachments, connections, fixtures and appurtenances for the distribution of natural gas within said city to serve the said city and the residents and inhabitants thereof, and others; provided, however, that where alleys are accessible for laying mains and pipes, the city shall have the right to require that the mains and pipes shall be laid in the alleys instead of the streets, so long as this is economically feasible (does not create an economic hardship). (Ord. No. 98, Sec. 2.)

4.12.03 Grantee shall guard all excavations and obstructions No fees or charges of any kind shall be imposed by Grantor upon the Grantee or upon any successors, or upon any consumer of natural gas for the breaking or opening of any highway, street, road, avenue, alley, or other public places, or for the laying of any main, service pipe or other connections therein, except as would be generally imposed on others performing similar work under similar circumstances and conditions.

The Grantee shall adhere to Ordinance No. 89 of the city of Pea Ridge, Arkansas, entitled: AN ORDINANCE REQUIRING THAT A PERMIT BE OBTAINED PRIOR TO COMMENCEMENT OF EXCAVATION TO A STREET, SIDEWALK OR ALLEY, PROVIDING STANDARDS FOR ISSUANCE OF PERMIT; SETTING FORTH THE AUTHORITY OF THE CITY INSPECTOR OVER OPERATIONS HEREUNDER; PROVIDING PENALTIES FOR VIOLATIONS OR ITS PROVISIONS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES AND ANY AMENDMENTS THERETO.

Nothing in this franchise shall be construed in such manner as to in any manner abridge the right of the city to pass and enforce the necessary police regulations for the purpose of protecting the citizens of said city and their property and the property of the Grantee.

Grantee shall at all times keep and display the necessary danger signals and proper guards around all excavations and obstructions and shall keep sufficient space in good condition for the travel of vehicles on at least one side of all excavations and obstructions, and shall as soon as practicable restore all openings on the highway, road, street, avenue, alley and other public places to condition equally as good as before said openings or obstructions were made. Anything to the contrary notwithstanding, when in the judgment of Grantee it is necessary for the safety of the citizens, to divert or detour traffic from the area of excavations they have the power to so do upon notice to said city. (Ord. No. 98, Sec. 3.)

4.12.04 City is held harmless The Grantee shall do no injury to any highway, road, street, avenue, alley, lane, bridge, stream or water course, park or public place, except as specifically allowed, nor with any public or private sewer or drainage system, or water lines, now or hereafter laid or constructed by the said city or by any authorized person or corporation, but no sewer or water pipes, electric conduits, telephone or TV cables shall be so laid as to interfere unnecessarily with any gas main or pipes which shall have been laid prior to the time of laying such electric conduits, telephone and TV cables, sewer or water pipes. The Grantee shall fully indemnify and save harmless the city from any and all claims for damage for which said city shall or might be made or become liable by reason of the granting of this franchise, or any negligence or carelessness on the part of said Grantee, or because of any act or omission of the Grantee in the construction and operation of its system of mains and pipes. (Ord. No. 98, Sec. 4.)

4.12.05 Rates Natural gas service shall be provided under the terms and conditions herein specified and pursuant to the rules and regulations of the Arkansas Public Service Commission governing utility service, as well as Grantee's rules and regulations governing natural gas service on file with the Arkansas Public Service Commission and as interpreted and enforced by grantee. All utility services shall conform with these rules and regulations, as well as any other applicable rules and regulations, federal or state laws, including but not limited to the Arkansas Plumbing Code.

The rates which are to be charged by Grantee for natural gas service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be lawfully approved or prescribed by the Arkansas Public Service Commission or any successor regulatory authority having jurisdiction thereof.

The Grantee shall have the right to make and enforce as a part of the conditions under which it will supply natural gas for heat, power, light, fuel or other purposes as herein provided, all needful rules and regulations not inconsistent with law and the provisions of this franchise. (Ord. No. 98, Sec. 5.)

4.12.06 Grantee shall furnish information The Grantee shall furnish promptly to the proper authorities any and all information which may be asked for by them in regard to the size, location or depths of any of the pipes, mains, conduits, or service pipes, in any form whatsoever, and any other information in regard to its occupation of roads, highways, streets, avenues, or public grounds of said city, which they may demand. Whenever the word Grantee occurs in this ordinance, it shall mean and it shall be understood to be the Arkansas Western Gas Company, its successors, lessees or assigns, and whenever the words "authorities" or "proper authorities" occur in this franchise they shall mean and shall be understood to mean the authorized officer or officers, committee or board representing the city of Pea Ridge, Arkansas, or Grantor. (Ord. No. 98, Sec. 6.)

4.12.07 Franchise tax During the life of this franchise the Grantee shall pay to Grantor each year a franchise tax in an amount equal to: two percent ( 2%) of the Grantee's revenues before taxes for residential and commercial revenues as paid to the Grantee by residential and commercial customers located within the corporate limits of the city of Pea Ridge. Payments shall be made by the Grantee to the Grantor in quarterly installments and Grantee shall have thirty (30) days after the end of each calendar quarter within which to make such payment. Residential and commercial gas revenues are those revenues so classified pursuant to Grantee's uniform classification standards. Grantor shall have the right to examine and verify, from the records of the Grantee, any data relating to the gross revenues or Grantee from customers on which said franchise tax is due. In the event of a controversy between the Grantor and Grantee as to the amount of gross revenues received by Grantee in the city of Pea Ridge upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Grantee, for final determination, and the decision of said Commission shall be binding upon both parties hereto.

It is expressly agreed and understood by the Grantor and Grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, improvement districts, special millage taxes, and the general ad valorem taxes) which are now or might in the future be imposed by the Grantor under authority conferred upon the Grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee set forth in Section 7 hereof, to pay the franchise taxes annually shall immediately terminate. (Ord. No. 98, Sec. 7.)

4.12.08 Amendments This franchise shall take effect and continue and remain in force perpetually as provided in Section 44 of Acts of 1935, No. 324, Acts of the state of Arkansas, as same may be amended from time to time, and upon the written acceptance by the Grantee of the terms and conditions of this franchise. (Ord. No. 98, Sec. 8.)

4.12.09 Severability If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or unconstitutional, the same shall not affect, the validity of this ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional. (Ord. No. 98, Sec. 9.)



## CHAPTER 4.16

### TELEPHONE FRANCHISE

Sections:

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| 4.16.01 | Franchise granted to Contel               |
| 4.16.02 | Contel may make necessary street openings |
| 4.16.03 | City Engineer shall supervise             |
| 4.16.04 | City shall be held harmless               |
| 4.16.05 | Contel must adhere to city's plans        |
| 4.16.06 | No exclusive rights                       |
| 4.16.07 | Franchise tax                             |
| 4.16.08 | No other fees                             |

4.16.01 Franchise granted to Contel That permission be and is hereby granted to Contel, its successors and assigns, to construct, maintain and operate, its poles, posts, cables, wires and all other necessary overhead apparatus on, over and along; and its conduits, ducts, mains, pipes, cables, wires, manholes, distributing poles and all other necessary underground appliances on, in, under and through the streets, alleys and highways, within the limits of the city of Pea Ridge, state of Arkansas. This license shall continue until terminated according to law. (Ord. No. 156, Sec. 1.)

4.16.02 Contel may make necessary street openings All poles and other above ground improvements erected by Contel shall be located so they will not interfere with the safety or convenience of persons traveling on or over the said streets, alleys and highways; and in the work of installing and maintaining its underground system, Contel shall not open or encumber more of any street, alley or highway than will be necessary to enable it to perform same with proper economy and efficiency; nor shall it permit such opening or encumbrance to remain for a longer period than shall be necessary to do the work for which said opening shall have been made. (Ord. No. 156, Sec. 2.)

4.16.03 City Engineer shall supervise All work done under the provisions of this ordinance in said city, shall be subject to the supervision of the City Engineer or some other representative appointed by the city and Contel shall replace and properly re-lay any sidewalk or street pavement which may have been displaced or damaged by it in the construction and maintenance of its system in said city, and such work shall be done in accordance with all applicable city rules, regulations and ordinances. (Ord. No. 156, Sec. 3.)

4.16.04 City shall be held harmless Contel shall maintain all poles, cables, wires, conduits, ducts, mains, pipes, manholes, distributing poles and all other apparatus erected or constructed under the provisions of this ordinance, in good and safe order and condition; and shall at all times fully indemnify, protect, and save harmless the said city from and against all loss and necessary expenditures arising from the erection, construction, use and maintenance of

its system in said city, or from its neglect or failure to maintain the said apparatus in good and safe order and condition. (Ord. No. 156, Sec. 4.)

4.16.05 Contel must adhere to city's plans In the event that at any time during the period of this license the city shall lawfully elect to alter or change any street, alley, easement or other public way requiring the relocation of Contel's facilities, then Contel, upon reasonable notice from the city, shall remove, re-lay, and relocate the same at its own expense; provided, however, that where public funds are designated for such relocation pursuant to law, Contel shall be given credit against such costs to the extent of such funds. (Ord. No. 156, Sec. 5.)

