

## **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 Carroll Electric Company That said city of Decatur, Arkansas, is hereby authorized and does contract with The Carroll Electric Company, a corporation its successors or assigns for electric service and equipment to light the

city's street, alleys and public ways; and electric service for light and power for the city's parks, other properties and public places. (Ord. No. 93-04, Art. 1.)

4.04.02 Contract valid for one year The City and the Company mutually agree that this ordinance will constitute a contract and that all of its terms, conditions and provisions for payment shall be in effect for a period of one (1) year from the date of execution hereof as provided in Article 15, and shall be automatically extended for a further period of one (1) year from each successive expiration date unless one party shall notify the other in writing not less than sixty (60) days prior to any such expiration date of its desire to terminate this agreement; and further providing that this contract shall not be effective for a total period exceeding ten (10) years; and further provided that the terms of Article 5 are not limited by the terms of Article 2. (Ord. No. 93-04, Art. 2.)

4.04.03 City to pay for street lighting service The Company agrees to furnish and the City agrees to use and pay for the street lighting service described in SPL Street Lighting data sheet, designated Exhibit A, attached hereto and made a part hereof, and for any and all additional street lighting service subsequently agreed upon under the terms of this contract or any amendment hereto, according to the rates and conditions set out in the Municipal Street Lighting Service Schedule SPL, attached hereto and made a part hereof. (Ord. No. 93-04, Art. 3.)

4.04.04 Facilities usage charge When, by agreement with the City, the Company shall install, own, operate and maintain street lights charged for under Schedule SPL, or is required to provide special or excessive electric facilities to serve City-owned street lighting systems served under Schedule SPL, there shall be charged, in addition to the rates hereinbefore set out, a Facilities Usage Charge, payable as herein provided, as mutually agreed upon by the parties. (Ord. No. 93-04, Art. 4.)

4.04.05 Rates It is agreed that the Facilities Usage Charge shall be computed at the rate set forth in Municipal Street Lighting Service Schedule SPL as now or in the future approved by competent authority having jurisdiction. Said rate shall be applied to the investment in Company-owned street lights and special or excessive electric facilities to serve City-owned street lights utilized by the City under Schedule SPL. The total of such investment by the Company is \$28,273.33 and the total of the Facilities Usage Charge shall be \$5,089.20 until additional street lights are requested by the City and installed by the Company and this contract amended by written agreement. Such Facilities Usage Charge shall be due and payable by the City of Decatur, Arkansas, to the Company so long as the street lights and/or special electric facilities herein referred to in Article 4 and its references shall be utilized by said City, but for a term of not less than ten (10) years from date hereof, and shall be payable as provided in said Schedule SPL. (Ord. No. 93-04, Art. 5.)

4.04.06 Changing location of street lamp The Company agrees to change the location of any street lamp in use upon written request of the City, provided the City shall pay the Company the actual cost thereof. (Ord. No. 93-04, Art. 6.)

4.04.07 City shall pay for electric service for municipal use The Company shall furnish and the City shall take and pay for all electric service for municipal use, other than street lighting service, as may be required from time to time by the City in its parks, buildings, properties and public places, according to the rates and provisions of the filed standard rate schedules of the Company, subject to the provisions of Municipal General Power and Lighting Service (Rider M), attached hereto and made a part hereof. (Ord. No. 93-4, Art. 7.)

4.04.08 Company tax The Carroll Electric Company shall pay to the city of Decatur Four percent (4%) of the gross receipts collected by the Company for electric service sold to the Company's customers who are located within the present and future boundaries of the city of Decatur, Arkansas, under the rate schedules as now or in the future approved by the Public Service Commission of Arkansas for residential and commercial service having a reserved capacity of 40 Kilowatts or less excluding churches, schools and church schools. The Mayor and City Recorder are hereby authorized to negotiate and sign an entire Municipal Electric Service Agreement, to establish terms for electrical services rendered within the city of Decatur, Arkansas. (Ord. No. 2008-2, Secs. 1-2.)

4.04.09 Payments to city The discounts provided in the attached Schedule and Rider, and in all applicable rates, rules and regulations of the Company filed with competent authority having jurisdiction as now or hereafter promulgated, shall be allowed provided the City utilizes the Company's service for its entire requirements for electric or power service and the Company serves the City under the provisions of an electric franchise having an original term of not less than ten (10) years; and the amounts resulting from the above discounts and the payments made by the Company to the City shall be accepted by the City as full payment of any Occupation Tax, Franchise Tax, License Tax or any similar tax or charge imposed upon the Company by the City for the establishment, operation and maintenance of the Company's facilities within the City; provided, however, that said discounts and said payment shall not be taken in lieu of the city's right to collect motor vehicle license fees or any ad valorem tax on the Company's real estate and personal property. (Ord. No. 93-4, Art. 9.)

