

transmit and distribute natural gas to all inhabitants and consumers within Clarksville, Arkansas; and (2) 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 all purposes to the residents of the said City and from any points beyond said city limits in order to enable the Grantee to distribute and sell natural gas to said city and the residents or inhabitants thereof and to others, and for such purposes to enter on, under and upon and use any and all streets, alleys, roads, avenues, highways, sidewalks, bridges and other public grounds of said city; provided, however, that Grantee shall comply with all ordinances of the city of Clarksville in regard to permits for opening or cutting streets or other public ways and that where alleys are accessible for laying mains and pipes, the same shall be laid in the alleys instead of the streets so long as economically feasible. (Ord. No. 230)

4.08.11 Not an exclusive right Nothing contained in this ordinance shall be construed to grant the Grantee any exclusive right or to preclude or limit the right of the city of Clarksville to grant similar privileges to other companies or for the city itself to establish and develop facilities so as to sell, furnish, transmit and distribute natural gas to inhabitants of the city of Clarksville regardless of whether either of same might lessen the profits of Grantee or destroy the value of its investment in said city. The right and privilege hereby granted shall be subject to the rights of the city of Clarksville to acquire the property, system and facility of Grantee as presently provided by Act 324 of the 1935 Acts of the state of Arkansas should Grantor elect to do so. (Ord. No. 230)

4.08.12 Responsibilities of Grantee Grantee shall, and does by acceptance hereof, agree to provide to the inhabitants of the city of Clarksville, adequate and reasonable natural gas service. (Ord. No. 230.)

4.08.13 Responsibilities of Grantee All facilities of Grantee which may be located on public property as authorized hereinabove shall be located so as to not unreasonably obstruct travel and other public uses. Grantee shall at all times keep and display the necessary danger signals and proper guards around all excavations and obstructions and shall as soon as practicable, restore all openings on highways, roads, streets, avenues, alleys and other public grounds to the same or better condition as before said openings were made, in the manner as may be required by the Superintendent of the streets of Grantor. When it shall be necessary for the safety of the citizens, to divert or detour traffic from the area of excavations, Grantee shall have the power to do so by giving notice to Grantor at the time of application for the permit to make such excavation or at the time such necessity becomes known to Grantee. (Ord. No. 230.)

4.08.14 Responsibilities of Grantee 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 the laying of such electric conduit, 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 the franchise or any negligence or carelessness on the part of said Grantee or because of any act or omission or the Grantee in the construction and operation of its system of mains and pipes. (Ord. No. 230)

4.08.15 Information, definitions The Grantee shall furnish promptly to the proper authorities any and all information which may be asked for by them in regard to the size, location or depths of any of the pipes, mains, conduits or service pipes in any form whatsoever and any other information in regard to its occupation of roads, highways, streets, avenues or public grounds of said city which they may demand. Whenever the word "Grantee" occurs in this ordinance, it shall mean and it shall be understood to be the Arkansas Western Gas Company, its successors, lessees or assigns and whenever the words "authorities" or "proper authorities" occur in this franchise, they shall mean and shall be understood to mean the authorized officer or officers, committee or board representing the city of Clarksville, Arkansas, or Grantor. (Ord. No. 230)

4.08.16 Rates The rates which are to be charged by Grantee for natural gas service to retail customers hereunder shall be those rates which now lawfully approved or prescribed and as may from time to time be amended in accordance with law or by any regulatory authority having jurisdiction thereof. (Ord. No. 230)

4.08.17 Tax Beginning April 1, 1981, and thereafter during the life of this franchise, the Grantee shall pay to the city of Clarksville each quarter, a franchise or privilege tax in and amount equal to four percent (4%) of the preceding quarter's gross residential, commercial and industrial gas revenues as paid to Grantee by all residential, commercial and industrial customers served by Grantee in the city of Clarksville. 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 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 Clarksville, upon which said tax is due, Grantor shall have the option to refer said controversy to the Arkansas Public Service Commission, or other regulatory agency having jurisdiction over the Grantee or to pursue any and all other legal and equitable remedies available to Grantor. (Ord. No. 230)

4.08.09 In lieu of other payments Said tax shall be paid in lieu of all other taxes, licenses, charges, fees or impositions except general licenses of permit fees, special millage taxes, general ad valorem taxes and other general taxes or fees applicable to all citizens, taxpayers and business enterprises. Provided, that nothing herein shall be construed as an abandonment, relinquishment or waiver of the taxing authority of the city of Clarksville under the laws of the state of Arkansas. (Ord. No. 230)

CHAPTER 4.12

TELEPHONE PRIVILEGES

Sections:

- 4.12.01 Authority granted for operation of telephone system
- 4.12.02 Grantee responsibilities
- 4.12.03 Grantee responsibilities
- 4.12.04 Standards for work
- 4.12.05 Maintenance of equipment
- 4.12.06 Not an exclusive right
- 4.12.07 Tax
- 4.12.08 In lieu of other charges
- 4.12.09 Contract

4.12.01 Authority granted for operation of telephone system The city of Clarksville, Arkansas, (hereinafter called Grantor) hereby grants to the continental Telephone Company of Arkansas, its

successors and assigns, (hereinafter called Grantee), the right, privilege and authority to construct, maintain and operate its poles, posts, cables, wires and all other necessary overhead apparatus on, over and along; and its conduits, ducts, mains, pipes, cables, wires, manholes, distributing poles and all other necessary underground appliances on, in, under and through the streets, alleys, avenues, roads, highways and other public grounds belonging to or under the control of Grantor so as to provide, furnish, transmit and sell telephone services to the inhabitants and residents of the city of Clarksville, Arkansas. (Ord. No. 99, Sec. 1.)