4.16.06 No exclusive rights Nothing in this ordinance shall be construed to grant unto Contel any exclusive right, or to prevent a grant of similar privileges to other companies. (Ord. No. 156, Sec. 6.)

4.16.07 Franchise tax Beginning January 1, 1990, and thereafter so long as Contel, its successors or assigns, shall operate a telephone system within the city, it shall pay to the city a franchise fee in an amount equal to four percent (4%) of applicable gross revenues within the corporate boundaries of the city. Said fees shall be paid to the city quarterly, the first payment being due not later than April 30, 1990, for the period January 1, 1990, to March 31, 1990, and thereafter on or before the last day of the month following the end of each quarter. The amount of the fee levied herein by the city may be collected by Contel from those of its customers receiving local exchange telephone service within the corporate boundaries of the city in accordance with the tariffs of Contel and the rules, regulations and orders of the Arkansas Public Service Commission. This ordinance does not restrict the city from the right to alter the fee, upon notification in advance to Contel. (Ord. No. 156, Sec. 7.)

4.16.08 No other fees It is expressly agreed and understood by the city that the aforesaid payment shall constitute and be considered as complete payment and discharge by Contel, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes, general ad valorem taxes and other general taxes and fees applicable to all citizens and taxpayers) which are not or might in the future be imposed by the city under authority conferred upon the city by law. (Ord. No. 156, Sec. 8.)

## **CHAPTER 4.20**

### **CABLE TV FRANCHISE**

Sections:

- 4.20.01 Franchise granted to Cox Communications
- 4.20.02 Incorporated by reference

- 4.20.03 FCC Rate Regulations
- 4.20.04 Views of interested parties
- 4.20.05 Cable Administrator
- 4.20.06 Consultant and Costs
- 4.20.07 FCC Forms 328

4.20.01 Franchise granted to Cox Communications The Mayor and City Clerk are hereby authorized to enter into the attached Franchise Agreement with Coxcom, Inc., d/b/a Cox Communications, a Delaware Corporation (the "Agreement"). The Agreement is incorporated by reference herein as if set out word for word. (Ord. No. 490, Secs. 1-2.)

4.20.02 Incorporated by reference The Agreement is incorporated by reference herein as if set out word for word. (Ord. No. 202, Sec. 2.)

4.20.03 FCC Rate Regulations The city will follow the FCC Rate Regulations in its regulation of the Basic Service Rates and Charges of the Company and any other cable television system operating in the city, notwithstanding any different or inconsistent provision in the Franchise. (Ord. No. 198, Sec. 1.)

4.20.04 Views of interested parties In connection with such regulation, the city will ensure a reasonable opportunity for consideration of the views of interested parties. (Ord. No. 198, Sec. 2.)

4.20.05 Cable Administrator The Cable Administrator or his or her designee, is authorized to execute on behalf of the city and file with the FCC such certification forms or other instruments as are now or may hereafter be required by the FCC Rate Regulations in order to enable the city to regulate Basic Service Rates and Charges. (Ord. No. 198, Sec. 3.)

4.20.06 Consultant and costs

- A. The city may utilize a rate consultant to advise it on proposed rate changes and to assist it in the procedures and the standards for review adopted by the FCC. A rate consultant may be any person who has sufficient background and experience, in the sole opinion of the city, to properly evaluate and analyze rates and charges.
- B. All costs for the review of initial rates or rate changes shall be paid by the cable operator upon demand of the city, unless contrary to applicable rules of the FCC governing these procedures or unless otherwise specifically preempted by state or federal law. The costs shall include, but not be limited to, rate consultants, attorney's fees and the reasonable value of services (as determined by the city) rendered by the city or any city employees, agents or representatives of the city.

4.20.07 Forms 328

- A. That the Mayor is hereby authorized and directed to file two completed FCC Forms 328 by registered mail (not certified mail) with return receipt requested to:

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

- B. The Mayor is further directed to mail a completed copy of this form 328 to our local cable operator at the address listed on the form by certified mail, return receipt requested, on the same day copies are mailed to the F.C.C. (Ord. No. 197, Sec. 1-2.)

**CHAPTER 4.24**

**OCCUPATIONAL LICENSE**

Sections:

- 4.24.01 Definitions
- 4.24.02 General
- 4.24.03 Separate license for each business
- 4.24.04 License requirements
- 4.24.05 Excepted businesses
- 4.24.06 Application
- 4.24.07 Procurement of license
- 4.24.08 Compliance required
- 4.24.09 Issuance
- 4.24.10 Misdemeanor
- 4.24.11 Non-resident contractors
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- 4.24.13 Revocation
- 4.24.14 Fee not returnable
- 4.24.15 Transfer prohibited
- 4.24.16 Posting
- 4.24.17 Do not solicit list

#### 4.24.01 Definitions

**Business** is defined as any commercial activity whether such activity is the providing of a service or of goods or of any combination thereof.

**Person** is defined as any individual, firm, partnership, corporation or other legal entity. (Ord. No. 351, Sec. 1.)

4.24.02 General The conducting and carrying on of any business, except those specifically exempted by the laws of the state of Arkansas, and also excepting public utilities otherwise taxed by the city, within the boundaries of the city of Pea Ridge, is hereby declared to be a privilege, and each and every person conducting or engaging in any such business shall apply for and pay for a license therefore in the amounts and procedural requirements as set out herein. (Ord. No. 351, Sec. 2.)

4.24.03 Separate license for each business Any person engaged in two (2) or more businesses and/or conducts business at two (2) or more locations, shall be required to obtain a license for each separate business and/or business location. (Ord. No. 351, Sec. 3.)

4.24.04 License requirements It shall be unlawful for any person, whether as principal or as agent, to commence, engage in, pursue, or carry on any business within the city of Pea Ridge without having first procured a license therefore from the city of Pea Ridge. (Ord. No. 351, Sec. 4.)

4.24.05 Exempted businesses Certain businesses shall be exempt from the requirements of this ordinance. The City Council is authorized to amend this list from time to time by resolution, duly adopted. The list of exempted businesses is as follows:

- A. Animal husbandry, including, but not limited to, beef, pork, poultry, and dairy production, unless the sole purpose of the business is commercial breeding of livestock;
- B. Child care services, except for those which are required to obtain a license or permit from the state of Arkansas to conduct business;
- C. Charitable and non-profit enterprises;
- D. Arts and crafts activities conducted in a residence which does not provide the major source of income for those persons engaged in the business. (Ord. No. 351, Sec. 5.)
- E. Sale of food, goods or services by religious, charitable and non-profit groups on a temporary basis for fund raising events. (Ord. No. 536, Sec. 1.)

4.24.06 Application Applications for license shall be made to the city, which shall collect from the applicant the license fee, which is hereby set at Fifty Dollars (\$50.00) per year if issued by June 30<sup>th</sup>. Licenses issued on or after July 1<sup>st</sup> shall be charged a fee of Twenty-Five Dollars (\$25.00). (Ord. No. 429, Sec. 1.)

4.24.07 Procurement of license All licenses issued under this ordinance shall be valid from January 1<sup>st</sup> through December 31<sup>st</sup> annually and all fees shall be due January 1<sup>st</sup> of each year. If not paid by February 1<sup>st</sup>, a penalty will be assessed in an amount equal to ten percent (10%) of the amount due when the payment is thirty (30) days delinquent; thirty percent (30%) of the amount due when the payment is sixty (60) days delinquent; and fifty percent (50%) of the amount due when the payment is ninety (90) days or more delinquent; but not to exceed Fifty Dollars (\$50.00) in penalties, together with the costs necessary for the collection, including, but not limited to, court costs and reasonable attorney's fees. All license fees shall be payable annually, and no license shall be issued for a period of time longer than one (1) year. (Ord. No. 351, Sec. 7.)

4.24.08 Compliance required Prior to the issuance of a new license pursuant to this ordinance, the City Inspector must certify that the business making the application is not in violation of any city ordinance or regulation. (Ord. No. 351, Sec. 8.)

4.24.09 Issuance Upon receipt of an application for a license and payment of the required fee, the city shall issue a license, which shall state on the face thereof the amount of the fee, the period covered thereby, the name of the person to whom issued, the business to be carried on, the location where same is to be conducted, and that it is non-transferable. In no case shall a mistake in computing the license fee due prevent or prejudice the collection by the city of any and all amounts actually due and owing under this ordinance. (Ord. No. 351, Sec. 9.)

4.24.10 Misdemeanor Any person doing business in the city of Pea Ridge without holding a valid business license shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period of not less than thirty (30) days nor more than one hundred (100) days. Each day's operation in violation of any provision of this subchapter shall be a separate offense. (Ord. No. 429, Sec. 2.)

4.24.11 Non-resident contractors Non-resident contractors doing business within the city limits must have a license under this ordinance. Provided, however, this ordinance shall not apply to a non-resident contractor, not having a place of business within the city who holds a valid business license in another city within the state of Arkansas. (Ord. No. 351, Sec. 11.)

