

TITLE 4

BUSINESS LICENSES AND REGULATIONS

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CHAPTER 4.04

ELECTRIC FRANCHISE

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4.04.01 Electric franchise granted to Arkansas Power and Light Company. The city of Clinton, Arkansas, (hereinafter called Grantor) hereby grants to the Arkansas Power and Light Company, its successors and assigns (hereinafter called Grantee), the exclusive right, privilege and authority within the present and all future expansion of the corporate limits of the city of Clinton, Arkansas, (1) to sell, furnish, transmit and distribute electric power and energy to Grantor and to all inhabitants and consumers within said limits, and (2) to construct, maintain, operate and extend a system for such purposes and to enter on, under and upon and use any and all of the streets, alleys, avenues, bridges and other public grounds and ways belonging to, or

under the control of Grantor, for the purpose of erecting, maintaining, repairing, replacing and operating poles, wires, anchors, stubs, transformers, substations, cables, conduits and other related facilities, appliances and apparatus which are necessary for, or useful in, the furnishing, sale, transmission or distribution of said electric service (hereinafter called facilities).

4.04.02 Rights and responsibilities of grantor and grantee.

A. General Rights and Obligations. Grantee shall, and does by acceptance hereof, agree to provide to the city and its inhabitants adequate and reasonable electric service as a public utility and the facilities necessary to provide such service. Grantor, in recognition of the large and continuing investment necessary for Grantee to perform its obligations hereunder, and the need and duty to promptly construct its facilities, as defined above, required to serve customers, in all areas and zones of the city, consents to the construction of such facilities as defined in Section 4.04.01 in all such areas and zones, and Grantor agrees to protect by ordinance, regulation and otherwise, to the fullest extent permitted by law, and except as otherwise limited herein, the grants of rights and privileges to Grantee set forth in Section 4.04.01 from interference with, or duplication by, other persons, firms or corporations seeking to engage in the sale or distribution of electric energy.

B. Standards and Right-of-Ways. All facilities of Grantee which may be located on public ways, places and public property, as authorized herein, shall be located so as to not unreasonably obstruct public use and travel. All of Grantee's facilities shall be constructed, operated and maintained in accordance with standards at least equivalent to the standards prescribed by the National Electrical Safety Code. Grantee, its successors and assigns, shall replace and repair, at its own expense, all excavations, holes or other damage caused or done by it to public streets, ways, places and public property in the construction, operation and maintenance of its facilities.

C. Removal of Hazards; Clearing of Right-of-Ways. The Grantee, its successors and assigns, is hereby given the right to trim, cut or remove trees, shrubbery or growth on or in public ways, places and public property which interfere or offer hazards to the operation of Grantee's facilities used or useful for the rendition of electric service; further, Grantee is hereby given the right, authority and permission to trim, cut and remove portions of trees, shrubbery or growth growing on private property but overhanging or encroaching on public ways, places and public property which interfere or offer hazards to the construction, operation and maintenance of Grantee's facilities.

4.04.03 Termination procedure. The rights, privileges and authority hereby granted shall exist and continue from the date of passage of this ordinance, and thereafter, until termination in accordance with provisions of Section 44 of Act 324 of the 1935 Acts of the State of Arkansas, as presently enacted or hereinafter amended.

4.04.04 Rates. The rates which are to be charged by Grantee for electric service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be amended by Grantee in accordance with law or by any regulatory authority having jurisdiction thereof.

4.04.05 City not liable for negligence of grantee. In the construction, operation, and maintenance of its facilities, said Grantee shall use reasonable and proper precaution to avoid damage or injury to persons or property and shall hold and save harmless the said Grantor from damage, injury, loss or expense caused by the negligence of the Grantee or its agents, servants, or employees, in constructing, operating and maintaining said facilities or in repaving or repairing any streets, avenues, alleys, bridges or other public grounds.

4.04.06 Standard of care for facilities. The Grantee shall endeavor at all times to keep its facilities in a reasonable state of repair and to conform to such practices and install such appliances and equipment as may be in keeping with the customary usage and practice in cities of similar size in this state during the time this franchise shall remain in force.

4.04.07 Franchise tax. During the life of this franchise, the Grantee shall pay to Grantor each year a franchise tax in an amount equal to: Four and twenty-five hundredths percent (4.25%) of the preceding calendar year's gross residential and commercial electric revenues as paid to the Grantee by residential and commercial customers located within the corporate limits of the City of Clinton, Arkansas. Payments shall be made by the Grantee to the Grantor in approximately equal quarterly installments. Residential and commercial electric revenues are those revenues so classified pursuant to Grantee's uniform classification standards. Grantor shall have the right to examine and verify, from the records of the Grantee, any data relating to the gross revenues of Grantee from customers on which said franchise tax is due. In the event of a controversy, between the Grantor and Grantee as to the amount of gross revenues received by Grantee in the City of Clinton, Arkansas, upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Grantee, for final determination, and the decision of said Commission shall be binding upon both parties hereto.

It is expressly agreed and understood by the Grantor and Grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes, general ad valorem taxes and other general taxes applicable to all citizens and taxpayers) which are now or might in the future be imposed by the Grantor under authority conferred upon the Grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee set forth in Section 4.04.07 hereof, to pay the city the sum of four and twenty-five hundredths percent (4.25%) annually of the gross residential and commercial electrical revenues shall immediately terminate.

4.04.08 Street lighting. Electric service furnished the Grantor for street lighting and other purposes shall be paid for by the Grantor in accordance with the applicable rate schedules of the Grantee now on file and/or as they may in the future be filed by the Grantee and approved by the Arkansas Public Service Commission or other regulatory authority having jurisdiction. The Grantee shall have the privilege of crediting any amount due Grantor with any unpaid balances due said Grantee for electric service rendered to said Grantor.

4.04.09 Private generation facilities allowed. Nothing herein shall be construed to prohibit any person, firm or corporation from owning and operating facilities for generating, distributing, or furnishing electric energy for his or its own use or for the use of his or its tenants, all of which facilities and use are wholly on the same premises owned by such person, firm or corporation.

CHAPTER 4.08

GAS FRANCHISE

Sections:

- 4.08.01 Gas franchise granted to Arkansas Louisiana Gas Company
- 4.08.02 Rights and responsibilities of Gas Company and city
- 4.08.03 Franchise tax
- 4.08.04 Construction of chapter

4.08.01 Gas franchise granted to Arkansas Louisiana Gas Company. The Arkansas Louisiana Gas Company (hereinafter referred to as the "Gas Company") is duly authorized by franchise ordinance heretofore enacted to operate a gas distribution system and appurtenances thereto, used in, or incident to the rendition of gas service to Clinton, Arkansas, and the inhabitants thereof residing in the city.

4.08.02 Rights and responsibilities of Gas Company and city. The Gas Company is now occupying and shall continue to occupy the streets and alleys of the City of Clinton, Arkansas, for the purpose of operating, maintaining and extending its gas service to the city and the inhabitants and consumers residing in the city, and shall continue to supply to the city and consumers therein gas service.

4.08.03 Franchise tax. The amount of occupation, license or franchise tax to be paid by the Gas Company for the year 1996 and subsequent years, until changed by ordinance, shall be determined and computed as follows.

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

Nothing in this chapter shall be construed to alter or change the present rate schedule under which the Gas Company is now operating, except by order of the Arkansas Public Service Commission or other legally constituted bodies.

CHAPTER 4.12

TELEPHONE FRANCHISE

Sections:

- 4.12.01 Authority granted for operation of telephone system
- 4.12.02 Tax imposed upon Southwestern Bell Telephone Company
- 4.12.03 Tax shall be in lieu of other charges
- 4.12.04 Temporary moving of lines
- 4.12.05 Permission to trim trees
- 4.12.06 Ordinance does not require or permit electric light or power wire attachments
- 4.12.07 Exclusive privileges not given

4.12.01 Authority granted for operation of telephone system. The Southwestern Bell Telephone Company, its successors and assigns (hereinafter referred to as "Telephone Company") shall continue to operate its telephone system and all business incidental to or connected with the conducting of a telephone business and system in the City of Clinton, Arkansas, (hereinafter referred to as "city"). The plant construction and appurtenances used in or incident to the giving of telephone service and to the maintenance of a telephone business and system by the Telephone Company in said city shall remain as now constructed, subject to such changes as may be considered necessary by the city in the exercise of its inherent powers and by the Telephone Company in the conduct of its business, and said Telephone Company shall continue to exercise its rights to place, remove, construct and reconstruct, extend and maintain its said plant and appurtenances as the business and purpose for which it is or may be incorporated may from time to time require, along, across, on, over, through, above and under all the public streets, avenues, alleys, and the public grounds and places within the limits of said city as the same from time to time may be established.

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

4.12.03 Tax shall be in lieu of other charges. The annual payment herein required shall be in lieu of all other licenses, charges, fees or impositions (other than the usual general or special ad valorem taxes) which may be imposed by the city under authority conferred by law. The Telephone Company shall have the privilege of crediting such sums with any unpaid balance due said Company for telephone services rendered or facilities furnished to said city.