4.04.10 City is held harmless The Company agrees to protect the City and save it harmless from any and all loss, damage or expense to persons or property which is caused by the negligence of the Company in its use or maintenance of any and all equipment owned by it, and used to supply service under this contract. The City agrees to protect the Company and save it harmless from any and all loss, damage or expense to persons or property, which may arise due to the use or maintenance of any street lighting equipment owned by the City, unless such loss, damage or expense be the sole and proximate result of the Company's negligence. (Ord. No. 93-4, Art. 10.)

4.04.11 Care in maintaining facilities The Company agrees to exercise reasonable care in maintaining the facilities to be maintained by it and in rendering the service to be rendered by it in the performance of this contract, so that the said service and said facilities may be furnished and maintained in a satisfactory manner. (Ord. No. 93-4, Art. 11.)

4.04.12 City must utilize Company The City agrees for the term of this contract to utilize the Company's service for the purpose herein set forth, and that the electric service rendered the City hereunder shall be for its use alone, and shall not be resold, and that it will utilize no electric or power service from a source other than the Company. (Ord. No. 93-04, Art. 12.)

4.04.13 Public Service Commission The rates and charges to be paid by the City herein are subject to change and amendment by application of the Company to the Public Service Commission of Arkansas or other regulatory authority having jurisdiction. (Ord. No. 93-04, Art. 13.)

4.04.14 Easement The Mayor, on behalf of the city of Decatur, is hereby authorized to execute and deliver to The Empire District Electric Company an easement for the location of electric lines and poles within the city of Decatur, said easement to be substantially in form and content as that document attached hereto as Exhibit A and made a part hereof by reference, and said easement to be located as described in said Exhibit A. (Ord. No. 81-8, Sec. 1.)

4.04.15 Pole line permit The city shall grant to the Empire District Electric Company the following permit:

In consideration of the sum of One Hundred and Fifty Dollars (\$150.00) receipt of which is hereby acknowledged, we hereby, grant unto The Empire District Electric Company, hereinafter referred to as the Company, its successors and assigns, a right-of-way twenty-five feet on each side of described centerline together with the right to construct, reconstruct, operate, maintain and repair pole lines, pole structures, and/or towers for the purpose of the transmission of electrical energy and communications, including cross arms, wires, cables, fixtures, anchors, guy wires and accessories on, over and across our land described as follows:

Part of the NE 1/4 of the SE 1/4 of Section 11, Township 19 North, Range 33 West, Benton County, Arkansas, more particularly described as follows: from the Southwest Corner of the said NE 1/4 of the SE 1/4 of Section 11, run thence North 350 feet; thence South 89° 49' East 302 feet; thence South 483.25 feet; thence North 89° 49' West 302 feet to the point of beginning in Section 11, Township 19, Range 33, County of Benton, State of Arkansas. (Ord. No. 81-11)

4.04.16 Land clearance Said Company is hereby granted the right and permission to clear trees and chemically treat same, and to remove limbs and other obstructions from said right-of-way, which in the opinion of the Company would constitute a hazard to the lines so as to prevent interference with or damage thereto, and to enter upon said land and right-of-way at any time for the purpose of patrolling and inspecting the lines and for the purposes above set out; provided that the Company agrees to pay for any and all damage to crops, fences, livestock and roadways occasioned by crossing our land for such purposes. The Company is granted the privilege of removing at any time any of its said improvements. Said Company may at any time remove from the right-of-way granted all buildings, hay or straw stacks, tailing piles, and like and similar obstructions to the operation and safety of the line, and we agree to place no such obstructions on the said right-of-way, from and after the date hereof. (Ord. No. 81-11)

4.04.17 City is held harmless Said Company agrees to hold us harmless from any and all damages that may result from its negligence in the exercise of the rights herein granted. (Ord. No. 81-11)

4.04.18 Full use of right-of-way The said Company agrees that we shall have full and free use of said right-of-way for farming, grazing, and other purposes, subject to the rights herein granted to it, provided that no operation shall be performed by us near or under the lines which might in the opinion of the Company damage, endanger or interfere with the operation or safety of said lines, we agree that the said Company shall have the right to install such gates in the fences on our said land, and at such locations as will facilitate entrance to said land and right-of-way. The Company agrees to cut the timber and brush on the right-of-way not higher than 18 inches above the ground line and burn all timber and brush cut on the right-of-way. (Ord. No. 81-11)

