

## TITLE 4

### BUSINESS LICENSES AND REGULATIONS

#### Chapters:

- 4.04 Electric Franchise
- 4.08 Gas Franchise
- 4.12 Telephone Franchise
- 4.16 Tax on Private Clubs
- 4.20 Cable Television Franchise
- 4.24 Home Solicitation Sales Permit
- 4.28 Business Permits
- 4.32 Private Club Permits

#### CHAPTER 4.04

#### ELECTRIC FRANCHISE

#### Sections:

- 4.04.01 Electric franchise granted to Arkansas Power and Light Company
- 4.04.02 Rights and responsibilities of grantor and grantee
- 4.04.03 Rights and responsibilities of grantor and grantee
- 4.04.04 Rights and responsibilities of grantor and grantee
- 4.04.05 Termination procedure
- 4.04.06 Rates
- 4.04.07 City not liable for negligence of grantee
- 4.04.08 Standards of care for facilities
- 4.04.09 Franchise tax
- 4.04.10 Street lighting
- 4.04.11 Private generation facilities allowed

4.04.01 Electric franchise granted to Arkansas Power and Light Company. The City of Pottsville, Arkansas, (hereinafter called Grantor) hereby grants to the Arkansas Power and Light Company, its successors and assigns, (hereinafter called the Grantee), the exclusive right, privilege and authority within the present and all future expansion of the corporate limits of the City of Pottsville, 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, studs, transformers, substations, cables, conduits and other related facilities, appliances and apparatus which are necessary for or useful in, the furnishing, sale, transmission or distribution of said electric service (hereinafter called facilities). (Ord. No. 22, Sec. 1)

4.04.02 Rights and responsibilities of grantor and grantee Grantee shall, and does by acceptance hereof, agree to provide to the city and its inhabitants adequate and reasonable electric service as a public utility and the facilities necessary to provide such service. Grantor, in recognition of the large and continuing investment necessary for Grantee to perform its obligations hereunder, and the need and duty to promptly construct its facilities, as defined above, required to serve customers, in all areas and zones of the city, consents to the construction of such facilities as defined in 4.04.01 in all such areas and zones, and Grantor agrees to protect by ordinance, regulation and otherwise, to the fullest extent permitted by law, and except as otherwise limited herein, the grants of rights and privileges to Grantee set forth in Section 4.04.01 from interference with, or duplication by, other persons, firms or corporations seeking to engage in the sale or distribution of electric energy. (Ord. No. 22, Sec. 2)

4.04.03 Rights and responsibilities of grantor and grantee All facilities of Grantee which may be located on public ways, places and public property, as authorized herein, shall be located so as to not unreasonably obstruct public use and travel. All of Grantee's facilities shall be constructed, operated and maintained in accordance with standards at least equivalent to the standards prescribed by the National Electrical Safety Code. Grantee, its successors and assigns, shall replace and repair, at its own expense, all excavations, holes or other damage caused or done by it to public streets, ways, places and public property in the construction, operation and maintenance of its facilities. (Ord. No. 22, Sec. 3)

4.04.04 Rights and responsibilities of grantor and grantee The Grantee, its successors and assigns, is hereby given the right to trim, cut or remove trees, shrubbery or growth on or in public ways, places and public property which interfere or offer hazards to the operation of Grantee's facilities used or useful for the rendition of electric service, and, further, Grantee is hereby given the right, authority and permission to trim, cut and remove portions of trees, shrubbery or growth growing on private property but overhanging or encroaching on public ways, places and public property which interfere or offer hazards to the construction, operation and maintenance of Grantee's facilities. (Ord. No. 22, Sec. 4)

4.04.05 Termination procedure The rights, privileges and authority hereby granted shall exist and continue from the date of passage of this ordinance, and thereafter, until terminated. (Ord. No. 22, Sec. 5)

4.04.06 Rates The rates which are to be charged by Grantee for electric service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be amended by Grantee in accordance with law or by any regulatory authority having jurisdiction thereof. (Ord. No. 22, Sec. 6)

4.04.07 City not liable for negligence of grantee In the construction, operation, and maintenance of its facilities, said Grantee shall use reasonable and proper precaution to avoid damage or injury to persons or property and shall hold and save harmless the said Grantor from damage, injury, loss or expense caused by the negligence of the Grantee, or its agents, servants or employees, in constructing, operating and maintaining said facilities or in repaving or repairing any streets, avenues, alleys, bridges or other public grounds. (Ord. No. 22, Sec. 7)

4.04.08 Standard of care for facilities The Grantee shall endeavor at all times to keep its facilities in a reasonable state of repair, and to conform to such practices and install such appliances and equipment as may be in keeping with the customary usage and practice in cities of similar size in this state during the time this franchise shall remain in force. (Ord. No. 22, Sec. 8)

4.04.09 Franchise tax Beginning with the date of this ordinance and thereafter 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 Pottsville. 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 Pottsville 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 4.04.09 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. (Ord. No. 81-8, Sec. 1)

4.04.10 Street lighting Electric service furnished the Grantor for street lighting and other purposes shall be paid for by the Grantor in accordance with the applicable rate schedules of the Grantee now on file and/or as they may in the future be filed by the Grantee and approved by the Arkansas Public Service Commission or other regulatory authority having jurisdiction. The Grantee shall have the privilege of crediting any amount due Grantor with any unpaid balances due said Grantee for electric service rendered to said Grantor. (Ord. No. 22, Sec. 10)

4.04.11 Private generation facilities allowed Nothing herein shall be construed to prohibit any person, firm or corporation from owning and operating facilities for generating, distributing, or furnishing electric energy for his or its own use or for the use of his or its tenants, all of which facilities and use are wholly on the same premises owned by such person, firm or corporation. (Ord. No. 22, Sec. 11)

## **CHAPTER 4.08**

### **GAS FRANCHISE**

#### Sections:

#### 4.08.01 Franchise tax

4.08.01 Franchise tax There is hereby levied an annual privilege and franchise tax against the Arkansas Louisiana Gas Company of four and one-quarter percent (44%) of the gross billings of Arkansas Louisiana Gas Company on all residential, industrial, commercial, private or public facilities in the city of Pottsville, Arkansas. That this tax shall be paid at the end of each quarter of every calendar year. (Ord. No. 81-2, Sec. 1)