4.12.04 Temporary moving of lines. The Telephone Company on the request of any person shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting the same, and the Telephone Company may require such payment in advance. The Telephone Company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

4.12.05 Permission to trim trees. Permission is hereby granted to the Telephone Company to trim trees upon and overhanging streets, alleys, sidewalks and public places of said city so as to prevent the branches of such trees from coming in contact with the wires and cables of the Telephone Company, all the said trimming to be done under the supervision and direction of any city official to whom said duties have been or may be delegated.

4.12.06 Ordinance does not require or permit electric light or power wire attachments. Nothing contained in this chapter shall be construed to require or permit any electric light or power wire attachments by the city or for the city. If light or power attachments are desired by the city or for the city, then a separate non-contingent agreement shall be a prerequisite to such attachments.

4.12.07 Exclusive privileges not given. Nothing herein contained shall be construed as giving to the Telephone Company any exclusive privileges, nor shall it affect any prior or existing right of the Telephone Company to maintain a telephone system within the city.

CHAPTER 4.13

AMBULANCE FRANCHISE

Sections:

4.13.01	Franchise declared
4.13.02	Definitions
4.13.03	Franchise Required
4.13.04	Exclusive Franchise
4.13.05	Application for a franchise
4.13.06	Terms of franchise
4.13.07	Owner, operator required
4.13.08	Services required
4.13.09	Residency
4.13.10	Criteria
4.13.11	Transferring a permit
4.13.12	Insurance required
4.13.13	Franchise fee
4.13.14	Compliance
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4.13.17	Equipment Listed
4.13.18	Contagious or Infectious Disease
4.13.19	Written Policies
4.13.20	Violations
4.13.21	Applicability
4.13.22	Other Requirements
4.13.23	Future changes

4.13.01 Franchise declared That from and after the effective date of this ordinance the business of transporting persons within the coverage area as defined below by motor ambulance, whether by the providing of emergency medical services or the providing of medical transfer services including the operation of a motor ambulance, be and the same is hereby declared to be an essential, vital and necessary public utility service subject to regulations and franchising by the City of Clinton (hereinafter sometimes referred to as “the franchisor”). After said date, any permit, license, privilege or certification heretofore granted or suffered to allow by any person, firm or corporation, whether non-profit or any business for profit to operate an EMS/ambulance service within said coverage area shall and hereby is permanently revoked and the ownership and operation thereof shall be unlawful unless all such persons, firms or corporations shall first comply with the provisions of this ordinance as hereinafter set forth and the Arkansas Municipal Ambulance Licensing Act, Sections 14-266-101 to 110. This ordinance does not apply within the areas of Fairfield Bay, Scotland and Chimes and is not intended to affect or interfere with the ambulance services presently in operation within and for the areas of Fairfield Bay, Scotland, or

Chimes unless the governing bodies of such areas request services from the franchisee herein created as provided for under A.C.A. § 14-266-105(4), or pursuant to an emergency plan or mutual aid agreement with the new franchisee as herein created and approved by franchisor. (Ord. No. 2009-05, Sec. 1.).

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

- (a) "Ambulance" means any motor vehicle that is constructed or equipped for and intended to be used for the transportation of a person because of a medical reason including but not limited to an injury, illness, disability, or other medically related reason.
- (b) "Ambulance Business" means any for profit or non-profit business entity or person engaged in the business of the transportation of persons for medical reasons .
- (c) "Operation", an operation means the receiving, picking up or embarking from within the coverage area of any sick or injured person, or for other reason indicating the need to obtain emergency or non-emergency medical treatment, or upon conclusion of such care, for transportation or conveyance to any point wherever located including any and all residential domiciles, or health care, or living facilities.
- (d) "Person" means individuals either male or female, partnerships(s), firms, corporations (whether for profit or non-profit) and associations of every kind, and their agents, servants or employees.
- (e) "Ambulance operator" shall mean any person or board who, as owner, agent, or otherwise, furnishes or operates, advertises or otherwise professes to be engaged in the business of furnishing or operating ambulances in providing the ancillary and necessary emergency medical services or medical transfer services.
- (f) "Coverage area" shall mean all of that area within the city limits of the City of Clinton. This "coverage area" may be expanded to include other area(s) upon request of the governing body of the requesting area(s).
- (g) "Originating" means the geographical point of patient contact for that service. Such contact may be by any means of communication from any location where the call seeks a contact or patient pick-up that is within the coverage area. Thus, any communication from any location that requires EMS/ambulance and/or emergency and/ nonemergency medial service to proceed to or from any point within the coverage area to make patient contact originates from within that coverage area. At all times the coverage area shall at a minimum be all that area within the city limits of the City of Clinton .
- (h) The phrase "not-for-hire on a fee-for-service basis transportation" shall mean and refer solely to ambulance services wholly owned by a licensed medical facility, which provides services only to the population of that facility. (Ord. No. 2009-09, Sec. 2.)

4.13.03 Franchise Required No person engage in the ambulance business within the City of Clinton without first obtaining a franchise s required under this ordinance, or pursuant to an agreement as provided in Section 26 below. A franchise to operate an exclusive ambulance business shall issue for a period not to exceed five (5) years. Renewal of any franchise granted hereunder, upon expiration or termination for any reason, shall require conformance with specifications as are promulgated by the franchisor and the requirements of this ordinance and state law applicable to EMS/Ambulance and emergency and non-emergency medical. No person, firm or business entity of any kind may offer or provide EMS/ambulance or emergency or non-emergency medical services of any kind that originates within the coverage area without having first obtained a franchise as herein provided, or pursuant to Section 26, below. (Ord. No. 2009-09, Sec. 3.)

14.13.04 Exclusive Franchise The City Council may grant an exclusive franchise for the privilege of using the streets, alleys, public ways and public grounds of City of Clinton and any extended area(s) for the purposes of operating an ambulance business for the cities' inhabitants and all other persons within coverage area, which said franchise shall require that said ambulance service, including emergency ambulance service, must be maintained continuously during all hours. (Ord. No. 2009-05, Sec.4).

14.13.05 Application for a franchise Said franchise shall be granted only upon written application therefor filed with the City Clerk of the City of Clinton, and the Van Buren County Judge. And, further, shall only be granted after the City Council of the City of Clinton, Arkansas, shall determine that the applicant has met or exceeded the specifications for eligibility of award of the exclusive franchise. To determine such public convenience and necessity, the City Council and the County Judge may hold such hearings and in such manner as they deem necessary. (Ord. No. 2009-05, Sec. 5).

14.13.06 Terms of franchise Said franchise may be granted upon such terms as said Clinton City Council, and if applicable in concert with the Van Buren County Judge, shall determine and such terms shall be included as part of any franchise granted hereunder. (Ord. No. 2009-05, Sec. 6).

14.13.07 Owner, operator required No franchise shall be granted to any person who is not the actual bona fide owner, or bona fide operator, thereof and who is not fully responsible for the operations of said business. (Ord. No. 2009-05, Sec. 7).

14.13.08 Services required No franchise shall be granted to any person who does not provide: bona fide advanced life support (ALS) or paramedic service licensed by the Arkansas Department of Health as part of all of its ambulance business on a 24/7 basis, and further, all emergency transportation shall be performed with a certified paramedic present or as otherwise called for by appropriate medical protocol. Further, as appropriate and based on medical protocols, all non-emergency transportation as provided by either an ALS ambulance,

intermediate ambulance or Basic ambulance with either a paramedic, EMT- Intermediate, or EMT-Basic present respectively. (Ord. No. 2009-05, Sec. 8).

14.13.09 Residency No franchise shall be granted to any person whose ambulance operation that is not located within the City of Clinton, Arkansas, or at a location approved by the Clinton City Council including crew quarters and appropriate facilities for ambulances, medical supplies, and medical equipment. (Ord. No. 2009-05, Sec. 9).

14.13.10 Criteria In granting a franchise the City Council shall consider as the utmost criteria the quality of services to be provided to the citizens to be served. Included in the consideration of quality shall be the quality of the equipment, the level of service to be given, response time standards, the training and education of staff, the systems in place for quality review and improvement of patient care, the level of involvement of the Medical Director, the quality and number of certified paramedics and any other necessary personnel to be provided, the overall staffing to be provided, the personnel practices in effect, the preparedness and participation in disaster or mass casualty response and evidence of quality so that accredited ambulance businesses shall be given a preference. (Ord. No. 2009-05, Sec. 10).

14.13.11 Transferring a permit No permit issued under the terms of this ordinance shall be sold, transferred, assigned, leased or otherwise disposed of without the written approval of the franchisor. (Ord. No. 2009-05, Sec. 11).