4.24.12 Verification of sub-contractor's license All general contractors shall verify that all subcontractors performing work on their behalf on any project within the corporate limits of the city possess a valid license before the work begins. (Ord. No. 351, Sec. 12.)

4.24.13 Revocation Any license, although validly issued, may be revoked due to non-compliance by the holder thereof with any city, county, state or federal ordinance, law, statute or regulation. (Ord. No. 351, Sec. 13.)

4.24.14 Fee not returnable The license fee provided for in the ordinance, when paid for any period provided herein, shall not be returnable in case the licensee, for any reason, surrenders his license or discontinues his business, or if the application is denied or the license revoked for violation of any city, county, state or federal ordinance, law, statute or regulation. (Ord. No. 351, Sec. 14.)

4.24.15 Transfer prohibited A license issued under this ordinance is non-transferable and non-assignable. (Ord. No. 351, Sec. 15.)

4.24.16 Posting Each license procured under the provisions of this ordinance shall be conspicuously posted in a permanent place where the business covered thereby is carried on and, upon being requested to do so, the holder thereof shall promptly present such license to any officer or official of the city. (Ord. No. 351, Sec. 16.)

4.24.17 Do not solicit list Any person living within the city limits of the city of Pea Ridge may add their name to a "Do Not Solicit List" which shall be kept on record at the Pea Ridge City Hall. This list shall be provided to any person making application for a business license for door-to-door sales. Any person violating this section of the Pea Ridge Municipal Code shall be subject to the penalties set out in 4.24.10 of this Code. (Ord. No. 429, Sec. 3.)

**CHAPTER 4.25**

**DOOR-TO-DOOR COMMERCIAL SOLICITATION**

Sections:

- 4.25.01 Purpose
- 4.25.02 Definitions
- 4.25.03 Registration required; hours
- 4.25.04 Application
- 4.25.05 Sponsor’s permit, minors employed for door-to-door commercial solicitation
- 4.25.06 Issuance and term
- 4.25.07 Possession and presentment
- 4.25.08 Violations

4.25.01 Purpose The purpose of this chapter is to secure for the residents of the city of Pea Ridge the peaceful enjoyment of their homes and property by prohibiting door-to-door commercial solicitation during those times when such solicitation is most intrusive and disruptive; to aid crime prevention and detection; and to ensure that persons engaged in door-to-door commercial solicitation have obtained any required state registrations and permits. (Ord. No. 558, Sec. 1.)

4.25.02 Definitions

**Commercial solicitation** means to offer goods, services or real property for sale or rent or to provide information for the purpose of promoting the sale or rental of goods, services or real property, provided, however, that offering goods or services for sale as part of fundraising for a non-profit organization shall not be commercial solicitation.

**Minor** means any person under eighteen (18) years of age.

**Person** means any individual, firm, partnership, limited liability company, corporation, association, governmental entity or agency or business organization of any kind.

**Registrant** means any person seeking a permit from the City Clerk for the purpose of compliance with the requirements of this chapter.

**Sponsor** means any person who promotes, arranges, organizes, supports, leads or facilitates commercial solicitations door-to-door within the city of Pea Ridge. A sponsor may, but need not, be the registrant's employer or principal. (Ord. No. 558, Sec. 2.)

4.25.03 Registration required; hours

- A. It shall be unlawful for any person to engage in door-to-door commercial solicitation without registration with the City Clerk, a permit issued by the City Clerk and without compliance with the terms of this chapter.
- B. It shall be unlawful to engage in door-to-door commercial solicitation after 9:00 p.m. or sunset, whichever is earlier, and before 9:00 a.m.
- C. The provisions of this section shall not apply to home visits by prearranged appointment. (Ord. No. 558, Sec. 3.)

4.25.04 Application Application for registration under this chapter shall be on forms provided by the City Clerk. The form shall elicit and require any registrant to provide, at least, the following information:



- A. Name, age, address, telephone number and proof of identity, consisting of government issued identification card or driver's license containing a full-face photograph of the registrant.
- B. Physical description of the registrant.
- C. Name, address and telephone number of the registrant's sponsor.
- D. If applicable:
  - 1. A copy of the public organic document creating the registrant or the registrant's sponsor;
  - 2. The name, address and telephone number of the registrant or the registrant's sponsor; and
  - 3. A certified statement of the registrant's sponsor authorizing the registrant to seek registration under this chapter.
- E. Description of the motor vehicle(s) to be used by the registrant in conducting the solicitation.
- F. Brief description of the types of goods or services to be offered for sale by the registrant.
- G. For any registrant whose activities would constitute a temporary, itinerant, or transient business or any registrant who is considered a transient or itinerant merchant as defined in the Arkansas Transient Merchant Licensing Act, a copy of the registration issued under said act.
- H. For any registrant that is subject to the Arkansas Gross Receipts Tax, a copy of the Arkansas gross receipts tax permit issued by the Director of the Department of Finance and Administration, pursuant to A.C.A. 26-52-201, et al.
- I. A signed statement that the registrant is of good moral character and has not been convicted of a felony and has not been convicted of any crime involving fraud, deceit, theft or dishonesty.
- J. A signed statement that the registrant has not been convicted of violating any other municipality's ordinance(s) or codes involving business licensing or door-to-door solicitation.

- K. A good and valid copy of a state police criminal background check of the registrant from the state issuing the registrant's identification card or driver's license, dated within six (6) months prior to the date that registration is sought. (Ord. No. 558, Sec. 4.)

4.25.05 Sponsor's permit; minor employed for door-to-door commercial solicitation

- A. No minor shall be permitted to engage in door-to-door commercial solicitation, except as provided in this section.
- B. Any person seeking to conduct door-to-door commercial solicitation through or by the employment of any minor(s) shall register and obtain a sponsor's permit prior to any individual minor registering for a permit under the sponsor.
- C. Registration for a sponsor's permit shall be on forms provided by the City Clerk. The forms shall elicit and require any sponsor seeking registration under this section to provide, at least, the following information:
  - 1. A certified statement by the sponsor that the sponsor shall be responsible for supervising and controlling the conduct of all persons, including minors, engaging in door-to-door commercial solicitation under the sponsor's permit;
  - 2. All information required and applicable to the sponsor under 4.25.04 (E) of this chapter;
  - 3. A list of all minors authorized to register and receive a permit through the sponsor and under this chapter;
  - 4. A certified statement by the sponsor that the sponsor has and shall continue to comply with Arkansas child labor laws; and
  - 5. A copy of the employment certificate issued by the Arkansas Department of Labor and naming the sponsor, for any and all minors under the age of sixteen (16) years that will seek registration and a permit under this chapter.
- D. All minors seeking to register and receive a permit for door-to-door commercial solicitation under this chapter shall register according to 4.25.04, but shall not be issued a permit unless:
  - 1. The minor seeks to register under a valid sponsor's permit that has been issued in accordance with this chapter; and

2. The sponsor's permit lists the name of the minor as a minor authorized to register and receive a permit under the sponsor's permit. (Ord. No. 558, Sec. 5.)

4.25.06 Issuance and term The City Clerk shall issue a permit within five (5) business days as proof of registration upon receipt of a completed registration form, receipt of all documents or items required therein, and full payment of any fees.

- A. Each permit shall be valid for no less than one (1) day and not to exceed five (5) consecutive days, subject to subsection (D) of this section.
- B. Each permit shall contain the name, address, physical description and sponsor, if applicable, of the permittee or, if applicable, the name of the sponsor for a minor; a description of the solicitation activity to be engaged in; an expiration date; and the signature and seal of the City Clerk. The City Clerk shall keep a record of all registrations.
- C. The fee for each permit shall be Twenty Dollars (\$20.00) per day, subject to subsection (D) of this section.
- D. A sponsor's permit issued under this chapter shall expire sixty (60) days from the date of its issuance:
  1. Any person seeking a sponsor's permit or sponsor's permit renewal shall pay a fee of Ten Dollars (\$10.00) for each minor listed on the sponsor's permit or Twenty Dollars (\$20.00) whichever is greater; and
  2. A sponsor's permit may be renewed for one (1) additional sixty (60) day period if application for renewal is made within five (5) days prior to expiration.
- E. Upon application made, each person issued a permit under this chapter shall also be given a copy of the city's "Do Not Solicit List" to be kept on their person at all times while so engaged. (Ord. No. 558, Sec. 6.)

4.25.07 Possession and presentment Every person engaged in door-to-door commercial solicitation shall have a valid permit and copy of the "Do Not solicit List" as required by this chapter in his or her possession at all times while so engaged in the city, and shall present the permit as proof of registration and the "Do Not Solicit List" for inspection upon the reasonable request of any person. (Ord. No. 558, Sec. 7.)