**CHAPTER 4.12****TELEPHONE FRANCHISE****Sections:**

- 4.12.01 Authority granted for operation of telephone system
- 4.12.02 Location of poles and other installations
- 4.12.03 Supervision by city
- 4.12.04 Responsibilities of company
- 4.12.05 Exclusive privileges not given
- 4.12.06 Franchise tax
- 4.12.07 Permission trim trees
- 4.12.08 City examination of records

4.12.01 Authority granted for operation of telephone system That permission be and is hereby granted to Continental Telephone Company of Arkansas, its successors and assigns, to construct, maintain and operate its poles, posts, cables, wires and all other necessary overhead apparatus or, over and along, and its conduits, ducts, mains, pipes, cables, wires, manholes, distributing poles and all other necessary underground appliances on, in, under and through the streets, alleys and highways, within the limits of the city of Pottsville, state of Arkansas, for a period of twenty-five (25) years from the date of the enactment hereof, and to use the property of other companies and permit other companies to use its property upon such arrangements as the two companies may agree, subject to the following conditions: (Ord. No. 81-6, Sec. 1)

4.12.02 Location of poles and other installations That all poles erected by said Company shall be located so they will not interfere with the safety or convenience of persons traveling on or over the said streets, alleys and highways, and in the work of installing and maintaining its underground system, said Company shall not open or encumber more of any street, alley or highway than will be necessary to enable it to perform same with proper economy and efficiency; nor shall it permit such opening or encumbrance to remain for a longer period than shall be necessary to do the work for which said opening shall have been made. (Ord. No. 81-6, Sec. 2)

4.12.03 Supervision by city That all work done under the provisions of this ordinance in said city, shall be subject to the supervision of the City Engineer or some other representative appointed by said Council and said Company shall replace and properly relay any sidewalk or street pavement which may have been displaced or damaged by it in the construction and maintenance of its system in said city. (Ord. No. 81-6, Sec. 3)

4.12.04 Responsibilities of company That said Company shall maintain all poles, cables, wires, conduits, ducts, mains, pipes, manholes, distribution poles and all other apparatus erected or constructed under the provisions of this ordinance, in good and safe order and condition; and shall at all times fully indemnify, protect, and save harmless the said city from and against all loss and necessary expenditures arising from the erection, construction and maintenance of its system in said city, or from its neglect or failure to maintain the said apparatus in good and safe order and condition. (Ord. No. 81-6, Sec. 4)

4.12.05 Exclusive privileges not given That nothing in this ordinance shall be construed to grant unto the said Continental Telephone Company of Arkansas, any exclusive right, or to prevent a grant of similar privileges to other companies. (Ord. No. 81-6, Sec. 5)

4.12.06 Franchise tax Beginning in 1981 and thereafter so long as Continental Telephone Company of Arkansas, its successors or assigns, shall operate a telephone system within the city, it shall pay to the city a franchise tax in an amount equal to four and twenty-five hundredths percent (4.25%) of basic local service excluding extension, terminal equipment, toll, yellow pages, and other miscellaneous equipment revenues within the corporate boundaries of the city at the end of the preceding calendar quarter, payment to be made to the city within thirty (30) days of the end of each calendar quarter, the first remittance to be made within thirty (30) days of September 30, 1981; provided, the amount of the tax levied herein by the city may be collected by the Telephone Company from those of the Telephone Company customers receiving local exchange telephone service within the corporate boundaries of the city of Pottsville, in accordance with the tariffs of the telephone company and the rules, regulations and orders of the Arkansas Public Service Commission. This ordinance does not restrict the city from the right to alter the tax, upon proper notification in advance, to the Telephone Company. (Ord. No. 81-6, Sec. 6)

4.12.07 Permission to trim trees Permission is hereby granted to the Continental Telephone Company of Arkansas, to trim trees upon and overhanging streets, alleys, sidewalks and other places within the city so as to prevent the branches of such trees from coming into contact with the wires and cables of the telephone company. All of said trimming shall be done under the supervision and direction of any city official to whom said duties have been, or may be, delegated. (Ord. No. 81-6, Sec. 8)

4.12.08 City examination of records The city of Pottsville shall have the right to examine and verify from the records of the Continental Telephone Company of Arkansas any data relating to the gross revenues of the telephone company derived from telephone service provided by the telephone company within the boundaries of the city of Pottsville. (Ord. No. 81-6, Sec. 9)

## 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 serving alcoholic beverages shall pay to the City a supplemental tax equal to one-half (1/2) of the amount to be paid to the state. Proceeds from this tax shall be deposited in the City's General Fund.(Ord. No. 2020-10, Exh. A-1)

## CHAPTER 4.20

### CABLE TELEVISION FRANCHISE

#### Sections:

4.20.01	Definitions
4.20.02	Grantee rights and responsibilities
4.20.03	Use permit
4.20.04	Construction and maintenance
4.20.05	Grantee rules and regulations
4.20.06	Quality
4.20.07	Extending service
4.20.08	Subscriber charges
4.20.09	Failure to perform
4.20.10	Indemnification of City
4.20.11	Removal of apparatus
4.20.12	Construction requirements
4.20.13	Relocations
4.20.14	Complaints
4.20.15	Interruptions
4.20.16	Failures beyond Grantee's control
4.20.17	Franchise tax
4.20.18	Financial reports
4.20.19	Interference with private signals
4.20.20	Right to repeal

**4.20.01 Definitions** For the purpose of the Agreement, the following terms, phrases, words, and abbreviations shall have the meanings outlined below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

**Basic Cable Service** means any serviced tier which includes the retransmission of local television broadcast signals.

**City** means for the purpose of this ordinance all areas within the city limits of Pottsville, a municipal corporation located in the county of Pope, state of Arkansas.

**Cable Communication System, Cable Television System, System** sometimes referred to as **Cable TV Systems** or **Broadband Communications Network** means a system of antennas, cables, amplifiers, towers, microwave links, cable casting studios, and any other conductors, terminals, converters, equipment or facilities, designed and constructed for the primary purpose of distributing video programming to subscribers and the secondary or additional purpose of producing, receiving, amplifying, storing, processing or distributing audio, video and digital signals.

**Franchising Authority** means the City Council of the city of Pottsville, or the lawful, successor, transferee or assignee thereof.

**Grantee** means TCA Cable Partners, A Delaware general partnership or the lawful successor, transferee, or assignee thereof.

**Gross Revenues** means all revenues received for monthly cable service received by Grantee from subscribers of the System located within the city; provided, however, that such phrase not include any taxes or fees on cable service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.