14.13.12 Insurance required Before the Clinton City Council shall grant any franchise hereunder, the owner or operator of said business applying for same; shall deposit with the City Clerk and, if applicable the Van Buren County Clerk, and keep in effect at all times, policies insurance issued by licensed and responsible insurance company or companies duly authorized to transact such business in the State of Arkansas, providing professional liability insurance, workers compensation insurance, comprehensive general liability and motor vehicle insurance. The said insurance shall provide coverage for its employees, agents, motor vehicle operators and any and all persons acting under the control and direction of said franchisee against liability up to and including One Million Dollars (\$1,000,000.00) for personal injuries or death as to one occurrence and up to and including Two Million Dollars (\$2,000,000.00) on account of any accident resulting in personal injuries or death on more than one occurrence. The franchisee shall provide certificates of coverage that identifies the franchisor as additional named insured. (Ord. No. 2009-05, Sec. 12).

14.13.13 Franchise fee The person issued a franchise hereunder shall pay to the City of Clinton, Arkansas, and to the governing body or bodies of any extended areas, an annual license or permit fee of One Hundred Dollars (\$100.00) per year, which shall be paid at the time of the granting of said franchise or extension of services to cover administrative costs. This fee shall be due on the same date of each following year during the term of said franchise, provided, however, that no franchise shall be terminated for failure to pay a fee unless the franchisor issues

notice of a failure to pay not less than ten (10) days in advance of termination. (Ord. No. 2009-05, Sec. 13).

14.13.14 Compliance Any person desiring to obtain a franchise to operate an EMS/ambulance and emergency and non-emergency medical service business shall make application therefor, in a form that clearly demonstrates compliance with all sections of the required specifications, and of this ordinance. Each application shall be accompanied by a certificate of insurance or copies of the policies of insurance required by this ordinance. (Ord. No. 2009-05, Sec. 14).

14.13.15 Revocation A franchise may be revoked by the City Council upon the following grounds:

- (a) The franchise holder knowingly and after written notice from the city failed to operate a business in accordance with the provisions of this ordinance and/or any and all applicable state or federal laws, regulations, requirements, or accreditation standards applicable to the emergency medical services or ambulance business or operation including the lack of certified paramedics as required herein.
- (b) The franchise holder shall abandon its operations of the ambulance business for a period of one (1) or more days. Acts of God, labor disputes, and other acts beyond the control of the franchise holder which cause abandonment or limitation of service shall not be considered abandonment with the meaning of this section in which case the backup emergency plan provided by the franchise holder shall be implemented.
- (c) The franchise holder has failed to render satisfactory service or has engaged in unlawful or inappropriate conduct.
- (d) The franchise holder fails to comply with any provisions of the franchise ordinance. The City Council or its designee shall hold a hearing after ten (10) days notice to the franchise holder before any suspension or revocation shall become effective. (Ord. No. 2009-05, Sec. 15).

14.13.16 Extension The ambulance business holding the franchise shall, before such franchise is issued, extend a written guarantee to the City of Clinton, Arkansas of uninterrupted ambulance service, except that by giving ninety(90) days notice to the city, such franchisee shall be authorized to discontinue its own, or the service of any subordinate service appointed pursuant to Section 26 below, service without penalty. (Ord. No. 2009-05, Sec. 16).

14.13.17 Equipment Listed Upon making application for a franchise, each ambulance operator shall submit a list of equipment to be carried in each ambulance. This list shall be subject to approval of the franchisor and the State of Arkansas at the time that the applicant's license is before the franchisor for consideration. The list shall be subject to review and approval annually and at the time of the renewal of the franchise and shall be filed with the offices of the franchisor's clerk. Each ambulance operated by the franchisee must be continually equipped and

staffed according to the bidding specifications and the regulations and requirements of the Arkansas Department of Health. (Ord. No. 2009-05, Sec. 17).

14.13.18 Contagious or Infectious Disease An ambulance carrying a patient affected with contagious or infectious disease and the services therefore shall operate in accordance with the Federal OSHA requirements, Arkansas Department of Health, and Center for Disease Control standards in handling patients with contagious and infectious diseases. In all such cases a report shall also be made to the franchisor so that appropriate steps may be taken for public health purposes. (Ord. No. 2009-05, Sec. 18).

14.13.19 Written Policies The ambulance business or operations shall also have and maintain a written set of policies and procedures which will include personnel, operational and medical policies and procedures, and such other requirements as may be required by law, rule or regulation. A copy of this or these manuals shall be made available for inspection upon request by the franchisor or its authorized representative. The ambulance business or operation shall thereafter operate in accordance with its policies and procedures manual or manuals. (Ord. No. 2009-05, Sec. 19).

14.13.20 Violations Any person who shall fail to comply with any provision of this ordinance, or who shall violate any of the provisions of this ordinance, or who shall assist, aid, abet or facilitate any other person to violate any provision of this ordinance shall be guilty of misdemeanor and/or a violation, and upon conviction shall be fined not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (1,000.00) per offense. (Ord. No. 2009-05, Sec. 20).

14.13.21 Applicability The provisions of this ordinance shall not apply to any person engaged in rendering an ambulance business for the transport of persons or patients in or through the coverage area so long as this transportation originates from a location outside of the coverage area. (Ord. No. 2009-09, Sec. 21).

14.13.22 Other Requirements The standards, rules, regulations, and requirements established by the State of Arkansas concerning emergency medical services, emergency medical technicians, paramedics, emergency and non-emergency ambulances, and ambulance companies as set forth by the Arkansas Department of Health Office of Emergency Medical Services and Trauma Systems are hereby incorporated with this ordinance by reference. These standards, rules, regulations and requirements established by the State of Arkansas are the minimum standards that are acceptable and no substandard element will be acceptable and will be cause for termination of the right to operate anywhere within the coverage area or the City of Clinton. (Ord. No. 2009-05, Sec. 22).

4.13.23 Future changes The Clinton City Council may change the coverage area to expand the EMS/Ambulance and emergency and nonemergency service based upon the approval of the governing body of that expanded area. Within sixty (60) days of an approved change in the coverage area, the franchisee shall present to the Mayor of the City of Clinton and to the governing bodies of the expanded area a written plan for the following:

- A. Creation of a system or plan to obtain support services from other identified EMS/Ambulance and emergency and non-emergency medical services entities to assure adequate and continuous coverage during emergencies, disasters, large public events and other urgent needs.
- B. All such plans, mutual aid agreements or other forms of contracts shall be with properly licensed and certified EMS/Ambulance services.
- C. Upon approval of the emergency back up plans and proposed contracts presented by the franchisee, all rights, privileges and benefits granted to the franchisee shall be extended to the backup entities selected by the franchisee but only to the extent and for the duration of the emergency or need for such services. All such plans, agreements, and contract services shall serve at the pleasure of the franchisee. (Ord. No. 2009-09, Sec. 26.)

CHAPTER 4.16

TAX ON PRIVATE CLUBS

Sections:

4.16.01 City tax levied

4.16.01 City tax levied All private clubs within the City of Clinton, Arkansas, serving alcoholic beverages shall pay to the city a supplemental tax equal to the amount paid to the state. Proceeds from this tax shall be deposited into the City's general fund.

STATE LAW REFERENCE: A.C.A. 3-9-223.

CHAPTER 4.20

STORAGE, TRANSPORTATION AND

SALE OF LIQUOR, BEER AND WINE

Sections:

- 4.20.01 Misdemeanor and fine
- 4.20.02 Possession of liquor
- 4.20.03 Transportation of liquor

4.20.01 Misdemeanor and fine Any person or persons who shall sell, barter, give or exchange any intoxicating liquor in any form shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$50.00 nor more than \$500.00 or imprisoned for not exceeding six months or both, so fined and imprisoned in the discretion of the court or jury. (Ord. No. 37, Sec. 1.)

4.20.02 Possession of liquor It shall be unlawful for any person to buy, bargain, sell, loan, own, have in possession or knowingly transport illicitly distilled liquor or intoxicating liquors of any kind upon which the Arkansas Excise Tax has not been paid and it shall be unlawful for any person to buy, bargain, sell, loan, have in possession or knowingly transport an illicit distillery for the unlawful manufacture of spirituous, vinous, malt or intoxicating liquors. Any person who shall violate this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$50.00 nor more than \$500.00 or imprisoned for not exceeding six months or both, so fined and imprisoned in the discretion of the court and jury. (Ord. No. 37, Sec. 2.)

4.20.03 Transportation of liquor It shall be unlawful for any person to ship or transport or cause to be shipped or transported or to accept or conveyance into or through the city of Clinton, any spirituous, vinous or malt liquors or beverages in any quantity or amounts in excess of one gallon in toto: At any time any person who shall violate any of this provision of this ordinance or of Acts 205 and 206 and or 423 of Acts of Arkansas, 1947 edition, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$50.00 nor more than \$1,000.00 or be confined in the county jail not less than six months nor more than one year or both the fine and imprisonment. (Ord. No. 37, Sec. 3.)