4.25.08 Violations

- A. It shall be a violation of this chapter to engage in door-to-door commercial solicitation prohibited by 4.25.03, to disregard a clearly visible sign, sticker, notice or writing displayed on private property which prohibits solicitation or to engage in door-to-door solicitation at residences listed on the “Do Not Solicit List.”
- B. Any person engaged in door-to-door commercial solicitation in the city of Pea Ridge in violation of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period of not less than thirty (30) days nor more than one hundred (100) days. Each violation of any provision of this chapter shall constitute a separate offense.
- C. Any person or sponsor found guilty of violating this chapter shall not be issued a permit for a two (2) year period from the date of the violation. Upon a second offense, the person or sponsor found guilty of violating this chapter shall be banned from further commercial solicitation within the city of Pea Ridge. (Ord. No. 558, Sec. 8.)

**CHAPTER 4.26**

**OUTDOOR AND MOBILE FOOD VENDORS**

Sections:

- 4.26.01 Purpose and intent
- 4.26.02 Definitions
- 4.26.03 Permit required
- 4.26.04 Exemptions
- 4.26.05 Outdoor vending
- 4.26.06 Mobile food vending
- 4.26.07 Litter and trash removal
- 4.26.08 Prohibited conduct
- 4.26.09 Suspension and revocation of permit

4.26.01 Purpose and intent The regulations contained herein are not intended to prohibit or hamper speech that is protected by the First Amendment of the United States Constitution, but merely to regulate specific activities that are commercial in nature. It is the intent of these regulations: to serve and protect the health, safety and welfare of the general public; to establish a uniform set of rules and regulations that are fair and equitable; to provide economic development opportunities to small entrepreneurs in the city; and to promote stable vendors who will enrich the city's ambiance and be assets to public security. (Ord. No. 559, Sec. 1.)

#### 4.16.02 Definitions

**Conveyance** shall mean any publicly or privately owned vending stand, vending trailer, mobile food vehicle or any other device designed for the purpose of displaying, exhibiting, carrying, transporting, storing selling or offering for sale any food, beverages, goods, wares or merchandise.

**Ice cream truck** shall mean a specific type of mobile food vehicle that sells only prepackaged, single-portion ice cream or frozen confections.

**Mobile food vehicle** shall mean a self-contained vehicle, either motorized or within a trailer, that is readily movable without disassembling for transport to another location, used for the purpose of preparing and/or serving food. Mobile food vehicles may serve as a conveyance for outdoor vending at a fixed location.

**Mobile food vending** shall mean vending from a mobile food vehicle in which only prepackaged, single-portion food is carried for purposes of sale while traveling along city streets, making periodic stops on streets where parallel parking is permitted and that do not exceed fifteen (15) minutes to accommodate a sale or sales. This definition shall include ice cream trucks. This definition shall not include vendors who distribute or deliver their products to regular customers on established routes.

**Mobile food vendor** shall mean any person who operates a mobile food vehicle for the purpose of mobile food vending as defined herein.

**Outdoor vending** shall mean exhibiting, displaying, selling or offering for sale any food, beverages, goods, wares or merchandise from a conveyance at a fixed location on public or private property.

**Outdoor vendor** shall mean any person that exhibits, displays, sells or offers for sale any food, beverages, goods, wares or merchandise from a conveyance at a fixed location. This definition does not include a door-to-door peddler, solicitor, mobile food vending, children's refreshment stands, homeowner's garage sales or farmers market.

**Outdoor vendor park** shall mean a site that contains more than one (1) outdoor vendor on a regular basis as the principal use of the land.

**Person** shall mean any individual, firm, partnership, limited liability company, corporation, association, governmental entity or agency or business organization of any kind.

**Public way** shall mean all areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and immediately adjacent to public buildings.

**Pushcart or handcart** shall mean any open-air wheeled device designed for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise and for being pushed by a person without the assistance of a motor vehicle.

**Sidewalk** shall mean all that area legally open to the public used as a pedestrian public way between the curb line and the legal property line of the abutting property.

**Vending stand** shall mean a non-motorized, open-air fixture or device, such as a showcase, table, bench, rack, handcart, pushcart or stall that is used for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise at a fixed location. This definition does not include vending trailers.

**Vending trailer** shall mean a device enclosed on at least three (3) sides with a permanent roof, mounted on wheels, designed to be pulled by a motor vehicle for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise. (Ord. No. 559, Sec. 2.)

#### 4.26.03 Permit required

- A. Applicability It shall be unlawful for any person to engage in the business of outdoor vending or mobile food vending as defined in 4.26.02, unless he or she has first obtained a vending permit from the Pea Ridge Building Official, except as exempted in 4.26.04 below. All permits shall be issued according to the regulations herein.
  
- B. Application for permit Applicants may request a vending permit for either 1) outdoor vending, or 2) mobile food vending. The application for a vending permit shall be submitted to the Pea Ridge Building Official and shall contain all information relevant and necessary to determine whether a particular permit may be issued, including, but not limited to:

1. The applicant's name, residence address, telephone number and proof of identity, consisting of a government-issued identification card or driver's license containing a full-face photograph of the applicant;
2. A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale;
3. Site plan showing proposed site and distances in compliance with the requirements in 4.26.05;
4. Detailed scaled drawing or photo of the conveyance showing dimensions and location of any proposed signs;
5. Written consent of the property owner, if applicable;
6. Proof of notification of adjacent property owner (e.g., certified mail receipt or letter from the owner) if outdoor vendor is located adjacent to a residential district;
7. A copy of the Benton County Health Department inspection certificate if the applicant is engaged in the sale of food or beverages;
8. If the applicant is employed by another person, the name, current address and telephone number of the employer;
9. If a motor vehicle is to be used, the motor vehicle make, year, model, license plate number and proof of insurance; and
19. In addition to the information listed above, mobile food vendors shall also provide:
  - a. Proof of current driver's license for all drivers;
  - b. An Arkansas State Police background check conducted bi-annually; and
  - c. Driver's license history report that shall be submitted annually.

C. Fee

1. The applicant shall pay an annual fee of Fifty Dollars (\$50.00) for each new permit or renewal. A permit issued after June 31<sup>st</sup> shall have a prorated fee of Twenty-Five Dollars (\$25.00); and

2. The fee for a temporary permit shall be Twenty Dollars (\$20.00) per day.

D. Issuance of permit

1. The applicant shall be notified in writing by the city's Building Official or his or her designee of the decision to issue or deny the vending permit not later than ten (10) working days after the applicant has filed a completed application with the Planning Department;
2. Each permit shall show the name and address of the permittee, the type of permit issued, the kind of food, beverages, goods, wares or merchandise to be sold, the amount of the permit, the date of issuance, the permit number, an identifying description of any motor vehicle or conveyance used by the permittee, plus, where applicable, the motor vehicle registration number and a photograph of the permittee taken from his or her identification card or driver's license. Each permit shall also show the expiration date of the permit;
3. All permits issued under this section shall be both non-assignable and non-transferable.

E. Display of permit

1. Any permit issued shall be conspicuously displayed on the conveyance by the permittee whenever he or she is engaged in vending; and
2. A certificate of health inspection issued by the Benton County Health Department shall also be conspicuously displayed by the permittee whenever he or she is engaged in the food vending business.

F. Expiration and renewal

1. Permanent permit
  - a. All annual vending permits expire at midnight on December 31<sup>st</sup> ; and
  - b. A vending permit may be renewed, provided an application for renewal and permit fees are received by the Planning Department no later than the expiration date of the current permit. Any application received after that date shall be processed as a new



application. The city's Building Official or his or her designee shall review each application for renewal, and upon determining that the applicant is in full compliance with the provision of this chapter, shall renew the permit.

2. Temporary permit

- a. All temporary vending permits issued shall be valid only for the time period established on the permit and shall not be renewed; and
- b. No single temporary permit may be issued for a time period greater than five (5) consecutive days.

G. Notification of name or address change

1. All permittees shall assure that the correct name, current residence address and mailing address are on file with the city's Building Official; and
2. Whenever either the name or address provided by a permittee on an application for a vending permit changes, the permittee shall notify the city's Building Official in writing within sixty (60) days of such change and provided the updated information. (Ord. No. 559, Sec. 3.)

4.26.04 Exemptions

A. Exempt activities The provisions of this chapter do not apply to

1. Goods, wares or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment or transfer;
2. The placing and maintenance of unattended stands or sales devices for the sale, display or offering for sale of newspapers, magazines, periodicals and paper-bound books;
3. The distribution of free samples of goods, wares and merchandise by any individual from his person;
4. Sidewalk sales lasting no longer than three (3) consecutive days so long as at least four (4) feet of sidewalk remains clear for pedestrian passage or access. No more than three (3) such sales per business shall be permitted per calendar year;

5. Temporary sales to benefit non-profit organizations and conducted on private property. Such sales shall be conducted no longer than five (5) consecutive days;
6. Children's refreshment stands; and
7. Farmers market.

B. Claims of exemption Any person claiming to be legally exempt from the regulations set forth in this chapter or from the payment of a permit fee, shall cite to the city's Building Official or his or her designee, the legal authority under which the exemption is claimed and shall present proof for qualification of such exemption. (Ord. No. 559, Sec. 4.)