**Franchise Fee** includes any tax, fee or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both solely because of their status as such.

**Person** means any individual firm, partnership, association, corporation, company, or organization of any kind.

**Public Way** shall mean the surface of and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips

or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchise Authority in the city which shall entitle the Franchise Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the System.

**Rights-of-Way Easements and Private Property** Subject to federal and state law, Grantee is authorized to provide cable television services to or to install any equipment or facilities upon, across, in or through governmental rights-of-way, public utility easements located on private property included but not limited to rights-of-way and easements located in apartment complexes, condominiums, mobile home parks and residential subdivision developments with private roads. (Ord. No. 2001-2, Sec. 1.)

4.20.02 Grantee rights and responsibilities There is hereby granted to TCA Cable Partners, its successors and assigns, hereinafter called Grantee, the right, privilege and permission for a period of fifteen years (15 years) from the effective date of this ordinance to construct, maintain and operate in the present and future streets, avenues, alleys and public ground and places of the city of Pottsville, Arkansas, and its successors, towers, poles, lines cables, necessary wiring and other apparatus and appurtenances for the purpose of receiving, amplifying and distributing television signals to the said city, the inhabitants thereto, and persons firms and corporations thereof, and to use and occupy such present and future streets, avenues, alleys and public ground and places for such purposes. There is hereby granted the further right, privilege and authority to the Grantee to lease, rent, or in any other manner obtain the use of such towers, poles, lines, cables and other equipment and facilities from any and all holders of public licenses and franchises within the corporate limits of the city of Pottsville, Arkansas, and to use such towers, poles, cables and other such equipment and facilities, subject to all the existing and future ordinances and regulation of the city. (Ord. No. 2001-2, Sec. 2.)

4.20.03 Use permit. This right-of-way for the use and purposes herein set forth shall not be exclusive but is merely a permit allowing Grantee to use the streets, roads and alleys of the city of Pottsville for the purposes herein set forth. Where any aerial plant is placed, the poles used for the Grantee's distribution system shall include those erected and maintained by the Grantee, the telephone company, the power and light company and others when and where practical. (Ord. No. 2001-2, Sec. 3)

4.20.04 Construction and maintenance The Grantee's transmission and distribution system, poles, wires and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons or to interfere with any improvements the city may deem proper to make or to hinder unnecessarily or obstruct the free use of the streets, alleys, bridges, or other public property.

Construction and maintenance of the transmission and distribution system, including house connections, shall be in accordance with the provisions of the National Electrical Safety Code,

prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters and such applicable ordinances and regulations of the city of Pottsville affecting electrical installations which may be presently in effect or may be enacted by the city of Pottsville. Installation and house drop hardware shall be uniform throughout the city, except the Grantee shall be free to change their hardware and installation procedure as improvements therein are developed except where changes are not permitted or required by regulations and ordinances of the city of Pottsville presently in effect or which may be enacted. (Ord. No. 2001-2, Sec. 4)

4.20.05 Grantee rules and regulations The Grantee shall have the right to prescribe reasonable service rules and regulations for the conduct of their business. Such service rules and regulations shall be kept on file at all times with the City Clerk. (Ord. No. 2001-2, Sec. 5)

4.20.06 Quality The antenna, receiving and distribution equipment shall be installed and maintained so as to provide pictures on subscriber receivers throughout the system essentially of the same quality as those received at the antenna site and/or transmitted by the Grantee. (Ord. No. 2001-2, Sec. 6)

4.20.07 Extending service Grantee shall extend service to any area within the city requiring up to 300 feet of cable per home adjacent to and contiguous with existing cable plant as measured from the extremity of the trunk cable nearest the unserved area. In such a case, a newly installed subscriber shall not be assessed or apportioned the cost for installation, except for the usual and normal connection fees paid by subscribers, so long as the system expansion is technically feasible.

However, where the residence, building, structure, development, or subdivision of a person requesting to be served cable television service by the Grantee in the city is located in areas requiring greater than 300 feet of cable per home, Grantee shall have the right to establish and collect an extension charge for erecting, constructing, or extending its cable, wire, or lines to the residence, building, structure, development, or subdivision desiring connection to Grantee's System. (Ord. No. 2020-10, Exh. A-2)

- A. Commercial feasibility
- B. Technical practicability
- C. Current cost to construct cable plant and facilities
- D. The number of permanent homes in and/or between the area to be served
- E. The day-to-day operational and maintenance costs of cable plant after it is constructed

This extension charge shall be uniform and shall be applied indiscriminately to all persons desiring service from or connection to Grantee's system. Grantee shall have the right to determine the

commercial feasibility of any request for service extension and shall have the right to refuse to serve an area or areas that would cause financial harm to the Grantee or be technically impracticable to build or both.

Grantee shall provide basic cable service to all city buildings, and any public elementary or secondary school, at no charge, under the terms and conditions set forth in this agreement as long as same shall be and remain in full force and effect. (Ord. No. 2001-2, Sec. 7.)

4.20.08 Subscriber charges The Grantee herein, its employees and servants, shall have the right and privilege of soliciting subscribers to the service to be furnished by Grantee.

The Grantee shall be allowed to impose an administrative fee of \$5.00 to each subscriber invoice which has not been paid in full within twenty-one (21) days of the date of invoice to cover Grantee's expenses and costs of collection of such invoice amount. (Ord. No. 2001-2, Sec. 8.)

4.20.09 Failure to perform In the event of the failure of the Grantee to render community television service to the city of Pottsville as contemplated and provided for in this ordinance within a period of sixty (60) days from the effective date of this ordinance, the City Council of the city of Pottsville shall have the right, on reasonable notice to the Grantee, to declare this ordinance and the rights granted thereunder forfeited; provided, however, that failure to comply with the provisions by reason of cause or causes beyond the reasonable control of the Grantee, which could not be anticipated at the time of their acceptance by the Grantee, shall not be sufficient ground to declare a forfeiture. The Grantee shall not be held in default or noncompliance with the provisions of the franchise nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages or other events reasonably beyond its ability to control. (Ord. No. 2001-2, Sec. 9)

4.20.10 Indemnification of city The Grantee shall indemnify and hold the city harmless at all times during the term of this grant from and against all claims for injury or damages to persons or property both real and personal caused by construction, erection, operation or maintenance of any structure, equipment, appliance or products authorized or used pursuant to authority of this ordinance.