CHAPTER 4.24

TEMPORARY OR TRANSIENT MERCHANTS

Sections:

4.24.01	Definitions
4.24.02	Exemptions
4.24.03	Enforcement
4.24.04	Registration required
4.24.05	Penalties
4.24.06	Application
4.24.07	Fees
4.24.08	Issuance and terms of registration
4.24.09	Permit fees
4.24.10	Yard Sales
4.24.11	Mobile Food Venders

4.24.01 Definitions

Person: Any individual, corporation, partnership, association or other entity.

Temporary or transient business: Any business conducted for the sale or offer for sale of goods, or merchandise which is carried on in any building, structure, motor vehicle, railroad car, or real estate for a period of less than six (6) months in each year without written evidence of a right to occupy the premises on which a person is conducting business;

Transient Merchant: Any person, firm, corporation, partnership or other entity which engages in, does or transacts any temporary or transient business in the city limits of the City of Clinton, either in one locality or in traveling too place to place in the city, offering for sale or selling goods, wares, merchandise or services. (Ord. No. 2009-11, Sec. 1).

4.24.02 Exemptions The provisions in this Ordinance shall not apply to:

- a) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;
- b) Wholesale trade shows or conventions;
- c) Sales of goods, wares, or merchandise by sample catalogue or brochure for future delivery;
- d) Fairs and convention center activities conducted primarily for amusement or religious organization;
- e) Any general sale, fair, auction, or bazaar sponsored by any church or religious organization;
- f) Any event, festival, farmer's market, fair, general sale, auction, or bazaar sponsored by City of Clinton or Van Buren County.

- g) Garage sales held on the premises devoted to residential use;
- h) Sales of agricultural products, except nursery products and foliage plants;
- i) Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of the premises;
- j) School-sponsored bazaars and sales, concessions at school athlete and other events, and sales of paraphernalia used in the celebration of any nationally recognized holiday or used in connection with any public school, university, or college-related activities, flea markets, retail fireworks establishments, gun shows, sales by charitable organizations, and expositions sponsored by government entities or by nonprofit trade associations.
- k) A transient merchant not otherwise exempted from the provisions of this subchapter shall not be relieved or exempted from the provisions of this subchapter by reason of associating himself temporarily with any local dealer, auctioneer, trader, contractor, or merchant or by conducting such temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor, or merchant. (Ord. No. 2009-11, Sec. 2).

4.24.03 Enforcement It shall be the duty of the Clinton Police Department, Zoning Official, and the City Attorney to enforce the provisions of this Ordinance. (Ord. No. 2009-11, Sec. 3).

4.24.04 Registration required It is unlawful for any transient merchant to transact business in the City of Clinton, Arkansas, unless the merchant and the owners of any goods, wares, or merchandise to be offered for sale or sold, if such are not owned by the merchant, shall have first secured a registration and shall have otherwise complied with the requirements of this ordinance. (Ord. No. 2009-11, Sec. 4).

4.24.05 Penalties Any person or entity that transacts a transient business as defined in as amended A.C.A 17-49-103, without first having obtained a registration in accordance with the provisions of the subchapter, or who knowingly advertises, offers for sale, or sells any goods, wares, merchandise, or services in violation of the provisions of this subchapter, shall be guilty of a violation of the provisions of this subchapter, shall be guilty of violation and subject to a fine of up to \$500.00. (Ord. No. 2009-11, Sec. 5).

4.24.06 Application

- a) Any transient merchant desiring to transact business in the City of Clinton shall make application for and obtain a registration.
- b) The application for registration shall be filed with the City Clerk.
- c) The application for registration shall included the following information:
 - 1) The name and permanent address of the transient merchant making application and, if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation, as the case may be;
 - 2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation and, if the applicant is a

- 3) corporation formed in a state other than the State of Arkansas, the date on which the corporation qualified to transact business as a foreign corporation in the State of Arkansas;
 - 4) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business, and the location of the proposed place of business;
 - 5) The name and permanent address of the transient merchant's registered agent or office;
 - 6) Proof that the applicant has acquired all other required city, county, and state permits and licenses; and
 - 7) There shall be attached to the application a receipt or statement showing that any personal property taxes due on goods, wares or merchandise to be offered for sale have been paid;
- d) The City Clerk shall design and cause to be printed appropriate forms for applications for registration for the registration certificates to be issued to applicants under this subchapter. (Ord. No. 2009-11, Sec. 6).

4.24.07 Fees

- a) The application for a transient merchant license shall be accompanied by a fee of Fifty Dollars (\$50.00) and by a cash bond or a surety bond issued by a corporate surety authorized to do business in the State of Arkansas, in the amount of Two Thousand dollars (\$2000.00) or five percent (5%) of the wholesale value of any goods, wares, merchandise, or services to be offered for sale, whichever sum is lesser.
- b) The surety bond shall be in favor of the City of Clinton and shall assure the payment by the applicant of all taxes that may be due from the applicant to the city, the payment of any fines that may be assessed against the applicant or its agents or employees for violation of the provisions of this subchapter, and for satisfaction of all judgments that may be rendered against the transient merchant or its agents or employees in any cause of action commenced by any purchaser of goods, wares, merchandise, or services within one (1) year from the date of sale by the transient merchant.
- c) The bonds shall be maintained so long as the transient merchant conducts business in the City of Clinton, Arkansas and for a period of one (1) year after the termination of business. The bonds shall be released only when the transient merchant furnishes satisfactory proof to the City Clerk that he has satisfied all claims of purchasers of goods, wares, merchandise, or services from the merchant and that all city sales taxes and other taxes have been paid.
- d) Bond requirements may be waived by Mayor at his discretion if determined product sold does not need to be bonded. (Ord. No. 2009-11, Sec. 7).

4.24.08 Issuance and terms of registration A transient business registration shall be issued hereunder only when all requirements of this subchapter have been met. The registration shall:

- 1) Not be transferable;
- 2) Be valid only for a period of thirty (30) days; and
- 3) Be valid only for the business stated in the application.

A license so issued shall be valid for only one (1) person, unless the person shall be a member of a partnership or employee of a firm or corporation obtaining the license. (Ord. No. 2009-11, Sec. 8).

4.24.09 Permit fees All vendors that are determined by the Mayor or his designee not to be a Transient Merchant or not exempt by Section 2 of this ordinance, must purchase a permit in the amount of twenty-five dollars (\$25.00), said permit must be displayed at vendor's stand at all times. Permit is for three days and the vendor must relocate after three days. All vendors that operate within the City of Clinton during the Archey Fork Festival, Chuckwagon races, or any other special event, but are outside the designated area of said event, must purchase a permit from the City of Clinton in the amount of one hundred dollars (\$100.00). This permit will be good for 14 days from date of issue and must be displayed at the vendor's stand at all times. All vendors must display sign at least 2'x2' with their name and address listed, also must state if they are the producers of the product or are-seller. (Ord. No. 2009-11, Sec. 9).

4.24.10 Yard Sales Continuous yard sales or garages sales are not allowed in any Zoning District within the City of Clinton, any sales event of this type shall not exceed three days in duration and only once in any given month, said sales events shall not exceed four each year. All indoor garage sales or flea markets that extend beyond this time limit shall follow licensing requirements of Local Business Licensing within the City of Clinton. (Ord. No. 2009-11, Sec. 10).

4.24.11 Mobile Food Vendors To operate within Clinton, Arkansas mobile food vendors shall:

- A. Be required to have a current registration with the City of Clinton.
- B. To obtain a registration, the Mobile Food Vendor shall present to the City Zoning Official:
 1. Current License by the Arkansas Department of Health.
 2. Written Permission from the property/business owner to operate their food business at that location.
 3. Current Sales Tax Permit.
- C. Mobile Food Vendors must, at all times, comply with all applicable state and local statutes and codes, including, without limitation, those regulating signage, setback, health, and safety.
- D. Except as elsewhere permitted by Ordinance 2009-11, no mobile food vendor shall operate on city property.
- E. Pay a registration fee of \$100.00 (One Hundred Dollars) for each 12 month period of registration. (Ord. No. 2014-04, Sec. 1).

CHAPTER 4.28

CIRCUSES, VAUDEVILLE AND OTHER SHOWS

Sections:

- 4.28.01 Shows - privilege
- 4.28.02 Police chief to collect fees
- 4.28.03 Application for permit
- 4.28.04 Circus, fair or carnival - application
- 4.28.05 Application - what must be stated
- 4.28.06 Recorder shall have printed suitable forms
- 4.28.07 License fee/bond face value
- 4.28.08 Bond - provisions
- 4.28.09 Licenses non-transferable
- 4.28.10 Penalty
- 4.28.11 Exemptions

4.28.01 Shows - privilege The operation of any moving picture show, vaudeville or any other type of show for the public's amusement and charging an admission fee for the admittance of the public thereto within the city of Clinton, Arkansas, is hereby declared to be a privilege and for the right of any person, firm, or corporation to exercise such business there is hereby levied a privilege tax in the sum of \$36.00 for the operation of the said show as described herein for a period of one year; \$5.00 to \$50.00 for the period of one week or \$5.00 to \$25.00 for the period of one week. \$5.00 to \$25.00 for a day showing, the amount of the tax being assessed in accordance with the time specified in the application. (Ord. No. 16, Sec. 1.)