4.26.05 Outdoor vending The following requirements shall apply to outdoor vending at fixed locations.

A. Upon private property

1. Single vendor

- a. Outdoor vendors shall be permitted on private property only in commercial or industrial zoning districts. Outdoor vendors are prohibited in residential zoning districts;
- b. Only one (1) outdoor vendor shall be permitted per site. However, if more than one (1) vendor is proposed for a single site, it shall be considered an outdoor vendor park and must comply with the requirements for an outdoor vendor park;
- c. Outdoor vendors shall first obtain written permission from the owner of the proposed site prior to submitting an application; and
- d. The area occupied by an outdoor vendor shall not exceed nine hundred (900) sq. ft.

2. Outdoor vendor park

- a. Outdoor vendor parks shall be permitted on private property as a conditional use in commercial and industrial zoning districts. Outdoor vendor parks are prohibited in residential zoning districts; and

- b. The Planning Commission shall review the application for conditional use based on the specific circumstances of the proposed vendor park including the location of the park, the size of the site where the park is located, the types of surrounding land uses and the proximity to parking and any other potential impacts on public health, safety and welfare. The Planning Commission shall determine the number of outdoor vendors permitted within the outdoor vendor park.
3. Requirements The property owner proposing an outdoor vendor park may be required to make any of the following necessary improvements to the property in order to meet the city development codes and be approved for this semi-permanent use:
- a. Make any necessary improvements to provide utility services for each outdoor vending unit in the outdoor vendor park, including water, sanitary sewer and electricity;
  - b. Make any improvements necessary to ensure safe pedestrian and vehicular access to the site. This may include sidewalk and curb-cut improvements; and
  - c. Individual outdoor vendor units operating in an outdoor vendor park shall obtain an outdoor vendor permit and shall meet all applicable requirements.
- B. Upon public ways Outdoor vending on public ways shall be permitted only as follows:
1. Outdoor vendors shall be permitted on public ways only in commercial or industrial zoning districts;
  2. Outdoor vending sites on public ways shall be approved by the city's Building Official based on the site restrictions set out in 4.26.05 (C). Vendors with a valid permit for a specific site shall be allowed to continue at that site for so long as the permit is continuously issued and does not expire or is not revoked pursuant to 4.26.09;
  3. Outdoor vendors holding permits for sites in public ways shall be limited to push carts, hand carts or peddle carts with dimensions that shall not exceed eight (8) feet in length, four (4) feet in width, and six (6) feet in height (exclusive of canopies or umbrellas).

C. Restrictions

1. No outdoor vendor shall be permitted to operate in the following areas:
  - a. Within a residential zoning district;
  - b. Within ten (10) feet of any street intersection or pedestrian crosswalk;
  - c. Within ten (10) feet of any driveway, loading zone, or bus stop;
  - d. In any area within fifteen (15) feet of a building entrance;
  - e. On the median strip of a divided roadway unless the strip is intended for use as a pedestrian mall or plaza;
  - f. Against display windows of a fixed location business, unless written permission is given by the business owner;
  - g. Any area within one hundred (100) feet of a hospital, college, university, elementary school, middle school or high school. Such distances shall be determined from the nearest corner of any such building, intended to be occupied by persons, to any conveyance, mobile food vehicle, ice cream truck, push or hand cart, vending stand or vending trailer;
  - h. Within twenty-five (25) feet of any fire hydrant or fire escape;
  - i. Within ten (10) feet of any parking space or access ramp designated for persons with disabilities;
  - j. In a public parking space or public parking lot;
  - k. Within twenty-five (25) feet of any bus stop sign;
  - l. Within fifty (50) feet of driveway to police or fire station;
  - m. Within fifty (50) feet of principal public entrance to food service business not owned by vendor;
  - n. Any area that obstructs pedestrian traffic. Must provide four (4) feet clear passageway for pedestrians at all times;

- o. Any location other than the assigned site as expressly described on the permit;
  - p. Any location in violation of state or federal law, rules or regulations.
2. Outdoor vendors shall be allowed to engage in the business of outdoor vending only between the hours of 7:00 a.m. and 10:00 p.m. (Ord. No. 559, Sec. 5.)

4.26.06 Mobile food vending The following requirements apply to mobile food vendors:

A. Equipment requirements All mobile food vehicles shall have the following features:

- 1. Convex mirror mounted on the front of the vehicle such that the driver in his normal seating position can see the area in front of the vehicle obscured by the hood;
- 2. “Slow Children Crossing” sign printed in six (6) inch black letters on yellow background on both the front and back of the vehicle;
- 3. Passenger side mirror;
- 4. Business name, address and phone number printed in two (2) inch letters on each side of the vehicle;
- 5. Trash receptacle;
- 6. “Slow” signal arm that can be extended horizontally from the left side of the vehicle. This arm shall be yellow with six (6) inch black lettering and two (2) alternating flashing amber lights three to five (3-5) inches in diameter. The bottom of the signal arm shall be approximately forty-two (42) inches above the roadway or street; and
- 7. The vehicle shall be lawfully parked or stopped before vending can take place.

B. General requirements

- 1. “Slow” signal arm shall be deployed when vehicle is stopped for vending purposes;

2. The vehicle shall not be stopped for vending purposes when no customers are present;
3. Vending shall take place from the right side of the vehicle;
4. Vending shall not occur with a customer standing within the roadway;
5. Vending shall only include prepackaged products; and
6. Vehicles shall not be operated in reverse to accommodate a customer.

C. Location restrictions

1. Mobile food vending shall only take place on streets where on-street parking is allowed;
2. No vending shall be permitted within five hundred (500) feet of a school while school is in session and within one (1) hour before and after school is in session; and
3. Hours of operation Mobile food vendors shall be allowed to engage in the business of vending only between 10:00 a.m. and thirty (30) minutes before sunset. (Ord. No. 559, Sec. 6.)

4.26.07 Litter and trash removal

- A. Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind generated from the operation of their business. All trash or debris accumulating within twenty-five (25) feet of any vending conveyance shall be collected by the vendor and deposited in a trash receptacle.
- B. Vendors shall provide a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter. (Ord. No. 559, Sec. 7.)

4.26.08 Prohibited conduct No person authorized to engage in the business of vending under this chapter shall do any of the following:

- A. Unduly obstruct pedestrian or motor vehicle traffic flow, except for up to twenty (20) minutes to load and unload vending conveyance and/or vending merchandise.

- B. Obstruct traffic signals or regulatory signs.
- C. Stop, stand or park any conveyance upon any public way for the purpose of vending during the hours when parking, stopping and standing have been prohibited by signs or curb markings.
- D. Leave any conveyance unattended at any time or store, park or leave such conveyance in a public way overnight, unless specifically authorized by permit.
- E. Use any conveyance that when fully loaded with merchandise cannot be easily moved and maintained under control by the permittee, his or her employee or an attendant.
- F. Any sound device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract public attention. However, mobile food vendors are permitted to play non-vocal music within the regulations of the Pea Ridge noise code, but shall not do so within three hundred (300) feet of public buildings, hospitals, schools or churches.
- G. Conduct his or her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property or obstruct adequate access to emergency and sanitation vehicles.
- H. Use, install or display any signage that is not in compliance with the Pea Ridge lighting or signage code.
- I. Altering vehicle to allow for additional signage.
- J. No conveyance or other item related to the operation of a vending business shall be located on any public way during non-vending hours. Nor shall any mobile food vehicle be parked, stored or left overnight other than in a lawful parking place.
- K. Run hoses, cords or other apparatus across a pedestrian pathway unless safely secured so as to avoid tripping by pedestrians. (Ord. No. 559, Sec. 8.)

4.26.09 Suspension and revocation of permit

- A. Conditions for suspension/revocation In addition to the penalties punishable as set forth in Pea Ridge Municipal Code 4.24.10, any permit issued under this chapter may be suspended or revoked for any of the following reasons:

1. Fraud, misrepresentation or knowingly false statement contained in the application for the permit;
  2. Fraud, misrepresentation or knowingly false statement in the course of carrying on the business of vending;
  3. Conducting the business of vending in any manner contrary to the conditions of the permit;
  4. Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or morals or interfere with the rights of abutting property owners;
  5. Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations; or
  6. Violation of any of the provisions of this chapter.
- B. Notification of suspension or revocation The city's Building Official or his or her designee shall provide written notice of the suspension or revocation of a permit in a brief statement setting forth the complaint, the grounds for suspension or revocation and notifying the vendor of his or her right to appeal. Such notice shall be mailed to the address shown on the permit holder's application by certified mail, return receipt requested. In the event of an emergency involving the vendor, such notice may be hand-delivered to the person attending the permitted conveyance.
- C. Forfeiture of fee If the city revokes a vending permit, the fee already paid for the permit shall be forfeited. A person whose permit has been revoked under this section may not apply for a new permit for a period of one (1) year from the date that the revocation took effect. (Ord. No. 559, Sec. 9.)