4.04.19 Obstructions may not interfere with operation The undersigned, for themselves, their heirs, successors and assigns, warrant that they are the owners of the land herein conveyed and have the right to make this conveyance and receive the payment therefore; and covenant that The Empire District Electric Company, its successors and assigns, may quietly enjoy the premises for the uses herein states, and that they will not create or permit any obstruction which may endanger or interfere with the construction, operation and maintenance of said systems. (Ord. No. 81-11)

## **CHAPTER 4.08**

### **GAS FRANCHISE**

#### **Sections:**

4.08.01	Gas franchise granted to Arkansas Western Gas Company
4.08.02	Permit to use public places for gas lines
4.08.03	No fees for opening streets
4.08.04	City shall be held harmless
4.08.05	Rates and conditions
4.08.06	Grantee shall furnish information
4.08.07	Franchise tax
4.08.08	Amendments

4.08.01 Gas franchise granted to Arkansas Western Gas Company That the city of Decatur, hereby grants to the Arkansas Western Gas Company the exclusive right, privilege and authority within the present and all future expansions of the corporate limits of the city of Decatur (1) to sell, furnish, transmit and distribute natural gas to all inhabitants and consumers within the said limits; and (2) subject to the terms, conditions and stipulations mentioned in this ordinance, consents and the right, permission and franchise is hereby given to the Arkansas

Western Gas Company, a corporation organized and existing pursuant to the laws of the state of Arkansas, Grantee, and to its successors, lessees, and assigns to lay, construct, equip, operate, repair, and maintain a system of gas mains, pipes, conduits, feeders and the appurtenances for the purpose of supplying and distributing natural gas for light, fuel, power, and heat and for any other purpose, to the residents or inhabitants of the said City; and further, the right to lay, construct, operate and maintain system of gas mains, pipe lines, pipe conduits and feeders and the necessary attachments, connections, fixtures and appurtenances for the purpose of conveying, conducting or distributing natural gas from any point beyond said city limits in order to enable the said Grantee to distribute and sell natural gas to the said City and to the residents or inhabitants thereof, and to others. As used in this ordinance the terms "natural gas" and "gas" shall be defined as including, in addition to natural gas, such alternate, substitute or supplemental fuels as (without necessarily limited to) liquefied natural gas, liquefied petroleum gas, synthetic natural gas and propane-air. (Ord. No. 80-4, Sec. 1.)

4.08.02 Permit to use public places for gas lines The Grantee herein is expressly given the permit (subject to the proviso hereinafter contained) to use the streets, avenues, roads, highways, alleys, sidewalks and other public places, as now laid out, or hereafter to be established, for the purpose of laying gas mains pipe lines, conduits and feeders, and the necessary attachments, fixtures, connections and appurtenances for the purpose of conveying or conducting natural gas from any point within the said City or to any point beyond the city limits of said City, or to any other point, through and beyond the city limits of said City, and to operate and maintain a system of pipe lines, pipes, conduits, feeders and the necessary attachments, connections, fixtures and appurtenances for the residents and inhabitants thereof, and others; provided, however, that where alleys are accessible for laying mains and pipes, the City shall have the right to require that the mains and pipes shall be laid in the alleys instead of the streets, so long as this is economically feasible (does not create an economic hardships). (Ord. No. 80-4, Sec. 2.)

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

Grantee shall at all times keep and display the necessary danger signals and proper guards around all excavations and obstructions and shall keep sufficient space in good condition for the travel of vehicles on at least one side of all excavations and obstructions, and shall as soon as practicable restore all openings on the highway, road, street, avenue, alley and other public places to condition equally as good as before said openings or obstructions were made. Anything to the contrary notwithstanding, when in the judgment of Grantee it is necessary for the safety of the citizens, to divert or detour traffic from the area of excavations they have the power to so do upon notice to said City. (Ord. No. 80-4, Sec. 3.)

4.08.04 City shall be held harmless The Grantee shall do no injury to any highway, road, street, avenue, alley, lane bridge, stream or water course, park or public place, except as

specifically allowed, nor with any public or private sewer or drainage system, or water lines, now or hereafter laid or constructed by the said City or by any authorized person or corporation, but no sewer or water pipes, electric conduits, telephone or TV cables shall be so laid as to interfere unnecessarily with any gas main or pipes which shall have been laid prior to the time of laying such electric conduits, telephone and TV cables, sewer or water pipes. The Grantee shall fully indemnify and save harmless the City from any and all claims for damage for which said City shall or might be made or become liable by reason of the granting of this franchise, or any negligence or carelessness on the part of said Grantee, or because of any act or omission to the Grantee in the construction and operation of its system of mains and pipes. (Ord. No. 80-4, Sec. 4.)