The Grantee, upon receipt of due notice in writing from the city, shall defend at their own expense any action or proceedings against the city of Pottsville in which it is claimed that injury or damage arose from the Grantee's activities in the construction or operation of their television system; and in the event of a determination of liability, shall indemnify the city. (Ord. No. 2001-2, Sec. 10)

4.20.11 Removal of apparatus Upon termination or forfeiture of this grant, the Grantee shall, within a reasonable time, remove its poles, cables, wires and appliances from the city streets, lanes, roads, sidewalks, alleys, bridges, highways, other public places and from the premises of Grantee's customers within the city and subsequent additions thereto. (Ord. No. 2001-2, Sec. 11)

8.20.12 Construction requirements In the maintenance and operation of the television transmission and distribution system of Grantee in the streets, alleys and other public places and in the course of any new construction or addition to the facilities of the Grantee, the Grantee shall proceed as to cause the least possible inconvenience to the general public any opening or obstruction in the streets or other public places, made by the Grantee in the course of its operations, shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which during periods of dusk and darkness shall be clearly designated by red warning lights.

Whenever the Grantee shall take up or disturb any pavement, sidewalk or other improvement of any street, avenue, alley or other public place, the same shall be replaced and the surface restored in as good condition as before entry within forty-eight (48) hours after completion of the Grantee's work. Upon failure of the Grantee to make such restoration within such time, or to begin such restoration within such time if the restoration cannot reasonably be completed within such time, or upon the Grantee's delay of more than twenty-four (24) hours in the continuation of restoration previously begun, the city may serve upon the Grantee notice of the city's intent to cause the restoration to be made, and, unless the Grantee, within twenty-four (24) hours after receipt of such notice, shall begin or resume the proper restoration to be made, the city may cause the proper restoration to be made, including the removal of excess dirt and the expense of same shall be paid by the Grantee upon demand by the city.

The Grantee shall at all times comply with any and all rules and regulations which the city has made or may make to apply to the public generally with reference to the removal or replacement of pavements and to excavations in streets and other public places, not inconsistent with its use for the purposes contemplated by this ordinance. (Ord. No. 2001-2, Sec. 12)

4.20.13 Relocations Whenever the city of Pottsville finds that the construction of any of its streets and properties require the relocation of any part of Grantee's system, the city of Pottsville may order the Grantee to relocate the Grantee's properties therefor, and such shall be done at the sole expense of the Grantee. (Ord. No. 2001-2, Sec. 13)

4.20.14 Complaints As expeditiously as reasonably possible after receipt of subscriber complaints regarding cable television operation, Grantee shall investigate such complaints and resolve them to the extent reasonably possible and agents shall be available in the city for such purposes. The Grantee shall provide a local telephone number or toll free telephone number to the inhabitants of the city of Pottsville which can be used by inhabitants of the city of Pottsville to contact the Grantee for

purposes of registering subscriber complaints. The Mayor of the city of Pottsville has primary responsibility for the continuing administration of the Grantee's rights and privileges herein and of the reasonable implementation of the foregoing complaint procedures. Notice of the foregoing will be given by the Grantee to each new subscriber at the time of the initial regular subscription to the cable system. (Ord. No. 2001-2, Sec. 14)

4.20.15 Interruptions When a customer's service is reported or found to be interrupted, it shall be restored as promptly as possible, but in the event it remains out of order though no fault of the customer, in excess of twenty-four (24) consecutive hours after knowledge by the company of the interruption, the company will refund the pro-rata part of that month's charges for the period of days during which the service was not provided. This refund may be accomplished by a credit on a subsequent bill for cable service. (Ord. No. 2001-2, Sec. 15)

4.20.16 Failures beyond Grantee's control In the event the television section or the community antenna system shall be interrupted or fail to function by reason of an act of God, accident or cause otherwise beyond the control of the Grantee, the Grantee shall restore the service in a reasonable time and such interruption shall not constitute a breach of this ordinance. (Ord. No. 2001-2, Sec. 16)

4.20.17 Franchise tax All provisions by law provided and prescribed for the granting of this permit and authority are hereby to have been fully complied with and the permit shall be in full force and effect from and after its execution and approval. The Grantee shall pay to the city of Pottsville as a franchise tax and as compensation for the right and privileges enjoyed hereunder, the maximum allowable franchise fee under federal law, five percent (5%) of gross subscriber revenue, payable quarterly at the end of March, June, September and December of each year. Payment shall be made to the city of Pottsville within forty-five (45) days after the expiration of each quarter. The consideration set forth in this section shall be paid and received in lieu of any tax, license, charge, fee, or any other character of charge for use and occupancy of streets, alleys, and public places of the city; and in lieu of any imposition other than the usual general or special ad valorem taxes now or hereafter levied.

Should the city not have the legal power to agree that the payment of the foregoing cash consideration shall be in lieu of the taxes, license, charges, fees, rentals, and taxes afore said, then the city agrees that it will apply so much of said payment as may be necessary to the satisfaction of the Grantee's obligations, if any, to pay any such taxes, licenses, charges, fee or rentals.

The period of any limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due. Unless the Franchising authority initiates a lawsuit for recovery of such franchise fees in a court of competent jurisdiction, within three (3)

years from and after such payment due date, such recovery shall be barred and the Franchising Authority shall be stopped from asserting any claims whatsoever against the Grantee relating to such alleged deficiencies. (Ord. No. 2001-2, Sec. 17)

4.20.18 Financial reports Annually, Grantee shall supply to the city a copy of a financial statement prepared by a Certified Public Accountant reporting the gross annual basic subscriber revenues of the Grantee for the applicable fiscal period. The city shall have the right to inspect either by employees or by an independently retained Certified Public Accountant at any reasonable time, the financial records of the Grantee. (Ord. No. 2001-2, Sec. 18)

4.20.19 Interference with private signals That the Grantee shall at all times keep its cables and other appurtenances used for transmitting signals shielded in such a manner that there will be no interference with signals receive by private receiver's sets owned by persons not subscribing to Grantee's service. (Ord. No. 2001-2, Sec. 19)

4.20.20 Right to repeal If the Grantee shall fail to comply with any of the provisions of this grant or default in any of its obligations except for causes beyond the reasonable control of the Grantee and shall fail, within thirty (30) days after written notice from the city to correct such default or non-compliance, the city shall have the right to repeal this ordinance and all rights of the Grantee hereunder after giving the Grantee reasonable notice of any meeting called for such purposes and an opportunity for the Grantee to be heard at such meetings. (Ord. No. 2001-2,- Sec. 20)