4.28.02 Police chief to collect fees The Police Chief of Clinton, Arkansas, is hereby authorized by this ordinance to collect all fees hereinbefore mentioned and remit same to the duly elected city treasurer which shall be held by him subject to withdrawal in the manner provided by law. (Ord. No. 16, Sec. 2.)

4.28.03 Application for permit Before any person, firm or corporation shall engage in the operation of a moving picture show, vaudeville or other form of amusement in the city of Clinton, an application shall be made to the city recorder for a permit. Said application shall contain a statement of the name of applicant and the duration for which the license is sought. Upon compliance with above provisions said license shall be issued by the city recorder. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof may be fined in any sum not less than \$5.00 nor more than \$50.00. (Ord. No. 16, Sec. 3.)

4.28.04 Circus, fair or carnival - application It shall be unlawful for the owner of any transient carnival, fair or circus to transact business within the city of Clinton unless said owner shall have first secured a license and posted a bond prior to the operation of said business as set out hereafter. (Ord. No. 94-222, Sec. 1.)

4.28.05 Application - what must be stated Any owner of said transient carnival, fair or circus shall make application for and obtain a license in the city prior to conducting business. Said application shall include the name and permanent address of the owner making said application and if the owner is a firm or corporation, the name and address of the members of the firm or officers of the corporation; if the owner is a corporation the application shall include the date of incorporation, the state of incorporation and, if said corporation is formed in a state other than Arkansas, the date on which the corporation qualified to transact business within the state of Arkansas; the length of time for which the applicant desires to transact business and the location of the proposed place of business; the name and permanent address of the owner's registered agent or office; and proof that the applicant has acquired all applicable county and state permits. (Ord. No. 94-111, Sec. 2.)

4.28.06 Recorder shall have printed suitable forms The City Recorder shall design and cause to be printed appropriate forms for applications for licenses and for license certificates to be issued hereunder. (Ord. No. 94-222, Sec. 3.)

4.28.07 License fee/bond face value Each application shall be accompanied by a license fee of \$25.00 and by a cash bond or surety bond issued by a corporate surety authorized to do business in this State in an amount of \$2,500.00. (Ord. No. 94-222, Sec. 4.)

4.28.08 Bond - provisions The bond shall be in the favor of the city of Clinton and shall assure the payment of any fines that may be assessed against the owner or its agents or employees for violation of this ordinance, for satisfaction of any judgments that may be rendered against the owner or its agents or employees in any cause of action commenced by any customer of the transient carnival, fair or circus or purchaser of its goods or wares or commenced by any landowner on which the carnival, fair or circus is located within one year of the date of the conclusion of business. Said bonds shall be maintained so long as the transient carnival, fair or circus conducts business within the city and for a period of one year after the termination of its business. Said bonds shall be released only upon satisfactory proof to the City Clerk that all claims have been paid. (Ord. No. 94-222, Sec. 5.)

4.28.09 Licenses non-transferable Any license described hereunder shall not be transferable; they shall be valid only within the city limits; they shall be valid only for a period of ninety days; and they shall be valid only for the business stated on the application. (Ord. No. 94-222, Sec. 6.)

4.28.10 Penalty Any owner found to be in violation of this ordinance shall be guilty of a violation and assessed a fine not to exceed \$500.00. The penalty prescribed herein shall be in

addition to any other penalties prescribed by law for any criminal offenses committed by the licensee. (Ord. No. 94-222, Sec. 7.)

4.28.11 Exemptions The provisions herein do not apply to any carnival, fair or circus that operates or does business on the property known as the Van Buren County Fairgrounds. (Ord. No. 94-222, Sec. 8.)

CHAPTER 4.32

OIL, NATURAL GAS AND MINERAL DRILLING AND EXPLORATION

Sections:

- 4.32.01 Title
- 4.32.02 Definitions
- 4.32.03 Permits Required
- 4.32.04 Permit Application And Filing Fee; Notice Of Application
- 4.32.05 Permits; Issuance Or Refusal To Issue
- 4.32.06 Well Setbacks
- 4.32.07 Bond And Insurance
- 4.32.08 Permit Termination
- 4.32.09 Amended Permits
- 4.32.10 Use Of Streets And Alleys
- 4.32.11 Streets And Alleys; Obstructions
- 4.32.12 Private Roads And Drill Sites
- 4.32.13 Operations, Practices And Standards
- 4.32.14 Cleanliness And Sanitation
- 4.32.15 Fences Required; Locking Gates; Waiver
- 4.32.16 Fire Prevention
- 4.32.17 Flow Lines And Gathering Lines
- 4.32.18 Reports
- 4.32.19 Violations
- 4.32.20 Penalty
- 4.32.21 Fees Required
- 4.32.22 Other Noise Regulations

4.32.01. Title This ordinance may be cited as the Clinton Oil and Natural Gas Drilling Ordinance. (Ord. No. 2007-16, Sec. 1.)

4.32.02. Definitions

(a). For the purposes of this Ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONMENT - The discontinued use of any permitted site under this Ordinance including the plugging of the well and the restoration of the well site.

BUILDING- Any structure used or intended for supporting or sheltering any activity, use or occupancy. The term "Building" includes any portion of the structure.

CITY- The City of Clinton, Arkansas.

CITY OFFICIAL - The Clinton Zoning Official or ether person as designated by the Mayor.

DRILLING - Digging or boring a new well for the purpose of exploring for, developing or producing petroleum, gas or other hydrocarbons, or for the purpose of injecting gas, water or other fluid or substance into the earth.

DRILL SITE - All of the land area used in the drilling or other related operations and/or natural gas or mineral exploration, specifically including, but not limited to, rig locations, portable or permanent structures, steel slush pits, storage areas for pipe or other material, and areas for parking and maneuvering of vehicles, except roadways used for ingress or egress to the drill site.

OPERATION SITE- The area used for development, production, and all operational activities associated with oil or gas after drilling activities are complete.

PERMITTEE -The person or entity to whom is issued a permit or certificate for oil, gas or mineral exploration or drilling, operating and producing of a well under this Ordinance, and his or her or its heirs, legal representatives, successors and assigns.

PERSON - Any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator and a fiduciary or representative of any kind.

PROPERTY OWNER- The named owner of real property as reflected by the most recent Deed recorded in the Circuit Clerk's office.

PROTECTED USE -A residence, commercial building, religious institution, public building, hospital building, school, public park or an approved preliminary or final platted residential subdivision.

RIGHT-OF-WAY- All public rights of way or streets or other public property with the city limits.

STREET- Any street, highway, sidewalk, alley, avenue, recessed parking area, or other public right of way, including the entire right of way.

WELL - Any hole or holes, bore or bores, including multiple horizontal bores, to any sand, horizon, formation, strata or depth for the purpose of producing any oil, gas, liquid hydrocarbon, brine water, sulphur water, mineral or for the use as an inspection well for secondary recovery, or any of them.

(b) All technical or oil and natural gas industry words or phrases used herein and not specifically defined shall have that meaning customarily attributable there by prudent operators in the oil and gas industry. (Ord. No. 2007-16, Sec. 2.)

4.32.03. Permits Required

- (a) A person wishing to engage in and operate in oil, mineral or natural gas production activities shall apply for and obtain a permit under this Ordinance. It shall be unlawful and an offense for any person acting either for himself or herself or acting as agent, employee, independent contractor, or servant for any person to knowingly drill any well or to conduct any mineral exploration or to install any water and/or gas repressurizing or injection facility within the city limits of Clinton without a permit having first been issued by the authority of the City official. A permit shall not be required for seismic surveys unless such surveys will be conducted on city owned property.
- (b) A permit shall not constitute authority for the re-entering and drilling of an abandoned well. A Permittee shall obtain a new permit if he is re-entering and drilling an abandoned well.
- (c) When a permit has been issued for the drilling, re-drilling, deepening, re-entering, activating or converting of a well, such permit shall constitute sufficient authority for drilling, operation, production, gathering of production, maintenance, repair, reworking, testing, plugging and abandonment of the well, and any other activity associated with the mineral exploration at the site of such well. Unless prohibited by this Ordinance such permit shall constitute sufficient authority for the construction and use of all facilities reasonably necessary or convenient in connection therewith, agent and contractors and any provision of any Zoning Ordinance of the City of Clinton to the contrary notwithstanding.
- (d) Any person who intends to re-work a permitted well using a drilling rig, to fracture stimulate, a permitted well after initial completion or to conduct seismic surveys or other exploration activities shall give written notice to the Zoning Official no less than ten (10) days prior to the start of such activities. The notice shall identify where the activities will be conducted and must describe the activities in detail, including whether explosive charges will be used, the duration of the activities and the time the activities will be conducted. If requested by the Zoning Official the person conducting the activities shall post a sign on the property giving the public notice of the activities, including the name, address and twenty four hour phone number of the person conducting activities.
- (e) No additional permit or filing fees shall be required for:

- (1) Any wells, existing, previously permitted or approved by the City of Clinton on the date this Ordinance is adopted.
 - (2) Any wells on which drilling has commenced on the date this Ordinance is adopted.
- (f) By acceptance of any permit issued pursuant to this Ordinance, the Permittee expressly stipulates and agrees to be bound by and comply with the provisions of this Ordinance. The terms of this Ordinance shall be deemed to be incorporated in any permit issued pursuant to this Ordinance with the same force and effect as if this Ordinance was set forth in the permit. (Ord. No. 2007-16, Sec. 3.)