**CHAPTER 4.28****CONTROLLED BEVERAGES****Sections:**

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**4.28.01 Applicability**

- A. It is hereby declared that the business of manufacturing, transporting, storing, handling, receiving, distributing, selling, serving, or dispensing, either at wholesale or retail, any controlled beverage, except wine, within the city of Pea Ridge, Arkansas, is a privilege, and for the exercise of such privilege there is hereby imposed the regulations, requirements, restrictions, fees, and taxes as set forth in this chapter.
- B. These general provision shall apply to all permittees in addition to any specific provisions under individual headings for each type of permit. (Ord. No. 547, Sec. 1.)

**4.28.02 Definitions** For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and phrases not specifically defined in this chapter shall have the meanings assigned by Title 3 of the Arkansas Code Annotated and/or the Arkansas Alcoholic Beverage Control Division Regulations.

**Alcoholic beverages** means all intoxicating liquors of any sort, other than beer and wine.

**Beer** means any fermented liquor made from malt or any substitute therefore and having an alcohol content not in excess of 5% by weight.

**City** means the city of Pea Ridge, Arkansas.

**Controlled beverages** means all beverages of any kind subject to regulation under any alcoholic beverage control law of the state of Arkansas and this chapter.

**Large attendance facility** means a facility that houses convention center activity, tourism activity, trade show and product display and related meeting activity, or any similar large meeting or attendance activity and that either itself or through one or more independent contractors complies with all of the following: serves full and complete meals and food on the premises; has one or more places for food service on the premises with a seating capacity for not fewer than 500 people; employs a sufficient number and kind of employees to serve meals and food on the premises capable of handling at least five hundred (500) people; and serves alcoholic beverages on the premises at one or more places only on days that meals and food are served at one or more places on the premises.

**Light wine** means the fermented juice of grapes or other small fruits, including berries, and having an alcohol content not in excess of 5% by weight.

**Malt beverage** means liquor brewed from the fermented juices of grain having an alcohol content of not less than 5% nor more than 21% by weight.

**Malt liquor** means liquor brewed from the fermented juices of grain having an alcohol content of more than 5% by weight.

**Microbrewery/restaurant** means any restaurant that manufactures one or more varieties of beer or malt beverages in an aggregate quantity of not more than 5,000 barrels per year and stores beer or malt beverages on the premises or on an adjacent premise.

**On-premise consumption** means the sale of controlled beverages by the drink or in broken or unsealed containers for consumption on the premises where sold.

**Permit** means any authorization issued by the Alcoholic Beverage Control Division of the state of Arkansas and/or by the city pursuant to any Arkansas Alcoholic Beverage Control Division regulation and/or any ordinance of the city whether described as a permit, license or otherwise.

**Permittee** means the person to whom a permit has been issued.

**Person** means any natural person, partnership, association, corporation, syndicate, or company.

**Private club** means a non-profit corporation organized and existing under the laws of this state, no part of the net revenues of which shall inure directly or indirectly to the benefit of any of its members or any other individual, except for the payment of *bona fide* expenses of the club's operations, and which is conducted for some common recreational, social, patriotic, political, national, benevolent, athletic, or other non-profit object or purpose other than the consumption of alcoholic beverages. The non-profit corporation shall have been in existence for a period of not less than one (1) year before application for a permit. At the time of application for the permit, the non-profit corporation must have not less than one hundred (100) members, and at the time of application must own or lease, or be the holder of a buy/sell agreement or offer and acceptance, or have an option to lease a building, property, or space therein for the reasonable comfort and accommodation of its members and their families and guests and restrict the use of club facilities to such persons.

**Retailer** means any person who holds a permit under any alcoholic beverage control law of the state of Arkansas to sell at retail controlled beverages to consumers only.

**Spirituous** means liquor distilled from the fermented juices of grains, fruits, or vegetables having an alcohol content of more than 21% by weight, or any other liquids having an alcohol content of more than 21% by weight.

**State** means the state of Arkansas.

**Sunday sales** means the sale of alcoholic beverages, beer and wine on Sunday shall be limited to those persons within the city who possess a current and valid permit for the sale of alcoholic beverages, beer and wine issued by the Alcoholic Beverage Control Division.

**Vinous** means the fermented juices of fruits, except native wine, having an alcohol content of not less than 5% nor more than 21% by weight.

**Wholesale dealer and distributor** means any person who holds a permit under any alcoholic beverage control law of the state of Arkansas to purchase controlled beverages from a manufacturer or importer and to sell such controlled beverages to retailers only. (Ord. No. 547, Sec. 2.)

#### 4.28.03 Permits required

- A. It shall be unlawful for any person to engage in the business of manufacturing, transporting, storing, handling, receiving, distributing, selling, or dispensing, either at wholesale or retail, any controlled beverage, except wine, within the city without a permit issued by the city, or with an expired permit.

- B. The provisions of this chapter shall not apply to the manufacture, sale, and distribution of wines or vinous liquors manufactured, sold, and distributed by residents of Arkansas. (Ord. No. 547, Sec. 3.)

4.28.04 Permit renewal All permits issued pursuant to this chapter are renewable on or before June 30<sup>th</sup> for the succeeding calendar period of July 1 through June 30. Any person renewing a permit after June 30 shall be required to pay a late renewal penalty equal to one-half of the required annual renewal fee in addition to the annual permit fee. (Ord. No. 547, Sec. 4.)

4.28.05 Application for permits

- A. Application for a permit required by this chapter shall be in writing on a form prescribed by the city and shall be accompanied by the required fee and a copy of the applicant's state permit. No city permit will be issued until applicant has received a state permit.
- B. It shall be unlawful for any person to make any false statement or representation in any application required by this chapter or to give any false answer to any question contained therein.
- C. Permits required by this chapter shall be issued in such a manner that they will run for such length of time as the state permit.
- D. The city will not issue or renew any permits pursuant to this chapter until all outstanding hotel, motel, and restaurant taxes and/or supplemental beverage taxes, if applicable, are paid.
- E. No new permit shall be granted to any person to engage in the sale of controlled beverages at retail, for consumption off-premises, for any building situated within 1,000 feet of any church or school. The distance shall be measured from the nearest point of the church or school building to the nearest point of the building to be permitted.
- F. All permits issued by the city pursuant to this chapter shall be prominently displayed on the permitted premises by the permittee in the same manner as required by the state for state permits.
- G. When any state permit is revoked by the state or required to be returned to the state for any reason, the city permit shall be returned to the city. The city will restore the permit upon proof that the state permit has been restored to the applicant, provided that no reclaimed permit will be restored to an applicant until all outstanding hotel, motel, and restaurant taxes and/or supplemental beverages taxes, if applicable, are paid.

- H. All fees, taxes, and penalties received by the city pursuant to this chapter shall be deposited to the credit of general fund revenues.
- I. Permits shall not be transferable or assignable except as provided by A.C.A. 3-4-103 (Fiduciaries/Continuation of permitted business).
- J. A permit issued to any person pursuant to this chapter for any premises shall not be transferred to any other person or to any other premises or to any other part of the building containing the permitted premises. (Ord. No. 547, Sec. 5.)

4.28.06 Inspection of records The city shall have the right to inspect and examine the records of any permittee subject to any tax or permit fee based on gross sales or receipts. (Ord. No. 547, Sec. 6.)

4.28.07 Prohibited practices

- A. Any person to whom a controlled beverage permit has been issued pursuant to this chapter shall comply with all laws and regulations of the state of Arkansas, the Alcoholic Beverage Control Division of the state of Arkansas, and the city of Pea Ridge, Arkansas, regarding the control and regulation of controlled beverages, including but not limited to the following:
  1. It shall be unlawful for any person under the age of twenty-one (21) years to have in his or her possession, to purchase or attempt to purchase, or otherwise obtain any controlled beverages.
  2. It shall be unlawful for any person to, knowingly or unknowingly, purchase on behalf of, furnish to, give away to, or otherwise dispose of to any person under the age of twenty-one (21) years any controlled beverages; however, this provision shall not apply to the serving of such to members of one's family or to the use of wine in any religious ceremony or rite in any established church or religion.
  3. It shall be unlawful for any person engaged in the business of manufacturing, distributing or selling, at wholesale or retail, any controlled beverages to sell, offer for sale, or give away, under any conditions, any such controlled beverages to any person under the age of twenty-one (21) years. The burden of determining the age of any person shall be upon the seller.
  4. It shall be unlawful for any wholesale dealer, retailer, or transporter of controlled beverages to allow any employee or other person under the age

of twenty-one (21) years of age to have anything whatsoever to do with the selling, transporting or handling of a controlled beverage. However, with the written consent of a parent or guardian, a person eighteen (18) years of age or older may:

- a. Sell or otherwise handle beer and wine at a retail grocery establishment; or
  - b. Be employed by a licensed liquor or beer wholesale dealer or by a licensed native winery to handle controlled beverages at the place of business of the licensed wholesale dealer or winery.
- B. A warning notice regarding the sale or possession or purchase by or furnishing to minors of controlled beverages shall be posted in a conspicuous place in public view in each place of business where controlled beverages are sold, served or dispensed, including all drive up windows. The warning notices shall be of the size, have the content, and be posted in the manner as prescribed by the Arkansas Alcoholic Beverage Control Division.
- C. No person who has received a permit under any ordinance of the city of Pea Ridge for the sale or dispensing of controlled beverages for on-premises consumption including private club permits shall suffer or permit any person to appear on the permitted premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva, or genitals or any simulation thereof, nor suffer or permit any female to appear on the premises in such manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.
- D. No person shall bring into or consume or allow to be brought into or allow to be consumed controlled beverages of any kind, in any commercial establishment or business, which suffers or permits any person to appear on the premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals or any simulation thereof, or suffers or permits any female to appear on the premises in such manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.
- E. If any person engaged in the sale of controlled beverages in the city shall conduct business in such a manner as to constitute a nuisance, the City Council shall revoke the permit of such person to sell controlled beverages in the city.
- F. Any person violating any provision of this chapter shall be subject to the penalties as set out in this chapter. (Ord. No. 547, Sec. 7.)