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

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

The Grantee shall have the right to make and enforce as a part of the conditions under which it will supply natural gas for heat, power, light, fuel or other purposes as herein provided, all needful rules and regulations not inconsistent with law and the provisions of this franchise. (Ord. No. 80-4, Sec. 5.)

4.08.06 Grantee shall furnish information The Grantee shall furnish promptly to the proper authorities any and all information which may be asked by them in regard to the size, location or depths of any form whatsoever, and any other information in regard to its occupation of roads, highways, street, avenues, or public grounds or said City, which they may demand. Whenever the word Grantee occurs in this ordinance, it shall mean and it shall be understood to be the Arkansas Western Gas Company, its successors, lessees or assigns, and whenever the words "authorities" or "proper authorities" occur in this franchise they shall mean and shall be understood to mean the authorized officer or officers, committee or board representing the City of Decatur, Arkansas, or Grantor. (Ord. No. 80-4, Sec. 6.)

4.08.07 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 percent (4%) of the Grantee's revenues before taxes for residential, 4% for commercial and 4% for industrial revenues as paid to the Grantee by residential, commercial and industrial customers located within the corporate limits of the city of Decatur. Payments shall be made by the Grantee to the Grantor in quarterly installments and Grantee shall have thirty (30) days after the end of each calendar quarter within

which to make such payment. Residential, commercial and industrial gas revenues are those revenues so classified pursuant to Grantee's uniform classification standards. Grantor shall have the right to examine and verify, from the records of the Grantee, and 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 Decatur upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Grantee, for final determination, and the decision of said Commission shall be binding upon both parties hereto.

It is expressly agreed and understood by the Grantor and Grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, improvement districts, special millage taxes, and the general ad valorem taxes) which are now or might in the future be imposed by the Grantor under authority conferred upon the Grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee set forth in Section 7 hereof, to pay the franchise taxes annually shall immediately terminate. (Ord. No. 80-4, Sec. 7.)

4.08.08 Amendments This franchise shall take effect and continue to remain in force perpetually as provided in Section 44 of Acts of 1935, No. 324, Acts of the State of Arkansas, as same may be amended from time to time, and upon the written acceptance by the Grantee of the terms and conditions of this franchise. (Ord. No. 80-4, Sec. 8.)

## **CHAPTER 4.12**

### **TELEPHONE FRANCHISE**

#### **Sections:**

- |         |   |
|---------|---|
| 4.12.01 | Authority granted for operation of telephone system |
| 4.12.02 | Temporary moving of lines                           |
| 4.12.03 | Permission to trim trees                            |
| 4.12.04 | Franchise tax                                       |
| 4.12.05 | No telephone service for city permitted             |
| 4.12.06 | Arkansas Public Service Commission shall regulate   |
| 4.12.07 | Other agreements repealed                           |
| 4.12.08 | Sixty days for written approval                     |

4.12.01 Authority granted for operation of telephone system There is hereby granted to the Decatur Telephone Company, a corporation organized under the laws of the state of Arkansas, its successors and assigns, for a period of ten (10) years from the enactment of this

ordinance as hereinafter provided, the right and authority to establish, construct, operate, maintain, and continue to operate, construct, and maintain a telephone exchange system in the city of Decatur, Arkansas, and to construct, maintain, and repair conduits, wire and cable and to make house and building connections upon, along, in and under the streets, alleys, and public places of said City, and to repair, replace, enlarge and extend the same, and to carry on the business of telephoning and selling telephones in said City subject to the ordinances, rules and regulations of said City and subject to the conditions and provisions of this Ordinance. Said telephone company shall continue to exercise its right to place, remove, construct and reconstruct, extend, and maintain its said plant and appurtenances as the business and purpose for which it is incorporated may from time to time require. (Ord. No. 82-3, Sec. 1.)

4.14.02 Temporary moving of lines The telephone company on the request of any person shall remove or raise or lower its wire temporarily to permit the moving of a house 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 48 hours advance notice to arrange for such temporary wire changes. In the construction, maintenance, repair and operation of its telephone system and in the use of the streets, avenues, alleys, public grounds and places, the said telephone company shall at all times be subject to and comply with all ordinances, rules and regulations of said City now or hereafter in force covering the use of streets, avenues, alleys, public grounds and public places by telephone companies and regulating the construction, maintenance, and operation of such plant within said City. (Ord. No. 82-3, Sec. 2.)

4.12.03 Permission to trim trees Permission is hereby granted to the Decatur Telephone Company to trim trees upon and overhanging streets, avenues, 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. Any and all debris created by such activity shall be gathered and disposed of in a responsible and appropriate manner. (Ord. No. 82-3, Sec. 3.)