## CHAPTER 4.24

### HOME SOLICITATION SALES PERMIT

#### Sections:

4.24.01	Required
4.24.02	Fee
4.24.03	Definitions
4.24.04	Bond
4.24.05	Charitable solicitations on streets
4.24.06	Permit for charitable solicitations for hire
4.24.07	Additional Prohibitions
4.24.08	Exceptions
4.24.09	Penalty
4.24.10	Damages

4.24.01 Required Prior to any "home solicitation sales" no person, party, company, or other entity shall solicit or request contributions or sell goods, tickets of admission, advertising or any other thing of value prior to registering and receiving a permit for such solicitations at the following address:

Pottsville City Hall  
c/o Pottsville Code Enforcement  
173 E. Ash Street  
Pottsville, AR 72858  
Phone: (479) 968-3029

(Ord. No. 2020-8, Sec. 1)

4.24.02 Fee. Permit Fee. Each application for such a requested permit for solicitation shall be assessed in the sum of Fifty Dollars (\$50.00) for said permit. (Ord. No. 2020-8, Sec. 2)

#### 4.24.03 Definitions

(A) "Home solicitation sales" means a cash sale or consumer credit sale of goods, other than insurance, or other services which the seller or person acting for him engages in a personal solicitation of the sale other than appropriate trade premises in an amount more than Twenty-Five Dollars (\$25.00). This shall not include a sale made pursuant to prior negotiations between the parties at a business establishment, at a fixed location, or goods or services were offered or exhibited for sale, or a sale in which the buyer has initiated to contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's personal property. If, in the course of such a visit the seller sells the buyer the right to receive additional services or goods other than the replacement parts necessarily used in the performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion.

(B) "Appropriate Trade Premises" means the premises in which the owner or seller normally carries on a business or where goods are normally offered or exposed for sale in the course of business carried on at those premises.

(C) "Goods" means tangible chattels bought for use primarily for personal, family, or household purposes.

(D) "Services" means work, labor, and services furnished in connection with the repair, alteration, or improvement of residential premises, but does not include the services of lawyers, real estate brokers, securities dealers or investment counselors, physicians, optometrists, or dentists.

(E) "Seller" means any person, partnership, corporation, or association engaged in the "door-to-door" or telephone sale of consumer goods or services.

(Ord. No. 2020-8, Sec. 3)

#### 4.24.04 Bond

(A) Any party or parties making home solicitation sales within the City of Pottsville offering or selling merchandise or services and not having a regular permanent place of business in the city, prior to engaging in such activity, shall execute a bond with good and sufficient surety payable to the City for the use and benefit of any person damaged by a breach thereof. The bond shall ensure performance of services, delivery of merchandise, and proper application of monies received therefor.

(B) The bond shall be in an amount, approved by the Code Enforcement Officer or designated agent, which amount is found, after considering the money likely to be involved or the value of services to be rendered or merchandise to be delivered, to be adequate to protect the public against fraud or dishonest dealing. The bond shall not be an amount less than \$500.00 cash or equivalent commercial bond.

- (C) A fee of \$15.00 shall be paid to the City by each person executing such a bond in order to defray the costs of administering this Section. The fee so collected shall be deposited into the General Fund. (Ord. No. 2020-8, Sec. 4)

#### 4.24.05 Charitable solicitation on streets

- (A) No person shall solicit donations on the streets for charitable, religious, or other bonafide non-profit purposes without a permit from the City.
- (B) To obtain such a permit, a person shall submit in writing to the City an application to be provided giving the name, headquarters, address of the organization they represent and shall solicit for, and the names and addresses of any and all solicitors and any and all other information which may be required by the City.
- (C) The Code Enforcement Officer or designated agent shall administer the provisions of this Section and promulgate regulations governing the procedure for application and issuance of permits. (Ord. No. 2020-8, Sec. 5)

4.24.06 Permit for Charitable Solicitors for Hire A person soliciting funds for charitable purposes either by means of the sale of tickets or otherwise where such person receives remuneration for such services or is in any manner financially interested in the results of such ticket sale, shall, before engaging in any such business, secure a permit. Before any such permit shall be issued, the Code Enforcement Officer or designated agent shall investigate the objects of charity involved and shall approve the objects as being bonafide projects. (Ord. No. 2020-8, Sec. 6)

4.24.07 Additional Prohibitions Additionally, it shall be unlawful for any solicitor or peddler to:

- (1) Peddle or solicit within the City without having a copy of their permit issued by the City of Pottsville, as well as a photo identification visible, identifying the person peddling or soliciting;
- (2) Enter upon any private residence, knock on a door, ring a doorbell, or otherwise attempt to gain admittance at the residence when the premises has posted at the entry of the residence a decal or sign bearing the words, "No Soliciting/No Peddling," "No Soliciting," "No Peddling," "No Trespassing," or other words of similar import;
- (3) Conduct the activities of peddler or solicitor and knock on a door, ring a doorbell, or otherwise attempt to gain admittance at the residence between the hours of 8:00 p.m. and 8:00 a.m.;

- (4) Remain at or fail to leave the premises or residence when requested to leave, or to otherwise conduct business in a manner in which a reasonable person would find obscene, threatening, intimidating, or abusive;
- (5) Claim to have the endorsement of the City based on the City having issued permit to that person;
- (6) Fail to disclose his or her name and the name of the principal who he or she represents at the outset of the initial conversation;

Nothing herein shall be construed to prohibit the distribution of advertising literature so long as the person distributing same does not seek to sell or take orders for merchandise or services while distributing the advertising material. (Ord. No. 2020-8, Sec. 7)

4.24.08 Exceptions The following shall be exempt from the provisions of this ordinance as set forth below:

- (1) Officers or employees of the City, county, or state or federal government, or any subdivision thereof when on official business;
- (2) After supplying adequate proof to the City Clerk that the nonprofit charitable organization is a charity with a current Section 501(c)(3) IRS exception, the Clerk may issue the permit required by this Ordinance without charge to the persons desiring to exercise their free speech rights as long as no solicitation for donations are made and no donations are accepted.
- (3) Although everyone going door to door must respect and not go to the door of a citizen who has posted a "no solicitation" type sign, and may only go door to door during the hours allowed in Section 7 above, and must conform to the requirements of F(4),(5), and (6), persons exercising their First Amendment political or religious free speech rights are otherwise exempted from this section.
- (4) Students enrolled in grades kindergarten through 12th grade, enrolled in a public or private school located within the City of Pottsville, Arkansas, peddling or soliciting for the benefit of their school or an organization thereof or for any private, nonprofit social club or organization to which they belong, such as, but not limited to, FBLA, FFA, FHA, band, choir, Boy Scouts or Girl Scouts must abide by the restrictions found in F(2),(3),(4 ), and(6) but are otherwise exempt from this section. (Ord. No. 2020-8, Sec. 8)