#### 4.28.08 Furnishing controlled beverages to minors

- A. Any person convicted of knowingly or unknowingly selling, serving, giving, procuring or otherwise furnishing any controlled beverage to any person under twenty-one (21) years of age shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00).
- B. Any person under the age of twenty-one (21) years who has, in his or her possession, purchases or attempts to purchase, or otherwise obtains any controlled beverage shall, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00). (Ord. No. 547, Sec. 8.)

#### 4.28.09 Operating without a city permit

- A. Beer and light wine Any person who sells, serves, barter or exchanges beer or light wine without having a valid city permit as provided by this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than Five Hundred Dollars (\$500.00) or more than One Thousand Dollars (\$1,000.00). Each day such violation continues shall constitute a separate and distinct offense.
- B. On-premises consumption, including private clubs Any person who sells, serves, barter or exchanges controlled beverages, except wine, for on-premises consumption without having a valid city permit as provided by this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than Five Hundred Dollars (\$500.00) or more than One Thousand Dollars (\$1,000.00). Each day such violation continues shall constitute a separate and distinct offense.
- C. General Any person, except as provided in 4.28.09 (A) and (B) above, sells, serves, barter or exchanges controlled beverages, except wine, without having a valid city permit as provided by this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than Five Hundred Dollars (\$500.00) or more than One Thousand Dollars (\$1,000.00). Each day such violation continues shall constitute a separate and distinct offense. (Ord. No. 547, Sec. 9.)

#### 4.28.10 Suspension or revocation of permits

- A. Whenever the state shall revoke any permit, the city permit to deal in such controlled beverages shall thereupon be automatically revoked without any action by the city or any municipal officer.
- B. Except as otherwise provided in this chapter, no permit which has been issued or which may hereafter be issued by the city shall be suspended or revoked, except for due cause, and after notice and a hearing. Such notice shall include the time, place and purpose of the hearing and a statement of the charge upon which such hearing shall be held and shall give a reasonable time to prepare a defense. Due cause for the suspension or revocation of such permit shall consist of the violation of any laws or ordinances regulating such business, or violation of regulations made pursuant to authority granted for the purpose of regulating such business, or for the violation of any state or federal law related to controlled beverages, gambling, narcotics or any crime of moral turpitude. Such violation may be an act of the permittee or of any agent, officer, or employee of the permittee. (Ord. No. 547, Sec. 10.)

#### 4.28.11 Wholesale permits

- A. Wholesale liquor permit Authorizes the purchase from licensed manufacturers or importers of spirituous and vinous beverages or malt liquor and the sale of such beverages to persons holding a valid retail liquor off-premises permit or a hotel, motel or restaurant on-premises consumption permit.
  - 1. Permit fee There is hereby levied an annual permit fee of one-half of the annual permit fee charged by the state for each and every person engaged in storing, transporting and/or selling at wholesale any spirituous, vinous (except wine) or malt liquors within the city.
  - 2. Hours of operation It shall be unlawful for any person to sell or offer for sale at wholesale, any spirituous, vinous, or malt liquors before the hour of 7:00 a.m. and after 12:00 midnight on Monday through Saturday, at any hour on Sunday, on Christmas Day, or during any 24 hour interval designated an emergency period by the Mayor, City Council, or any person acting in the Mayor's or City Council's capacity.
- B. Wholesale beer and light wine permit Authorizes the purchase of beer, light wine or malt liquor from a licensed manufacturer or importer and the sale of such beverages to retailers holding a valid permit to sell beer, light wine or malt liquor for consumption on or off the premises.



1. Permit fee There is hereby levied an annual permit fee of one-half of the annual permit fee charged by the state for each and every wholesale dealer, broker or distributor of beer, light wine, or malt liquor.
2. Hours of operation The authorized hours of operation shall be the same as for wholesale dealers set out in 4.28.11 (A)(2) above.
3. All wholesale dealers and distributors selling beer, light wine or malt liquor to retailers within the city shall provide to the City Clerk on or before June 30 of each year, a report of total sales of beer, light wine and malt liquor for the previous calendar year to each retailer within the city. No wholesale beer and light wine permit will be renewed until such report has been received by the city. (Ord. No. 547, Sec. 11.)

#### 4.28.12 Retail permits

- A. Retail liquor off-premises permit Authorizes the purchase of spirituous and vinous beverages from any person holding a wholesale liquor permit and the sale of such beverages at retail to consumers for consumption off the premises. Any holder of a retail liquor off-premises permit may also purchase malt liquors from persons holding either a wholesale beer permit or a wholesale liquor permit and sell such beverages to consumers for consumption off the permitted premises. It shall be unlawful for any person to accept retail orders for any spirituous, vinous, or malt liquors for delivery outside of the permitted premises.
1. Permit fee There is hereby levied an annual permit fee of one-half of the annual permit fee charged by the state for each and every retail liquor dealer engaged in the business of selling or dispensing, at retail, any spirituous, vinous (except wine) or malt liquors for off-premises consumption. For any new permit issued between January 1 and June 30, the permit fee shall be one-half of the annual permit fee.
  2. Hours of operation It shall be unlawful for any person to sell or offer to sell any controlled beverages for off-premises consumption before the hour of 7:00 a.m. or after the hour of 12:00 midnight, Monday through Sunday, at any hour on Christmas bay, or during any 24-hour period designated an emergency by the Mayor or the City Council, or any person acting in the Mayor's or the City Council's capacity. (Ord. No. 547; Ord. No. 695, Section 2)

- B. Retail beer and light wine off-premises permit Authorizes the purchase of beer, light wine, or malt liquor having an alcohol content of less than 5% by weight from wholesale dealers for consumption off the premises described in the permit.
1. Permit fee There is hereby levied an annual permit fee of Fifty Dollars (\$50.00). For new permits issued between January 1 and July 1, the permit fee shall be one-half of the annual permit fee.
  2. Hours of operation It shall be unlawful for any person to sell or offer to sell beer or light wine for off-premises consumption before the hour of 7:00 a.m. or after the hour of 12:00 midnight, Monday through Sunday, at any hour on Christmas Day, or during any 24-hour period designated an emergency by the Mayor or City Council, or any person acting in the Mayor's or the City Council's capacity. (Ord. No. 547, Ord. No. 695, Sec. 3)
    - (a) Effective immediately, Ordinance No. 8, entitled An Ordinance to Prohibit the Sale of Beer, Wines and Other Alcoholic Beverages on Sunday, passed January 12, 1940, is repealed in its entirety. (Ord. No. 8; Ord. No. 695, Sec. 4).
    - (b) All other laws, ordinances, resolutions, or part of the same that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency (Ord. No. 695, Section 4)
- C. Retail beer and light wine on-premises permit Authorizes the purchase of beer, light wine, or malt liquor having an alcohol content of less than 5% by weight from wholesale dealers for consumption off the premises described in the permit.
1. Permit fee There is hereby levied an annual permit fee of one-half of the annual permit fee charged by the sale for such permits. For new permits issued between January 1 and July 1, the permit fee shall be one-half of the annual permit fee.
  2. Hours of operation It shall be unlawful for any person to sell or offer for sale at wholesale, any spirituous, vinous, or malt liquors before the hour of 7:00 a.m. and after 12:00 midnight on Monday through Sunday, at any hour on Christmas Day, or during any 24-hour interval designated an emergency period by the Mayor, City Council, or any person acting in the Mayor's or City Council's capacity. (Ord. No. 547; Ord. No. 695, Section 1)

- D. Private club permit Authorizes the purchase of any controlled beverages from persons holding an off-premises retail liquor or beer permit who have been designated by the director of the State Alcoholic Beverage Control Board as a private club distributor and authorizes the dispensing of such beverages for consumption on the premises of the private club to members and guests only of the private club. (Private clubs holding a retail beer on-premises permit may purchase beer, light wine, or malt liquor having an alcohol content of not more than 5% by weight from wholesale dealers.)
1. Permit fee For the privilege of operating a private club within the city, there is hereby levied an annual permit fee of one-half of the annual permit fee charged by the state. For any new private club permit issued between January 1 and July 1, the fee shall be one-half of the annual permit fee.
  2. Supplemental beverage tax In addition to the annual permit fee, there is hereby imposed and levied a city supplemental tax of 5% upon the annual gross receipts which are derived by such private club from charges to the members and/or their guests for the services of preparation and serving of mixed drinks, and a supplemental tax of 5% for the cooling and serving of beer, light wine, and wine.  