4.12.04 Franchise tax The rights and privileges granted by this ordinance are upon the condition that the said Decatur Telephone Company, its successors, and assigns shall pay as compensation and as a consideration for the use of the streets, avenues, alleys, public grounds and public places of said City, the full sum of four (4%) of its gross local service revenues from telephone service in the city of Decatur quarterly into the Treasury of said City for the use and benefit of said City; said payment to be made on or before the last day of the first month of each calendar quarter from and after the granting of this ordinance. Said quarterly payments shall be in lieu of all other licenses, charges, fees, or impositions (other than the usual general or special ad valorem taxes), which might be imposed by the City under authority conferred by law. It is expressly provided and agreed that the failure of the Decatur Telephone Company or its successors or assigns to pay said compensation as aforesaid at said time or to otherwise comply with the provisions herein, shall operate as a forfeiture of the rights and privileges herein granted. (Ord. No. 82-3, Sec. 4.)

4.12.05 No telephone service for city permitted Nothing in this Ordinance contained shall be construed to require or permit any type of telephone service or telephone equipment by the City or for the City. If telephone service or equipment is desired by the City or for the City, then a separate non-contingent agreement shall be a prerequisite to such service. (Ord. No. 82-3, Sec. 5.)

4.12.06 Arkansas Public Service Commission shall regulate The franchise herein granted to the said telephone company and all rights and obligations of said telephone company hereunder shall be subject to and contingent upon the valid orders, rules, and regulations of the Arkansas Public Service Commission concerning telephone companies. All rates and charges for basic telephone service shall be governed by the rate schedules, rules and regulations of the telephone company which are now or may hereafter from time to time be filed with and approved by the said Arkansas Public Service Commissions No increase in basic rates and charges for telephone service shall become effective until after notice shall have been given to the City Council of the city of Decatur for the time and In the manner required by the laws of the State of Arkansas and the rules of the Arkansas Public Service Commission. (Ord. No. 82-3, Sec. 6.)

4.12.07 Other amendments repealed All other ordinances and agreements and parts of ordinances and agreements relating to the operating or right to operate a telephone system within said city are hereby repealed. (Ord. No. 82-3, Sec. 7.)

4.12.08 Sixty days for written approval The said telephone company shall have sixty (60) days from and after the passage and approval of this ordinance to file its written acceptance of this ordinance with the City Recorder and upon such acceptance's being filed this ordinance shall be considered as taking effect and being in force from and after the first day of January, 1983. (Ord. No. 82-3, Sec. 8.)

## **CHAPTER 4.16**

### **CABLE TELEVISION FRANCHISE**

#### **Sections:**

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|---------|---|
| 4.16.01 | Cable franchise is granted to William Backer  |
| 4.16.02 | Franchise tax                                 |
| 4.16.03 | City is not responsible for television system |
| 4.16.04 | Poles and wires shall be maintained           |
| 4.16.05 | Franchise tax                                 |
| 4.16.06 | Complaint procedures                          |
| 4.16.07 | Modifications                                 |
| 4.16.08 | Due process of franchise                      |
| 4.16.09 | Conflict of ordinances                        |
| 4.16.10 | Construction                                  |
| 4.16.11 | Enlarging the service                         |

4.16.01 Cable franchise is granted to William Backer William Backer, his successors, lessees and assigns are hereby granted the exclusive right and/or franchise to furnish direct wire reception of television programs to the citizens and residents of the city of Decatur, Benton County, Arkansas, by the means of the establishment of a master antenna, utilizing a master control unit and amplifier and relaying the television reception sets for a period of fifteen (15) years from the effective date of this Ordinance, said right shall continue upon the expiration of the fifteen (15) year period for periods of five (5) years unless written notice is presented by William Backer to the City or by the City to William Backer thirty (30) days prior to the expiration of the period concerned that either party does not wish the franchise to continue. This exclusive right and/or franchise is to include the right to erect and maintain such poles, wires, fixtures, etc. along the streets, avenues, alleys road and highways and other places of the City as may be necessary and convenient for its business as a televisions signal furnisher in supplying the citizens in said City and the public in general and to use and occupy for its televisions cables the streets, alleys, avenues, highways, roads, and other public places within said municipality for the purpose of erecting, constructing, laying, owning, leasing or otherwise, repairing, maintaining and operating such system, all such right and use to be and to continue on the conditions and terms stated herein, and providing further, that existing or hereafter erected utility poles may be used with the permission of the owners thereof, and providing further, that the franchise holder shall run its cables underground wherever telephone, telegraph and/or light wires have been run underground. (Ord. No. 79-6, Sec. 1.)