**4.24.09 Penalty** Any person, firm, partnership, corporation, or other entity who knowingly and willfully commits a violation of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than \$250.00 or to imprisonment not exceeding one (1) year, or both a fine and imprisonment. (Ord. No. 2020-8, Sec. 9)

**4.24.10 Damages** For a violation which is subject to provisions of this Chapter, the consumer shall recover from the persons violating this Chapter an amount equal to:

1. Ten percent (10%) of the transaction total or One Hundred Dollars (\$100.00), whichever is greater; and,
2. The actual damages, including any incidental, consequential, and special damages sustained by the consumer as a result of the violation. (Ord. No. 2020-8, Sec. 10)

## **CHAPTER 4.28**

### **BUSINESS PERMITS**

**Sections:**

4.28.01	Definitions
4.28.02	Permit required
4.28.03	Cost of permit
4.28.04	Exceptions
4.28.05	Procurement of permit
4.28.06	Application
4.28.07	Enforcement
4.28.08	Nontransferable
4.28.09	Display
4.28.10	Revocation
4.28.11	Transient merchants
4.28.12	Itinerant merchants
4.28.13	Garage sales, rummage sales, etc.
4.28.14	Penalty

**4.28.01 Definitions**

- (a) The term "person" as used herein shall refer to any sole proprietorship, partnership, corporation, association, firm or other legal entity which engages in, carries on or follows any trade, business, vocation, profession or calling within the City of Pottsville except such persons who are exempt from payment of occupation taxes and licensing procedure by the laws of the State of Arkansas or the laws of the United States. The term "person" does not include self-employed minors 18 years of age or younger.

- (b) *Temporary or transient business* means any business conducted for the sale of goods, wares or merchandise that is carried on in any building, structure, motor vehicle, railroad car or real estate for a period of less than six months each year.
- (c) *Transient merchant* means any person which engages in, does or transacts any temporary or transient business in the city, either in one locality or in traveling from place to place in the city, offering for sale or selling goods, wares, merchandise, or services, and includes those merchants who, for the purpose of carrying on such business, hire, lease, use or occupy any building, structure, motor vehicle, railroad car or real estate.
- (d) *Full-Time Employee*: means all owners or managers receiving compensation of any kind and all salaried employees and hourly wage employees working over 32 hours per week or working over 1,000 hours per year, and employees compensated by commission, piecework or other manner based on productivity. Self-employed persons that fall into the criteria mentioned in the preceding line shall also count as full-time employees.
- (e) *Part-Time Employee*: means all employees who do not qualify as full-time employees. For the purposes of counting part-time employees in determining the permit fee, two (2) part-time employees shall count as one (1) full-time employee. (Ord. No. 2023-13, Sec. 1)

#### 4.28.02 Permit required

- (a) *Generally*. It shall be unlawful for any person within the city limits to engage in, carry on or follow any trade, business, vocation, profession or calling without first having paid therefor what fee may be required for the privilege of engaging in, carrying on or following such trade, business, profession, vocation or calling in said city. Permits for group sales, such as craft fairs, farmers markets, etc., shall be obtained and paid for by the person or agency organizing said event.
- (b) *Civil penalty*. Any business which has not obtained a permit before February 1 of each year shall pay a penalty of \$1.00 for each day a permit is not obtained, after January 31, up to a maximum additional civil penalty of \$25.00 per permit, which penalty shall be added to the permit price by the Code Enforcement Officer upon issuance of the permit. (Ord. No. 2023-13, Sec. 2)

#### 4.28.03 Cost of permit The cost of business permits shall be as follows:

1-5 employees: \$25.00

6-15 employees: \$50.00

16-30 employees: \$75.00

31-99 employees: \$100.00

100 or more employees: \$150.00  
(Ord. No. 2023-13, Sec. 3)

4.28.04 Exceptions The following shall be exempt from the provisions of this Ordinance: All City sponsored events and festivals. (Ord. No. 2023-13, Sec. 4)

4.28.05 Procurement of permit All permits provided for in this article shall be issued by the code enforcement officer. The permits shall be issued for a term beginning as of January 1. If a fee is required, any person beginning a business in the city after January 1, but before July 1 of any year, shall pay the full permit fee, but any person beginning a business after June 30 of any respective year, shall be allowed to pay one-half of the annual permit fee, for the balance of the year, but thereafter shall pay the full amounts of the permit fee herein provided. Businesses holding permits that intend to remain in business during the following year should renew their permit during the month of December. Transient merchants shall pay fees as hereinafter set out. Fee schedules shall be as established from time to time by the city. (Ord. No. 2023-13, Sec. 5)

4.28.06 Application

- (a) An application for a permit under this article shall be made to the city in writing, upon blank forms to be furnished by the city. Each application shall indicate the character of business for which permit is asked, but at a minimum shall provide the following:
  - (1) Permanent address and name and address of the merchant's registered agent and owner;
  - (2) The number of employees;
  - (3) A description of product type and/or type of business;
  - (4) Location of the business;
  - (5) Proof of state sales tax permit, if applicable;
  - (6) Statement of the proposed length of stay in the community, if registering as a transient merchant;
  - (7) Meet zoning regulations and all other applicable city regulations;

- (8) If not the owner of the property on which the sales are to be made, supply proof of written permission of the owner of property; and
- (9) Any other information requested by the Code Enforcement Officer.
- (b) The Code Enforcement Officer shall maintain an alphabetical list of the merchants in the city and the names and addresses of their owners and registered agents. Each registered agent designated by a transient merchant shall be a resident of the city and shall be the agent of the transient merchant upon whom any process, notice, or demand required or permitted by law to be served upon the transient merchant may be served.
- (c) If any transient merchant doing business or having done business in this city shall fail to have or maintain a registered agent in the city, or if such registered agent cannot be found at his permanent address, the city code enforcer officer shall be an agent of such transient merchant for the service of all process notices in compliance with applicable state laws. (Ord. No. 2023-13, Sec. 6)