The city's supplemental tax is in addition to the state supplemental tax on private clubs and shall be paid to the City Clerk, shall be due monthly at the same time that the state supplemental tax is due, and shall be accompanied by one copy of the state supplemental tax return. If any permittee shall fail to remit the supplemental tax within the time period that the state tax is due, a penalty of 12 ½ % of the tax due shall be due and payable in addition to the tax.
  3. Hours of operation It shall be unlawful for the permittee or any employee of a private club to serve or permit the consumption of any controlled beverages on the premises of said private club between the hours of 2:00 a.m. and 7:00 a.m. on any day. A private club may operate on Sundays between the hours of 10:00 a.m. and 12:00 midnight.
- E. Large attendance facility permit Authorizes the sale of all types of controlled beverages by a facility housing a convention center activity, tourism activity, trade show and product display, and any related meeting activity or any other similar large meeting or attendance activity and, where such facility has a seating capacity of not less than five hundred (500) people and which serves controlled beverages only on the premises on days that meals and food are served at one or more places on the premises.

1. Permit fee There is hereby levied an annual permit fee of one-half of the annual permit fee charged by the state for each and every large attendance facility within the city. For any new permit issued between January 1 and June 30, the permit fee shall be one-half of the annual permit fee.
  2. Hours of operation It shall be unlawful for any person holding a large attendance facility permit to sell or offer for sale, serve or permit consumption of any controlled beverages between the hours of 12:00 midnight and 7:00 a.m. Monday through Saturday, on Sunday except between the hours of 10:00 a.m. and 12:00 midnight or during any 24 hour interval designated an emergency period by the Mayor, City Council, or any person acting in the Mayor's or City Council's capacity.
- F. Off-premises caterer's permit Authorizes the purchase of alcoholic beverages from a retailer to transport to a private function which is being catered by the permit holder and to serve alcoholic beverages to attendees of the private function in conjunction with catered food.
1. Permit fee A permit fee of one-half of the annual permit fee charged by the state is levied annually. For any new permit issued between January 1 and June 30, the permit fee shall be one-half of the annual permit fee.
  2. May not cater alcoholic beverages to large attendance or meeting facility Off-premises caterers as authorized by this section and A.C.A. 3-4-901 – 905 may not cater alcoholic beverages to large attendance facilities.
  3. Hours of operation It shall be unlawful for any person holding an off-premises caterer's permit to sell or offer for sale, serve or permit consumption of any controlled beverages between the hours of 12:00 midnight and 7:00 a.m. Monday through Saturday, on Christmas Day, or during any 24 hour interval designated an emergency period by the Mayor, City Council, or any person acting in the Mayor's or City Council's capacity.
- G. Restaurant beer and wine permit Authorizes the sale of beer and wine as defined in A.C.A. 3-9-301(2) at restaurants defined in A.C.A. 3-9-301(4).
1. Permit fee There is hereby levied an annual permit fee of one-half of the annual permit fee charged by the state for each permit. For any new permit issued between January 1 and June 30, the permit fee shall be one-half of the annual permit fee.

2. Hours of operation It shall be unlawful for any permitted restaurant to sell beer or wine between the hours of 1:00 and 7:00 a.m. Monday through Saturday, on Sunday except between the hours of 10:00 a.m. and 12:00 midnight, on Christmas Day, or during any 24 hour interval designated an emergency period by the Mayor, City Council, or any person acting in the Mayor's or City Council's capacity.
- H. Microbrewery/restaurant permit Authorizes the manufacture of one (1) or more varieties of beer or malt beverages in an aggregate quantity not to exceed 5,000 barrels per year, to store any such beer or malt beverages and any other beer or malt beverages purchased from wholesale dealers on the licensed premises and to operate a restaurant which shall be the sales outlet for beer and malt beverages manufactured by the microbrewery, or which may be purchased from wholesale dealers for consumption on the licensed premises.
1. Permit fee There is hereby levied an annual permit fee of one-half of the annual permit fee charged by the state for each permit. For any new permit issued between January 1 and June 30, the permit fee shall be one-half of the annual permit fee.
  2. Hours of operation It shall be unlawful for the permittee of a microbrewery/restaurant permit to sell, serve or offer for sale beer or malt beverages between the hours of 1:00 a.m. and 7:00 a.m. Monday through Saturday, on Sunday except between the hours of 10:00 a.m. and 12:00 midnight or during any 24 hour interval designated an emergency period by the Mayor, City Council, or any person acting in the Mayor's or City Council's capacity.
- I. Any other retail permit There is hereby levied an annual permit fee for any other retail permit issued by the state of one-half of the amount charged by the state for such permit. (Ord. No. 547, Sec. 12.)

#### 4.28.13 Manufacturer permit

- A. Liquor manufacturer permit Authorizes the manufacture or distilling of spirituous, vinous (except wine) or malt liquors, and the sale to persons holding valid permits to wholesale or import such liquors.

##### Permit fee

1. For the manufacture and sale of spirituous liquors, the annual permit fee shall be one-half of the annual permit fee charged by the state for each and every manufacturing plant.

2. For the manufacture and sale of vinous (except wine) liquors, the annual permit fee shall be one-half of the annual permit fee charged by the state for each and every manufacturing plant.

B. Beer manufacturer permit Authorizes the manufacture of beer and the sale of such beer to persons holding a valid permit to wholesale or import such beer.

Permit fee For the manufactures and sale of beer, the annual permit fee shall be one-half of the annual permit fee charged by the state for such permit.

C. Rectifiers' permit Authorizes the rectifying, purifying, mixing, blending, or flavoring of spirituous liquors or the bottling, warehousing, or other handling or distribution of rectified distilled spirits. Rectifiers may sell, deliver, or transport only to wholesale dealers holding a valid permit to wholesale, to other rectifiers, or for the purpose of export out of state.

Permit fee For the privilege of rectifying, blending, or flavoring spirituous liquors, there is hereby assessed an annual permit fee of one-half of the annual permit fee charged by the state for each and every rectifying, blending, or flavoring plant. (Ord. No. 547, Sec. 13.)

4.28.14 Fine Except as otherwise specifically provided in this chapter, any violation of the provisions of this chapter shall be deemed a misdemeanor and punishable by a fine of not less than Five Hundred Dollars (\$500.00) or more than One Thousand Dollars (\$1,000.00). If the violation is continuous in respect to time, the fine for allowing the continuance thereof shall not exceed Five Hundred Dollars (\$500.00) for each day that it is unlawfully continued. (Ord. No. 547, Sec. 14.)

4.28.15 Authorization to sell alcoholic beverages for consumption on premises

A. Pursuant to the terms of A.C.A. § 3-9-203, the sales and consumption of alcoholic beverages for on premises consumption is hereby authorized for establishments within the City of Pea Ridge.

B. Said sales and on premises consumption shall be conducted in compliance with all applicable Arkansas Statutes and all applicable regulations of the Alcoholic Beverage Control Division of the Arkansas Department of Finance and Administration.

C. Any business in the city holding an alcoholic beverage control permit issued pursuant to A.C.A. § 3-9-211 and/or 3-9-212 (also known as a "hotel/motel/restaurant mixed drink permit") and a corresponding city permit is

hereby authorized to allow the sale and consumption of alcoholic beverages on the premises. All such sales shall be between the hours of 10 AM and 12 midnight. (Ord. No. 710, Section 2)

4.28.16 Permit for hotel/motel/restaurant mixed drinks

- A. Any Person, Retailer or establishment issued a State hotel/motel/restaurant mixed drink permit to sell alcoholic beverages for consumption on premises in the City of Pea Ridge shall apply for and secure a corresponding mixed drink permit from the city as a condition to operating within the city limits.
- B. The annual city permit fee shall equal one-half of the annual permit fee charged by the State, and the city permit shall be issued and renewed on the same deadlines set by the State for its permit. (Ord. No. 710, Section 3)

4.28.17 Supplemental tax on sales for on premise consumption

- A. Pursuant to A.C.A. § 3-9-214, a supplemental five percent tax is hereby levied on the gross receipts for the sale of spirituous beverages for on premises consumption by establishments in the City of Pea Ridge.
- B. The calculation and payment of said supplemental tax shall be identical to the calculation and payment of the supplemental tax levied by the State pursuant to A.C.A. § 3-9-213, with the exception being the proceeds from said tax shall be paid monthly to the Pea Ridge City Clerk-Treasurer.
- C. If any Permittee shall fail to remit the supplemental city tax within the time period that the State tax is due, a penalty of 12 ½% of the tax due shall be due and payable in addition to the tax. (Ord. No. 710, Sec. 4)