4.32.04. Permit Application And Filing Fee; Notice Of Application

- (a) A Special Use Permit shall be required for every site on which there will be an application for a permit to drill a well, reenter and drill to a deeper formation, install a water and/or gas repressurizing or injection facility, or to conduct any mineral exploration shall be in writing on a form prescribed by the City Official, signed by the applicant or some person authorized to act on his behalf, and filed with the City Official together with the onetime fee required for inspections of commercial or industrial site preparations
- (b) Oil and natural gas drilling operations are designated to require a Special Use permit due to the potential harmful effects such use can cause to nearby streets and property and because the requirements needed to eliminate those harmful effects vary from site to site. Thus the Clinton Zoning Official, or other official designated by the Mayor, will review the overall compatibility of the planned use with surrounding property as well as such specific items such as street standards, traffic patterns, compliance with any adopted fire prevention code of the City of Clinton, amount of dust or spillage created by the operation, traffic control and any other specific issue to make sure no harmful effects occur to nearby property or existing public property. However, nothing in this Ordinance shall be interpreted and/or applied so as to effectively prevent or eliminate oil and/ natural gas drilling within the city.
- (c) A separate application for a Special use Permit shall be required for each well and water and/or gas repressurizing or injection facility. The application shall include full information, including the following:
 - (1) The date of the application.
 - (2) A map showing the proposed transportation route and road for equipment, chemicals or waste products used or produced by the oil or gas operation.
 - (3) The proposed well name and the certified 911 address.
 - (4) The name and address of the Permittee and if the Permittee is a corporation or other business entity, the state of incorporation and the agent for service of process and if the Permittee is a partnership, the names and addresses of the general partners.

- (5) The names and addresses of all property owners within four hundred (400) feet of the property that will contain the proposed drill site and evidence that said property owners have been given written notice by certified mail, return receipt requested of the intent to seek a Special Use Permit for the proposed property.
- (6) A site plan and survey of the proposed operation showing the location of all improvements and all equipment, including the location of the proposed well(s) and other facilities, including, but not limited to, tanks, pipelines, compressors, separators, storage sheds, fencing and any access roads.
- (7) The name and address of the person designated to receive any notices and the name and address of any person with supervisory and/or emergency authority over all oil and gas operations on site and a twenty four (24) hour phone number.
- (8) A description of the public utilities and water source required during drilling and operation.
- (9) A copy of all permits necessary for the drilling of the well that are issued by the State of Arkansas or any of its agencies and the federal government or any of its agencies.
- (10) Evidence of insurance and security requirements under this Ordinance.
- (11) A statement under oath by the applicant that the information submitted with the application is, to the best of his knowledge and belief, true and correct.
- (12) The location of all security fencing around the site (if applicable) and a description of the proposed special use, including the description of any construction of temporary structures to be used on the property. (Ord. No. 2007-16, Sec. 4.)

4.32.05. Permits; Issuance Or Refusal To Issue

- (a) The City Official within ten (10) business days after the application for a permit to drill a well or a permit to install water and/or gas repressurizing or injection facilities or conduct any mineral exploration shall determine whether or not the application complies in all respects with the provisions of this Ordinance, then the City Official shall issue a permit for the drilling of the well or the installation of the facilities applied for.
- (b) If the Zoning Official determines that a Permit should be denied for reasons other than lack of a required distance setback as set forth in this Ordinance, the Zoning Official shall notify the Applicant in writing of such denial stating the reasons for the denial. Within thirty (30) days of the date of the written decision of the Zoning Official to deny the permit, the Applicant may: 1) cure those conditions that caused the denial and resubmit the application to the Zoning Official for approval and issuance of the permit without any additional fees; or 2) file an appeal to the City Council for inclusion on the next regularly scheduled City Council meeting.
- (c) If, however, the City Official determines that all of the provisions of this Ordinance have been complied with by the applicant but that the proposed drill site is not the required distance from occupied residences, commercial structures or public buildings as required

- above, or that the drill site is crossed by a public street or road, then the City Official shall issue the permit if the applicant provides written approval from all property owners with structures that will be nearer than the required set back distance described in this Ordinance.
- (d) If any issue is appealed to the City Council the Council shall review the application, the issue in question and any other related material and information. The City Council shall consider the following in deciding whether or not to issue a permit or grant a waiver of a condition required in this Ordinance:
- (1) Whether the requested waiver or permit is reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there.
 - (2) Whether the drilling of such wells will interfere with the orderly growth and development of the City.
 - (3) Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the permit conditions to be imposed.
 - (4) Whether there is access for City fire personnel and firefighting equipment and or police personnel as may be needed.
- (e) If, following the public hearing, the City Council finds that exceptional circumstances exist, it may grant a requested waiver or permit application upon such terms and conditions as it determines to be necessary to protect the public health and safety.
- (f) The decision of the Council shall be final and in making its decision, it shall, in addition to other considerations, have the power and authority to refuse any permit to drill any well at any particular location within the city, when by reason of such particular location and the character and nature of the improvements already erected on or adjacent to the particular location in question for residences, commercial activities, schools, hospitals, parks, civic purposes, public health or safety reasons or any of them where the drilling of such wells at such particular location would be injurious to the health or safety of the inhabitants in the immediate area of the city or to a substantial number of such inhabitants or would not promote orderly growth and development of the city.
- (g) Each permit shall:
- (1) By reference have incorporated therein all of the provisions of this Ordinance with the same force and effect as if they were copied verbatim in the permit.
 - (2) Specify the surface location of the proposed drill site.
 - (3) Contain and specify such other terms and provisions as may be necessary to accomplish the purposes of this Ordinance.
 - (4) Contain and specify that no actual operations shall be commenced until the Permittee has complied with the bond and insurance provisions of this Ordinance.

- (5) Require that the Permittee promptly restore to its former condition any public property damaged by the oil or gas operation. (Ord. No. 2007-16, Sec. 5.)

4.32.06. Well Setbacks

- (a) It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located: (1) Within two hundred (200) feet of any Protected Use whether currently existing or for which a building permit has been issued prior to the date of the application for a permit under this Ordinance.
- (b) The distances referred to in Section (a) above shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects to the closest exterior point of any object or boundary listed in Section (a). (Ord. No. 2007-16, Sec. 6.)

4.32.07. Bond And Insurance A bond or irrevocable letter of credit shall be filed with the City Official in the amount of one hundred thousand dollars (\$100,000.00) along with the permit application for the initial well or facility applied for by an operator. An additional bond or letter of credit shall be required for every application for a tenth operating additional well or facility. To be clear the bond or irrevocable letter of credit shall apply to up to nine operating wells or facilities of each and every kind. The bond shall be executed by the operator as principal and a corporate surety authorized by the Arkansas Insurance Department to conduct business within the State of Arkansas, as surety and with the bond in favor of the City of Clinton conditioned that the Permittee will comply with all of the terms, conditions, and requirements of this Ordinance and any permit issued hereunder, and further conditioned that the Permittee will repair any damages to city streets, as determined by the Street Department, caused by the equipment and vehicles used by the Permittee in going to and from the drill site with such repairs to be in compliance with specifications therefore prepared and provided to the Permittee by the Street Department. (Ord. No. 2007-16, Sec. 7.)

4.32.08. Permit Termination In the event of a failure of a Permittee to comply with any provision of this chapter, the City Official shall issue in writing to the Permittee a notice of the nature of the noncompliance and providing a reasonable time, not to exceed seven (7) days in which to regain compliance. After the lapse of such time, if compliance has not been made, the City Official may suspend the permit for a period of time or cancel the permit as he deems proper. (Ord. No. 2007-16, Sec. 8.)

4.32.09. Amended Permits

- (a) A Permittee may submit an application to the Zoning Official to amend an existing permit to commence drilling from a new drill site that is not shown on the permit, to relocate a drill site or operation site that is shown on the existing permit, or to otherwise amend the existing permit.
- (b) Applications for Amended Permits shall be in writing, signed by the Permittee, and shall include the following:

- a. A description of the proposed amendments;
 - b. Changes to the information in the original application;
 - c. Such additional information as may be reasonably required by the Zoning Official to demonstrate compliance with the existing permit or to prevent imminent destruction of property or injury to persons.
- (c) If the activities proposed by the amendment are not materially different from the activities covered by the existing permit and if the proposed activities are in conformance with the applicable permit then the Zoning Official shall approve the amendment within ten (10) business days of it being filed.
 - (d) If the activities proposed by the amendment are materially different from the activities covered by the existing permit and if the proposed activities are in conformance with the applicable permit then the Zoning Official shall approve the amendment within ten (10) days of it being filed. If, however, the activities proposed by the amendment are materially different from the activities covered by the existing permit and, in the opinion of the Zoning Official, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing permit or that was otherwise not taken into consideration by the existing permit, the Zoning Official may require the amendment be processed as a new application but without payment of any additional fees that may have been required.
 - (e) The failure of the Zoning Official to review and issue an amended permit within the time limits specified herein shall not cause the application for an amended permit to be deemed approved.
 - (f) The decision of the Zoning Official to deny an amendment to a permit shall be forwarded to the Permittee in writing within ten (10) days after the decision, including an explanation of the basis for denial. The Permittee may appeal such decision to the City Council. (Ord. No. 2007-16, Sec. 9.)