4.28.07 Enforcement The city code enforcement department and the police department, when other duties permit, shall assist in ensuring that all businesses have a permit posted at the location of the business or sale. (Ord. No. 2023-13, Sec. 7)

4.28.08 Nontransferable No permit issued under this article shall be transferred, except from one location to another location, and no permit shall be transferred in any event from one business to another. (Ord. No. 2023-13, Sec. 8)

4.28.09 Display Each permit shall be posted in a conspicuous place where such business or corporation is carried on and the holder of such permit shall immediately show the same to any officer of the city upon being requested to do so. Each transient merchant shall display his permit in a manner such that it may be seen from the curb or roadside by law enforcement and code enforcement. (Ord. No. 2023-13, Sec. 9)

4.28.10 Revocation If any holder of a business permit is found to be in violation of this provisions of this Ordinance; to be maintaining a nuisance or unsanitary premises; to be engaging in or permitting disorderly conduct on the premises where the business is permitted; or to be found violating the City's Zoning or Land Subdivision Development Codes, the Code Enforcement Officer is hereby authorized to serve notice of the city's intention to revoke such license. No new business permit shall be issued to the former permittee, and the former permittee, their heirs, successors and assigns, shall not operate the same or similar business within the city until such condition which led to the revocation is corrected. (Ord. No. 2023-13, Sec. 10)

4.28.11 Transient merchants

- (a) Persons doing business on a transient or itinerant basis or soliciting sales to the ultimate consumer shall be required to post a performance bond in the amount of \$150.00 for the transient or itinerant merchant to conduct business before they shall be permitted to do business within the corporate limits of the City of Pottsville. Transient and itinerant merchants shall be required to designate on their permit application the location of their roadside business. No permit shall be issued unless the transient merchant produces, at the time of application, written permission from the property owner allowing the transient merchant to conduct business at said location.
- (b) Any transient merchant permit issued under the provisions of this article may be revoked by the mayor upon a complaint and showing that the licensee has violated state or local law, harassed local residents, or engaged in improper, high-pressure sales tactics. Prior to the revocation of his permit, the merchant shall be entitled to meet with the mayor and provide evidence that he has not violated state law, the provisions of this article, or engaged in improper sales tactics. Should a transient merchant's permit be revoked under the provisions of this article, the license fee previously paid by said merchant shall not be returned.
- (c) A transient business permit shall be issued hereunder only when all requirements of this article have been met, such permit shall not be transferable, shall be valid only within the city limits areas under city extraterritorial planning control, shall be valid only for the business stated in the application. A license so issued shall be valid for only one person, unless such person shall be a member of a partnership or employee of a firm or corporation obtaining such permit.
- (d) Any person or entity that transacts a transient business without having first obtained a permit in accordance with the provisions of this article or who knowingly advertises, offers for sale, or sells goods, wares, merchandise or services in violation of the provisions of this article, shall be guilty of a violation and subject to the penalties prescribed by law for any criminal offense committed by the permit. (Ord. No. 2023-13, Sec. 11)

4.28.12 Itinerant merchants It shall be unlawful for any person not having an established business in the City of Pottsville:

- (a) To haul or bring into the city, either directly or indirectly, any goods, wares, merchandise, provisions, fruits, or other food products, with the intention of selling or disposing of same from any food truck or vehicle, railroad car, room, store, warehouse, building, lot or in any other manner, whatsoever, either at wholesale or retail, without first obtaining a permit for such purpose, as herein provided; or

- (b) To solicit orders therefore from house to house, or from store to store, or taking orders for the future delivery thereof, or selling directly or otherwise, at wholesale, retail, without a bona fide intention of selling or disposing of such goods, wares, fish, meats, provision, fruits, food products, or other such property, through a regularly established place of business within the city, without first obtaining a permit for such purpose, as herein provided.

Itinerant merchants, peddlers, and other “roadside vendors” will be required to designate on their permit application the location of their roadside business. No permit shall be issued unless the roadside vendor produces, at the time of application, written permission from the property owner allowing the vendor to conduct his business at said location. (Ord. No. 2023-13, Sec. 12)

4.28.13 Garage sales, rummage sales, etc. Property owners shall be allowed to, on a limited basis, carry on the sale of merchandise in the form of garage sales, porch sales, rummage sales, or any similar type sales as long as the provisions of this ordinance are followed.

The property sold at the sale must be personal property owned by the person or persons conducting the sale and shall not be property that was purchased for the purpose of resale. No permit shall be required for a garage sale or other similar sale. Said sales shall be for a maximum of three (3) days and no person shall engage in garage sales of this nature more than three (3) times per year.

No signs advertising said sale will shall be placed on utility poles, trees, or street rights-of-way and no such signs shall be placed on private property without written authorization by the owner of said private property. Any signs put up shall be removed within twenty-four (24) hours after termination of the sale. (Ord. No. 2023-13, Sec. 13)

4.28.14 Penalty Any person violating the provisions of this ordinance and/or any person who makes a false affidavit or statement or report to the City as a part of the procedures recognized by this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in an amount not less than \$100.00 nor more than \$500.00, and each day of violation shall constitute a separate offense. (Ord. No. 2023-13, Sec. 14)

## CHAPTER 4.32

### PRIVATE CLUB PERMITS

Sections:

4.32.01	Title
4.32.02	Authority
4.32.03	Definitions
4.32.04	Permits Required
4.32.05	Application for Private Club
4.32.06	Same Payment Dates; Proration
4.32.07	Term of Permit
4.32.08	Transferability of Permits
4.32.09	Notice of Transfer of Business
4.32.10	Display of Permit
4.32.11	Suspension or Revocation of Permit
4.32.12	Type of Permit Covered by this Ordinance and Hours of Operation
4.32.13	Penalty

4.32.01 Title The title of this ordinance shall be "The Private Club Permit Procedure Ordinance for the City of Pottsville, Arkansas." (Ord. No. 2018-02, Sec. 1.)

4.32.02 Authority This Ordinance is passed pursuant to the authority granted to the city of Pottsville by the state of Arkansas. (Ord. No. 2018-02, Sec. 1.)