4.16.02 Franchise tax In consideration of the terms of this franchise, William Backer, his successors, lessees and assigns agree to pay the city of Decatur, Benton County, Arkansas, a sum of money equal to one-half of one percent ( $\frac{1}{2}$  %) of franchisee's gross subscriber revenues per year for the first five (5) years of this franchise and one percent (1%) of franchisee's gross subscriber revenues per year for the second five (5) years of the franchise derived from installation of equipment and regular subscriber services in the franchise area, and three percent (3%) of franchisee's gross subscriber revenue per year for the third five (5) years of the franchise derived from installation of equipment in regular subscriber services in the franchise area. The terms "gross subscriber revenue" as used herein shall include regular installation fees and monthly income from regular subscriber services but shall not include revenue derived from advertising, leased channels, or special "pay TV" channels. (Ord. No. 79-6, Sec. 2.)

4.16.03 City if not responsible for television system The city of Decatur, Arkansas, assumes no responsibility for securing any franchises, rights of way, permits or easements for the making and maintaining of such attachments over, across or along streets, alleys roads or privately or publicly owned property or permission to make such attachments to the poles of others, but William Backer assumes the duty and responsibility of securing the same. The permission granted herein is likewise subject to all laws, ordinances and regulations now in force or which may hereafter be enacted or promulgated by any government body or agency having jurisdiction. The city of Decatur, Arkansas, shall in no way be responsible for the construction, operation or performance of William Backer's television system or any part thereof. (Ord. No. 78-2, Sec. 3.)

4.16.04 Poles and wires shall be maintained Said poles and wires shall be placed and maintained so as not to interfere with travel or use of the streets, avenues, alleys, roads, highways or other public places of the city of Decatur, Arkansas, and the said William Backer, his successors, lessees and assigns, shall hold said city free and harmless from damages arising from any abuse or negligence of said company; that said poles and wires shall be placed so as not to interfere with the flow of water in any sewer, drain or gutter or with any gas or water pipelines, and this grant is made and is to be enjoyed subject to all such reasonable regulations and ordinances of a police nature as said City may authorize or may see proper from time to time to adopt, not destructive of the rights herein granted. (Ord. No. 78-2, Sec. 4.)

4.16.05 Franchise tax That William Backer, his successors, lessees and assigns be, and they are hereby, granted the authority, right and privilege to set, control and regulate the fees for such services to the individual consumer and user during the period provided for in Section One of this ordinance or any extensions or renewals thereof, subject to the approval of the City Council and any other state and/or federal regulatory agents controlling the same. Said fees are to be just and reasonable and not to exceed \$100 for the initial installation to each individual consumer and user and not to exceed the sum of \$6.25 per month for one connection and not to exceed the sum of \$1.00 for each extra connection to the same user. After the initial installation, as new stations become available, additional rates may be set by the franchise holder which shall be just and reasonable if necessary to take care of additional expense to the franchise holder, but all of which rates or increases thereof shall be subject to approval by the city of Decatur, Arkansas, City Council, or any or all other regulatory bodies, either state or federal, possessing supervisory powers over the franchise holder. Provided, however, increases in the charges specifically designated above shall not be levied upon subscribers until authorized by the City Council of Decatur, Arkansas, after an appropriate public proceeding affording due process and notice. (Ord. No. 78-2, Sec. 5.)

4.16.06 Complaint procedures William Backer, his successors, lessees and assigns shall be required to make every reasonable effort to investigate all complaints regarding the above enumerated matters, and if such complaints remain unanswered or unsatisfied after a period of thirty (30) days from first receipt thereof by William Backer, his successors, lessees and assigns, he shall be required to forward a copy of such complaint to the City Clerk of the city of Decatur, Arkansas, for such action as the City Council of Decatur, Arkansas, shall deem appropriate. The City Clerk of the city of Decatur, Arkansas, is hereby designated as the official with primary responsibility for continuing administration of the franchise and implementation of the complaint procedures. Further, William Backer, his successors, lessees and assigns are hereby required to provide each subscriber with notice of said complaint procedures at the time of initial subscription to the cable system. (Ord. No. 78-2, Sec. 7.)

4.16.07 Modifications Any modification of the provisions of the franchise, compelled by a new and/or amended rule of the Federal Communications Commission, shall be incorporated into said franchise within one year of the adoption of that rule, or, at the time of franchise renewal, whichever comes first. (Ord. No. 78-2, Sec. 8.)

4.16.08 Due process of franchise In awarding the franchise to William Backer, the City Council of Decatur, Arkansas, did consider the legal, character, financial, technical and other qualifications of the said William Backer, and the adequacy and feasibility of his construction arrangements have been approved as part of a full public proceeding affording due process. (Ord. No. 78-2, Sec. 9.)