4.32.10. Use Of Streets And Alleys

- (a) No Permittee shall make any excavations for any purpose or construct any lines or pipes on, under or through the streets or alleys or other lands of the City of Clinton without an express easement agreement or right of way license from the City, at a price to be agreed upon, and then only in strict compliance with this Ordinance or any other Ordinance of the City and the repairs to any such excavation to be made according to specifications set by the Clinton Street Department.
- (b) The Permittee shall, at Permittee's expense, repair any damages to roads, streets, highways or other city property caused by the use of heavy vehicles and equipment for any activity associated with the preparation, drilling, production and operation of any well permitted under this Ordinance. (Ord. No. 2007-16, Sec. 10.)

4.32.11. Streets And Alleys; Obstructions No well shall be drilled and no permit shall be

issued for any well to be drilled at any location which is within any of the streets or alleys of the City and/or streets or alleys shown on the master plan of the City, and no street or alley shall be blocked or encumbered or closed in any drilling or production operation or for any mineral or natural gas exploration except by written permission of the Police Chief, and then only temporarily. (Ord. No. 2007-16, Sec. 11.)

4.32.12. Private Roads And Drill Sites

- (a) Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site must be at least ten (10) feet wide, have an overhead clearance of fourteen (14) feet and be surfaced and maintained so as to prevent dust and mud and to allow access for firefighting equipment or other emergency vehicles.
- (b) The requirements of Section (a) above may be altered at the discretion of the Zoning Official in consultation with the Fire Chief after consideration of all circumstances including, but not limited to, the following: 1) distances from streets and highways; 2) distances from nearby property owners whose surface rights are not leased by this operation; 3) the purposes for which the property of such owners is or may be used; 4) topographical features; 5) soil conditions; 6) exposure to wind. (Ord. No. 2007-16, Sec. 12.)

4.32.13. Operations, Practices And Standards

- (a) Drilling operations must be conducted in such a manner that percolating or ground water will not be adversely affected.
- (b) All oil drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, noise, vibration or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of oil, gas and other hydrocarbon substances.
- (c) There shall not be a Central Point Compressor Station (from multiple wells) located in the City of Clinton without the approval of such a station by the City Council.
- (d) Except in cases of emergency, no materials, equipment, tools or pipe used for drilling or production operations shall be delivered to or removed from the site except between the hours of 7:00a.m. to 8:00p.m. on any day. On drillstem tests, only one trip will be allowed at night between 8:00 p.m. and 7:00 a.m. unless an emergency exists.
- (e) Firefighting apparatus and supplies as approved by the Fire Chief shall be maintained on the drilling site at all times during drilling and production operations.
- (f) All production equipment used shall be so constructed and operated so that noise, vibration, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any drill site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in methods of production shall be adopted as they, from time to time, become available if capable of reducing factors of nuisance or annoyance.

- (g) The well site, drill site, tank site, tank battery site, pump station site or compressor site shall not be used for the storage of pipe, equipment or material except during the drilling or servicing of the well and the production facilities allowed on the site.
- (h) No refinery, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises at any time. This shall not be deemed to exclude a simple gas separation process.
- (i) All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.
- (j) No lights located on any drill or operation site shall be directed in such a manner that they shine directly on public roads, adjacent property or property in the general vicinity of the drill or operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within four hundred (400) feet.
- (k) Exhaust from any internal combustion engine, stationary or mounted on wheels, used in connection with the drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of non combustible materials sufficient to suppress noise and prevent the escape of noxious gases, fumes or ignited carbon or soot.
- (l) Signs
 - (1) A sign shall be immediately and prominently displayed at the gate of the temporary and permanent fencing erected pursuant to this Ordinance. Such sign shall be of a durable material, maintained in a good condition and have a surface area of not less than two (2) square feet nor more than five (5) square feet and shall be lettered with the following:
 - (A) Well name and number
 - (B) Name of Permittee and the telephone numbers of the person responsible for the well who may be contacted in case of an emergency and 911 address of the well.
 - (2) Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" shall be posted immediately upon completion of the well site fencing at the entrance of each well site.
- (m) Each well must have a shutoff valve to terminate the well's production. The Fire Department shall have access to the well site to provide fire protection in an emergency.
- (n) The Permittee shall provide the Zoning official with forty-eight (48) hours advance notice of the start of drilling and/or fracturing operations. (Ord. No. 2007-16, Sec. 13.)

4.32.14. Cleanliness And Sanitation

- (a) The premises shall be kept in a clean and sanitary condition. The Permittee shall prevent any mud, waste water, oil, slush or other waste matter from flowing into the alleys, streets, lots or other property within the city limits.
- (b) All permittee premises shall be kept clear of high grass, weeds and combustible trash within a radius of one hundred (100) feet around any oil tank, tanks, or producing wells. All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of Arkansas, the United States and the City of Clinton. (Ord. No. 2007-16, Sec. 14.)

4.32.15. Fences Required; Locking Gates; Waiver

- (a) Fences shall not be required on drill sites during initial drilling, completion or re-working operations as long as 24 hour on-site supervision is provided. A secured entrance gate shall be required. All gates are to be kept locked when the Permittee or its employees are not within the enclosure.
- (b) Within thirty (30) days after production has been established, all operation sites shall be completely enclosed by a permanent chain link fence, masonry wall or other fencing material.
- (c) All chain link fences or masonry walls shall be equipped with at least one (1) gate wide enough to allow access for fire or emergency vehicles. The gate shall meet the following specifications:
 - (1) The gates shall be of chain link construction that meets the applicable specifications, or of other approved material that, for safety reasons, shall be at least as secure as a chain link fence;
 - (2) The gates shall be provided with a combination catch and locking device for a padlock, or an electric lock, and shall be kept locked except when being used for access to the site;
 - (3) The Permittee shall provide the Fire Chief with a means of access the well site in the event of an emergency.
- (d) The Permittee shall maintain all walls, fencing and gates in good condition at all times. Gates must be kept securely locked when the Permittee or its employees are not within the enclosure.
- (e) The requirements for a fence or wall may be modified or waived by the City Council after consideration of all of the circumstances including, but not limited to, the nature of the surrounding land uses and the potential impact of the well site on such surrounding land uses if the fence or wall is not required. (Ord. No. 2007-16, Sec. 15.)

4.32.16. Fire Prevention

- (a) Any Permittee engaged in the drilling or operation of an oil and/or natural gas well or the operation of any facility used in conjunction with the production of oil and/or natural gas within the city limits shall take reasonable precautions to prevent any gas from escaping into the air, and shall not burn or flare any gas from a torch or any similar means within the city limits provided, however, that gas may be burned for a limited time when necessary to complete any oil and/or natural gas, so long as same does not constitute a fire hazard to the property of others within the vicinity of such oil and/or natural gas well.
- (b) Water must be available at the site (within one thousand five hundred (1500) feet) by either fire hydrant or hoses that connect to fire department connections. This requirement may be waived by the City Council upon application and a showing that such requirement is not essential for fire suppression or extinguishment at the site.
- (c) If blasting is required then all such blasting shall be done by federally licensed technicians during daylight hours and in the presence of the fire department. (Ord. No. 2007-16, Sec. 16.)

4.32.17. Flow Lines And Gathering Lines

- (a) Each Permittee shall place an identifying sign at each point where a flow line or gas gathering line or line carrying H₂S gas crosses any public street, road or alley and it shall be unlawful and an offense for any person to remove, destroy or deface any such sign.
- (b) The location of any such lines, if not specified in the permit, must be specifically approved by the Director of the Street Department.
- (c) All pipelines within the city limits other than those belonging to the city for its utility services and other than those belonging to natural gas, electric telephone and other utility providers that are designed or utilized to transport oil, natural gas or water in conjunction with the production and transportation of oil and/or gas or for repressurizing operations shall be installed with a minimum of twenty-four (24) inches of cover or backfill unless a lesser cover or specify a greater cover or backfill is authorized by the Director of the Street Department
- (d) The requirements for construction in public right of ways must conform to any and all applicable Ordinances of the City of Clinton.
- (e) The digging up, breaking, excavating, tunneling, undermining, breaking up or damaging of any street as herein defined, or leaving upon any street any earth or other material or obstruction, shall not be permitted unless such persons shall first have obtained written permission from the Director of the Street Department, provided however, emergency repairs may be made without such permission when in the good faith opinion of the Permittee the delay required to obtain the written permission would involve a hazard to persons or property. (Ord. No. 2007-16, Sec. 17.)