4.32.03 Definitions

- a. Alcoholic Beverages – means all intoxicating liquors of any sort, including beer and wine.
- b. City – means the city of Pottsville, Arkansas.
- c. Controlled Beverages – means all beverages of any kind subject to regulation under any alcoholic beverage control law of the state of Arkansas and this Ordinance.
- d. On-premises consumption – means the sale or dispensing of alcoholic beverages by the drink or in broken or unsealed containers for consumption on the premises where sold or dispenses.
- e. Permit – means any authorization issued by any law passed by the General Assembly of the State of Arkansas; the Alcoholic Beverage Control Division of the State of Arkansas or by the City pursuant to any Arkansas Alcoholic Beverage

Control Division regulations or this Ordinance whether described as a permit, license or otherwise.

- f. Permittee – means the person to whom a permit or license to sell, dispense or distribute alcohol has been granted.
  - g. Person – means any natural person, partnership, association, corporation, syndicate or company.
  - h. Police Chief – means the Chief of Police of the Pottsville Police Department or his/her designee.
  - i. Private Club – means a non-profit corporation organized and existing under the laws of the state authorized to serve alcohol by the state of Arkansas and the Alcoholic Beverage Control Division.
  - j. State – means the State of Arkansas.
- (Ord. No. 2018-02, Sec. 3.)

#### 4.32.04 Permits Required

- a. It shall be unlawful for any person to engage in the business of distributing, selling or dispensing within any private club for on-premises consumption, any controlled beverage, within the city without a permit issued by the City, or with an expired permit.
- b. The provisions of this section shall not apply to the manufacture, sale, and distribution of wines or vinous liquors manufactured, sold and distributed by residents of Arkansas. (Ord. No. 2018-02, Sec. 4.)

#### 4.32.05 Application for Private Club

- a. An application for a private club permit required by this Section shall be in writing on a form prescribed by the City and shall be accompanied by the required fee and a copy of the applicant's state private club permit application.
- b. Only one location per application.
- c. The application shall be submitted to the City of Pottsville with a one time, non-refundable application fee in the amount of \$250.00. This fee is completely separate from any licensing fees which may later be due to the City of Pottsville to operate a business in the City of Pottsville.
- d. No city permit will be issued until approved by the City Council.
- e. It shall be unlawful for any person to make any false statement or representation in any application required by this section or to give any false answer to any question contained therein.
- f. It shall be unlawful to operate a private club or sell alcoholic beverages for on-premises consumption in Pottsville before being permitted by the appropriate state agency.

- g. Permits required by this Section shall run for one calendar year. Annual permit renewal fees of \$50.00 shall be due and payable on December 1<sup>st</sup> of each year for the succeeding year beginning January 1<sup>st</sup>.
- h. The City will not issue or renew any permits pursuant to this Section until all outstanding supplemental beverage taxes, if applicable, are paid.
- i. All permits issued by the City pursuant to this Section shall be prominently displayed on the permitted premises by the permittee in the same manner as required by the state for state permits.
- j. When any state permit is revoked by the state or required to be returned to the State for any reason, the City permit shall be returned to the City. The City will restore the permit upon proof that the State permit has been restored to the applicant, provided that no reclaimed permit will be restored to an applicant until all outstanding advertising and promotion taxes and/or supplemental beverages taxes, if applicable, are paid.
- k. All fees, taxes and penalties received by the City pursuant to this Chapter shall be used for general purposes within the City of Pottsville.
- l. Permits shall not be transferable or assignable unless and until approval is granted by the Alcoholic Beverage Control Division and notice is provided to the City of Pottsville and all other requirements of this Ordinance are met.
- m. A city permit, if granted, shall be specific to the proposed location and to the applicant listed in the application. (Ord. No. 2018-02, Sec. 5.)

4.32.06 Same Payment Dates; Proration All permit fees shall be paid between December 1<sup>st</sup> and December 31<sup>st</sup> of each year. Permits obtained after July 1<sup>st</sup> of each year shall pay one half of the annual fee. Delinquent permit fees shall be subject to a delinquent penalty of 25% of the permit fee for each thirty (30) day period the fee remains. (Ord. No. 2018-02, Sec. 6.)

4.32.07 Term of Permit No permit shall issue for more than the remainder of the calendar year, and all shall expire at midnight, December 31 of each year. In case of the revocation or surrender of such permit before the expiration of such calendar year period, the holder thereof shall not be entitled to receive any refund whatsoever. (Ord. No. 2018-02, Sec. 7.)

4.32.08 Transferability of Permits

- a. Permits shall not be transferable, except as otherwise provided herein.
- b. All applications for transfer of locations shall comply with the provisions herein set forth governing new permits. (Ord. No. 2018-02, Sec. 8.)

4.32.09 Notice of Transfer of Business Should any permit holder make a request to the Alcohol Beverage Control Division to transfer their permit to another location, the individual or organization, the Police Chief shall be notified in writing of such request within seven (7) days. (Ord. No. 2018-02, Sec. 9.)

4.32.10 Display of Permit Every person or organization issued a permit pursuant to this section shall be required to display this permit in the same location as is displayed the State Controlled Beverage Permit. (Ord. No. 2018-02, Sec. 10.)

4.32.11 Suspension or Revocation of Permit. Whenever the state shall revoke any permit, the city permit to deal in such products shall thereupon be automatically revoked without any action by the City or any Municipal officer. (Ord. No. 2018-02, Sec. 11.)

4.32.12 Type of Permit Covered by this Ordinance and Hours of Operation

- a. Private club permit. Authorizes the purchase of any controlled beverage from persons holding off-premises retail liquor or beer permit who have been designated by the director of the State Alcohol Beverage Control Board as a private club distributor, and authorizes the dispensing of such beverages for consumption on the premises of the private club to members and guests only of the private club.
- b. Hours of operation. Hours of operation shall be in conformance with state statute, including Title 3 of the Arkansas Code relating to Alcoholic Beverages. (Ord. No. 2018-02, Sec. 12.)

4.32.13 Penalty

- a. Any person violating the provisions of this Ordinance or any person who makes a false affidavit statement or report or application to the city as part of the procedures of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction be fined a sum, up to, but not exceeding:
  - 1. One Thousand Dollars (\$1,000.00) for the first offense.
  - 2. Two Thousand Dollars (\$2,000.00) for the second offense.
  - 3. Four Thousand Dollars (\$4,000.00) for each subsequent offense after the second offense.
  - 4. Plus court costs and applicable fees.
- b. If it is found that any violation of this Ordinance is found to be continuous in respect to time, the fine or penalty for allowing the continuous thereof, in violation of this Ordinance, shall not exceed Five Hundred Dollars (\$500.00) for each day that it is unlawfully continued, plus court costs and applicable fees. (Ord. No. 2018-02, Sec. 13.)