4.16.09 Conflict of ordinances That all ordinances and parts of ordinances in conflict herewith are hereby repealed, and this action being necessary for the preservation of public health, peace and prosperity, safety, order, comfort and convenience of the city of Decatur, Arkansas, and the inhabitants thereof, an emergency is hereby declared to exist, and Ordinance shall take effect and be in force from and after its passage and approval. (Ord. No. 78-2, Sec. 10.)

4.16.10 Construction Franchisee shall begin construction of the cable system hereunder within eighteen (18) months of the passage of this ordinance or this ordinance will become null and void and have no effect. (Ord. No. 78-2, Sec. 11.)

4.16.11 Enlarging the service That provided that William Backer shall enlarge his service to provide Channel 17 from Atlanta, Georgia, and the Trinity Broadcasting System to his subscribers the City Council shall approve an increase of \$.50 per customer to the rates charged subscribers of the system. (Ord. No. 79-5, Sec. 1.)

## **CHAPTER 4.20**

### **PUBLIC LIBRARY**

#### **Sections:**

4.20.01	Library established
4.20.02	Board of Trustees
4.20.03	Terms
4.20.04	Initial terms
4.20.05	Subsequent terms
4.20.06	Vacancies
4.20.07	Elections
4.20.08	Meetings

4.20.01 Library established The city of Decatur hereby establishes the Decatur Municipal Library, and designates such library as a Department of the city. (Ord. No. 93-08, Sec. 1.)

4.20.02 Board of Trustees The city of Decatur hereby establishes a Board of Trustees for the library. (Ord. No. 93-08, Sec. 2.)

4.20.03 Terms The initial terms of the Trustees shall be as follows:

Position A. - Term - 2 years  
 Position B. - Term - 2 years  
 Position C. - Term - 4 years  
 Position D. - Term - 4 years  
 Position E. - Term - 6 years  
 Position F. - Term - 6 years  
 (Ord. No. 93-08, Sec. 3.)

4.20.04 Initial terms At the first meeting of the Trustees, they shall cast lots to determine which Trustee fills which position, thereby designating the initial term for each Trustee. (Ord. No. 93-08, Sec. 4.)

4.20.05 Subsequent terms All subsequent Trustee terms shall be for 6 years. (Ord. No. 93-08, Sec. 5.)

4.20.06 Vacancies Vacancies on the Board of Trustees shall be filled by the Mayor with the approval of the City Council. The removal of any trustee permanently from the city of Decatur or his or her absence from four (4) consecutive meetings of the Board without explanation of absence, shall render that office of trustee vacant. (Ord. No. 93-08, Sec. 6 -7.)

4.20.07 Elections Immediately after their appointment, the Trustees shall meet and organize by the election of one of their number as president and by the election of such other officers as they may deem necessary. The Trustees shall make and adopt such bylaws, rules, and regulations for their own guidance as they see fit. (Ord. No. 93-08, Sec. 8.)

4.20.08 Meetings The trustees of the Decatur Library Board, shall meet on the 4th Monday of January, April, July, and October at 7:00 p.m. unless otherwise rescheduled, and as often as necessary to deal with agenda items and other business that is presented to the Board. (Ord. No. 2017-05, Sec. 1.)

## **CHAPTER 4.24**

### **CEMETERY COMMISSION**

Sections:

4.24.01	Cemetery commission created
4.24.02	Terms of commissioners
4.24.03	Duties
4.24.04	Perpetual Care Trust Fund
4.24.05	Maintenance fund

4.24.06	Trustees
4.24.07	Donations
4.24.08	Investment
4.24.09	Proper burial

4.24.01 Cemetery Commission created There is hereby created a Cemetery Commission for the city of Decatur, Arkansas, which shall consist of five (5) members, one of whom shall act as chairman. The members of the Commission shall be appointed by the Mayor subject to the approval of the City Council. (Ord. No. 22A, Sec. 1.)

4.24.02 Terms of commissioners The terms of said commissioners shall be for an indefinite period and they shall remain in office until they either resign or are replaced by the Mayor and City Council.

Said officers appointed by the mayor and approved by the City Council are as follows:

Rick McClain - Chairman  
Wayne Meigs  
Bill Wilmoth  
(Ord. No. 81-12, Sec. 1.)

4.24.03 Duties That it shall be the duty of the cemetery commissioners to operate any and all cemeteries located within the city of Decatur, Arkansas; to establish fees, subject to the approval of the City Council, for the burial of all persons; to make provisions for the upkeep of the city's cemetery and do any and all things necessary for the operation of said cemetery. Provided, however, that the Cemetery Commission shall not obligate the city in any manner for the expenditures of any sums of money without the express authority from the City Council for any and all other services as may be directed by the Mayor and/or City Council. (Ord. No. 22A, Sec. 3.)