4.32.18 Reports

- (a) The Permittee shall notify the Zoning Official of any changes to the name, address and phone number of the Permittee or the person designated to receive notices from the City within five (5) business days after the change occurs:
- (b) The Permittee shall notify the Zoning Official of any change to the name, address, and twenty-four hour phone number of the person(s) with supervisory authority over drilling or operations activities within one (1) business day. (Ord. No. 2007-16, Sec. 18.)

4.32.19 Violations It shall be unlawful and an offense for any person to violate or fail to comply with any provision herein. (Ord. No. 2007-16, Sec. 19.)

4.32.20 Penalty Any person who violates any provision of this Ordinance or any provision of a permit issued hereunder shall be guilty of a violation and shall, upon conviction thereof, be fined in any sum not less than two hundred dollars (\$200.00) and not more than five hundred dollars (\$500.00). The violation of each separate provision of this Ordinance and of any permit issued hereunder shall be considered a separate offense, and each day's violation of each separate provision thereof shall be considered a separate offense. (Ord. No. 2007-16, Sec. 20.)

4.32.21 Fees Required

1. Ordinance 2007-16 is amended only to the extent that this Ordinance provides for a permit fee of One Thousand (\$1000.00) Dollars for each oil, natural gas or mineral well drilled within the city limits, whether from an existing pad or otherwise and whether or not a well has been drilled from such pad. This permit fee is in addition to any other permit fee which may have been charged previously. This ordinance shall not affect any other fee provisions as to site preparation fees. (Ord. No. 2013-02, Sec. 2.)
2. Each wellhead compressor within the city limits shall be permitted and the fee for same is Two Hundred and Fifty (\$250.00) Dollars. (Ord. No. 2013-02, Sec. 3.)

4.32.22 Other Noise Regulations

1. For noise pollution control and/or unsightly appearance, the City of Clinton can require each wellhead compressor to be enclosed on all four sides by a sound barrier with insulated walls. Height of wall is to be determined by conditions on each well site. (Ord. No. 2013-02, Sec. 4.)
2. No wellhead or equipment of any kind shall be situated nearer than Two Hundred (200) feet from a Protected Use Area. (Ord. No. 2013-02, Sec. 5.)

ALL DRILLING AND OPERATIONS SHALL COMPLY WITH THE FOLLOWING REGULATIONS:

3. No well shall be drilled, redrilled or any equipment operated at any location within the City of Clinton in such a manner so as to create any noise which causes the exterior noise level when measured at any Protected Use Area within 200 feet of wellhead or equipment, or at a point of location of 200 feet on any property surrounding the well pad, whichever is closer to the receiver/receptor, that exceeds the Ambient Noise Level by more than five (5) decibels during daytime hours and more than three (3) decibels during nighttime hours.
4. The operator shall be responsible for establishing and reporting to the City of Clinton the pre- drilling Ambient Noise Level prior to the issuance of a gas well permit. Once the drilling is complete, the Operator shall be required to establish a new Ambient Noise Level prior to the installation of any new noise generation equipment. (Ord. No. 2013-02, Sec. 6.)
5. Only wellhead compressor type RED RIVER COMPRESSOR (MODEL# CB5712GH) WEATHER BEATER GHOST PACKAGE OR EQUIVALENT in noise control, decibel level, and appearance are allowed within the City of Clinton. (Ord. No. 2013-02, Sec. 7.)
6. Acoustical blankets, sound walls, mufflers, or other alternative methods as approved by the City may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and shall be subject to approval by the City of Clinton Code Enforcement. (Ord. No. 2013-02, Sec. 8.)

CHAPTER 4.36

OCCUPATIONAL LICENSES

Sections:

4.36.01	License Required
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4.36.12	Posting
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4.36.14	Penalty

4.36.01 License Required A license shall be required of any person, firm, individual or corporation who shall in a brick and mortar setting or as a transient business, engage in, carry on, or follow any trade, business, profession, vocation or calling, within the corporate limits of the City of Clinton. (Ord. No. 2017-02, Sec. 1).

4.36.02 Liability Any person, partnership, corporation or other entity shall be subject to the requirements of this chapter if by himself or through an agent, employee or partner, he holds himself forth as being engaged in a business or occupation; or solicits patronage therefore, actively or passively; or performs or attempts to perform any part of such business or occupation in the city. (Ord. No. 2017-02, Sec. 2).

4.36.03 Each Business Any person, partnership, corporation or other entity having more than one place of business within the city shall obtain a license for each place of business. For the purpose of construing this chapter, more than one place of business shall mean any business operations conducted within two (2) or more separate buildings or upon two (2) or more separate tracts of real estate. (Ord. No. 2017-02, Sec. 3).

4.36.04 Application Applications for all licenses required by this chapter shall be made in writing to the City Clerk. Each application shall state the name of the applicant, the location to be used, if any, the time covered and the fee to be paid; and each application shall contain a copy of state sales tax permit, health department permit if applicable, and any such additional information as may be needed for the proper guidance of the city officials in issuing the license applied for. Each license issued shall bear the signature of the City Clerk and/or Mayor. All applications required hereunder shall be kept and filed by the City Clerk. (Ord. No. 2017-02, Sec. 4).

4.36.05 Fees All fees and charges for licenses shall be paid at the time application therefore is made to the City Clerk. All license fees shall become part of the city general fund under the economic development line item. (Ord. No. 2017-02, Sec. 5).

4.36.06 Terms Of License All licenses shall be for an indefinite term or for such terms as may be set in the future by appropriate city ordinance. All licenses are to be renewed on an annual basis according to terms put forth in this ordinance. (Ord. No. 2017-02, Sec. 6).

4.36.07 Zoning Regulations No license shall be issued for the conduct of any business, if the premises and building to be used for the purpose do not fully comply with the requirements of the city. No such license shall be issued for the conduct of any business or performance of any act, which would involve a violation of the zoning ordinances of the city. Inspection by City Code Official is required prior to issuing of any license or opening of the location for business. A certificate of occupancy is required and will be issued if building and location are in compliance. (Ord. No. 2017-02, Sec. 7).

4.36.08 Change Of Location The location of any licensed business or occupation, or of any permitted act, may be changed, provided, ten (10) days of notice therefore given to the City Clerk, in the absence of any provision to the contrary; provided, that the building, zoning, and other ordinances of the city are complied with. All requirements of this ordinance must be followed for the new location. (Ord. No. 2017-02, Sec. 8).

4.36.09 Transferring A license issued under this chapter shall not be transferable. (Ord. No. 2017-02, Sec. 9).

4.36.10 Nuisance No business, licensed or not, shall be so conducted or operated as to amount to a nuisance in fact; nor in violation of any ordinance of this city or state law. (Ord. No. 2017-02, Sec. 10).

4.36.11. Inspection Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, are reasonably necessary to secure compliance with any ordinance provision or to detect violation thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto, for the purpose of making the inspection, any officer or employee of the city who is authorized or directed to make such inspections at any reasonable time admission is requested. Before opening of any new business inspections by the City Code Official is required and the issuing of a Certificate of Occupancy must be issued prior to the opening of any new business. (Ord. No. 2017-02, Sec. 11).

4.36.12 Posting It shall be the duty of any person conducting a licensed business in the city to keep his license posted in a prominent place on the premises used for such business at all times. The holder of a license shall show the license to any officer or agent of the city upon request. (Ord. No. 2017-02, Sec. 12).

4.36.13 Schedule Any person, partnership, corporation, limited liability company and any other business entity who shall engage in, carry on or operate a trade, business, profession or vocation of any kind within the corporate limits of the City of Clinton shall pay a license fee of \$25.00 and for each year thereafter, may pay an annual voluntary renewal fee of \$25.00. The Clinton City Council may designate a portion of the monies derived from license fees to be used to promote the City of Clinton to attract new businesses. Each person shall procure said occupational license and pay the fee required within (30) days of the date of January 1st of each year or in the event of a person entering into business at any time after this date, said person shall procure the license and pay the fee required before the business is commenced. The same fee of \$25.00 will be required regardless of the date the business begins thru out the year. (Ord. No. 2017-02, Sec. 13).

4.36.14 Penalty Any person engaged in business without first having procured a license therefore as provided herein, and paid the requisite fee (\$25.00) therefore as provided herein, shall pay a penalty of twice the amount of such license fee due plus the cost of collection, and each day of operation of such business without payment and procurement of said license shall constitute a separate and distinct offense. This penalty will be assessed if business does not comply with ordinance within (30) days of the 1st of each calendar year, or within (30) days of beginning a new business within the city. Citations for failure to comply with this Ordinance may be issued by the Code Enforcement Officer or the City Police. (Ord. No. 2015-07, Sec. 14).