4.24.04 Perpetual Care Trust Fund That to insure proper care and maintenance of the Decatur Cemetery, it is necessary to establish a perpetual care trust fund. (Ord. No. 26, Sec. 1.)

4.28.05 Maintenance fund That a permanent maintenance fund called the "Decatur Arkansas Cemetery Perpetual Care Trust Fund" is hereby declared to be a Trust Fund for the purpose of maintaining and preserving the cemetery, including all lots, plots and parts thereof. (Ord. No. 26, Sec. 2.)

4.24.06 Trustees That the Mayor by and with the consent and approval of the City Council shall appoint three Trustees of said Trust, none of whom shall have any financial or pecuniary interests in the cemetery. Said Trustees shall be selected from the membership of the Decatur Cemetery Board. The term of office of said Board with new appointments being made as vacancies in the Trustees occur. (Ord. No. 26, Sec. 3.)

4.24.07 Donations That relatives of persons now resting in the cemetery shall be requested to donate to the trust at least \$100.00 per grave over and above the cost of the gravesite, and the same amount shall be requested from relatives of persons resting in the cemetery in the future. (Ord. No. 81-13, Sec. 1.)

4.24.08 Investment The above-mentioned Trustees or their successors shall invest the principal of the Fund by purchasing a time Certificate of Deposit in the Decatur State Bank, Decatur, Arkansas, or as is otherwise allowed under the laws of the state of Arkansas. The said principal shall remain in perpetuity and the income arising therefrom shall be used solely for the maintenance and preservation of the cemetery grounds. The principal of such fund shall remain inviolate.

4.24.09 Proper burial

- A. All person buried in the Decatur Cemetery shall be buried in a steel or cement compartment.
- B. Any person responsible for the burial of a person in the Decatur Cemetery must comply with this requirement or will be in violation of this ordinance.
- C. Violation of this ordinance shall constitute a misdemeanor, and any person guilty of this misdemeanor shall receive a fine not to exceed One Thousand Dollars (\$100.00). (Ord. No. 02-1, Secs. 1-3.)

**CHAPTER 4.28**

**ICE CREAM TRUCK VENDORS AND DOOR TO DOOR  
SALES/SOLICITATION**

Sections:

- 4.28.01 Door To Door Sales/Solicitation And Ice Cream Truck Vendors
- 4.28.02 Terms of commissioners

4.28.01 Door To Door Sales/Solicitation And Ice Cream Truck Vendors

1. Any individual or business performing ice cream truck or door to door operations must have a city business license, and a state tax ID.
2. Any individual or business performing ice cream truck or door to door operations must provide a copy of a driver 's license, state ID, or passport to the city for each driver or sales person. (Any driver must have a valid driver's license).
3. Any individual or business performing ice cream truck or door to door operations must provide valid addresses and phone numbers for their place of business. (Ord. No. 15-03, Sec. 1.)

4.28.02 Applies To Ice Cream Truck Vendors Only

1. Drivers must carry valid proof of insurance in vehicles at all times
2. Must be 18 years of age, with a Valid Driver' s license
3. Must submit to a background check on all drivers, with a fee of \$5.00 per licensed driver payable the City of Decatur Police Department.

No permits shall be issued if applicant has:

- a. Any felony of any kind for the past five years
  - b. A felony conviction was for sexual offense, ar1 offense involving drugs, or use of a firearm or if it was a violent crime, regardless of when the felony occurred, regardless of when the crime occurred.
4. Must submit a background check to the Arkansas State Police.
  5. Vendors truck equipment must include:
    - a. Slow signal arm to be used when vehicle is stopped for the purpose of vending.
    - b. Convex mirrors
    - c. Signs- "slow children crossing"
    - d. Trash Receptacles
    - e. Copy of Health department permit if items sold are not pre-packaged
  6. Operation of Ice cream trucks.
    - a. No vending before 10:00 am or thirty minutes after sunset.
    - b. No vending on streets where the speed limit exceeds 30mph.
    - c. No vending to person in the roadway , must vend from the right side of the truck.
    - d. No vending within 500 feet of a school when School is in session.
  7. Penalty for violation. Any person violating this Ordinance shall be subject to a fine of \$500.00

In the event of a continuing violation, each and every day the violation continues is considered a separate and punishable offence. Each sales transaction completed in violation of the terms of this ordinance shall be a separate violation. (Ord. No. 15-03, Sec. 1.)