4.12.02 Grantee responsibilities Grantee shall at all times, and does by the acceptance hereof, agree to provide to the inhabitants of the city of Clarksville, full, reliable, adequate and reasonable telephone service as a public utility, comparable to or exceeding the normal and usual services provided by other utilities engaged in the providing of telephone services in this area. Should the quality of service provided by Grantee fail at any time to meet or exceed the normal and usual standards for companies engaged in the providing of like telephone services, or fail to meet the standards of service which any other person, entity or company demonstrates that it is willing and ready to meet in the city of Clarksville, the franchise herein granted shall immediately terminate and be of no further force or effect and Grantor shall thereafter be free to grant similar right and franchise, either exclusive or competitive with Grantee, as Grantor shall elect, to any other person, company or entity as Grantor in its sole discretion shall deem to be in the best interest of its citizens. (Ord. No. 99, Sec. 2.)

4.12.03 Grantee responsibilities All poles, posts and other overhead apparatus and all conduits, pipes, cables and other underground structures and appliances shall be so located that they will not interfere with the safety, use or convenience of any other public use of the street, alley or other public area; Grantee shall comply with all ordinances in regard to the obtaining of permits and posting of bonds before cutting, opening or excavating any street, alley or other public way, and in installing and maintaining its system and facilities, shall not cut, open, encumber or obstruct any more of any street, alley, or other public place than shall be necessary to enable Grantee to perform essential and required construction, repairs and maintenance with reasonable economy and efficiency with due consideration for the safety, convenience and economy of Grantor and its inhabitants; nor shall Grantee permit such opening, excavation or encumbrance to remain for any longer period than shall be necessary to do the work for which said opening shall have been made, provided, that Grantee shall have adequate personnel, equipment and supplies available to promptly complete such work and close such opening without interruption or delay. (Ord. No. 99, Sec. 3.)

4.12.04 Standards for work All work done in the city of Clarksville under the provisions of this ordinance shall be subject to the supervision of the Street Superintendent of the city of Clarksville or other representative as may be designated by the

City Council. Grantee shall replace and properly relay any sidewalk, curb and gutter or pavement displaced or damaged by Grantee in the construction, repair or maintenance of its system as may be directed by the Street Superintendent or other representative of Grantor and shall post a bond as provided by ordinance to secure Grantor against loss or expense by reason thereof. (Ord. No. 99, Sec. 4.)

4.12.05 Maintenance of equipment Grantee shall maintain all poles, cables, wires, conduits, ducts, mains, pipes, manholes, distributing poles and all other apparatus erected or constructed under the provisions of this ordinance, in good and safe order and condition; and shall at all times fully indemnify, protect and save, harmless the city of Clarksville from and against all loss and 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. 99, Sec. 5.)

4.12.06 Not an exclusive right Nothing in this ordinance shall be construed to grant unto the said Continental Telephone Company of Arkansas any exclusive right or privilege or to prevent a grant of similar privileges to other companies. (Ord. No. 99, Sec. 6.)

4.12.07 Tax Beginning April 1, 1981, and thereafter during the life of this franchise, the Grantee shall pay to the city of Clarksville each quarter, a franchise or privilege tax in an amount equal to four and one-half percent (4½%) of the preceding quarter's basic local service excluding extension, terminal equipment, toll, yellow pages and other miscellaneous equipment revenues within the city of Clarksville. Grantor shall have the right to examine and verify, from the records of the Grantee, any data relating to the basic revenues of Grantee from customers on which said tax is due. In the event of a controversy between the Grantor and Grantee as to the amount of basic revenues received by Grantee in the city of Clarksville, upon which said tax is due, Grantor shall have the option to refer said controversy to the Arkansas Public Service Commission, or other regulatory agency having jurisdiction over the Grantee or to pursue any and all other legal and equitable remedies available to Grantor. (Ord. No. 101, Sec. 1.)

4.12.08 In lieu of other charges Said tax shall be paid in lieu of all other taxes, licenses, charges, fees or impositions except general licenses of permit fees, special millage taxes, general ad valorem taxes and other general taxes or fees applicable to all citizens, taxpayers and business enterprises. Provided, that nothing herein shall be construed as an abandonment, relinquishment or waiver of the taxing authority of the city of Clarksville under the laws of the state of Arkansas. (Ord. No. 99, Sec. 8.)

4.12.09 Contract Upon written acceptance by Grantee, this ordinance shall constitute a contract between Grantor and the Grantee and its successors and assigns. (Ord. No. 99, Sec. 9.)

CHAPTER 4.16**CABLE TELEVISION**Sections:

4.16.01	Short title
4.16.02	Definitions
4.16.03	Grant of authority
4.16.04	Compliance with applicable laws and ordinances
4.16.05	Territorial area involved
4.16.06	Franchise terms
4.16.07	Franchise non-exclusive
4.16.08	Written notice
4.16.09	Repair of streets and property
4.16.10	Notice of rate increases or service modification
4.16.11	Damages and defenses
4.16.12	Liability insurance
4.16.13	City's right to revoke
4.16.14	Revocation procedures
4.16.15	Removal upon revocation
4.16.16	Force majeure
4.16.17	Maps
4.16.18	Service area
4.16.19	Relocation of system facilities
4.16.20	Service and public facilities
4.16.21	Franchise payment to city
4.16.22	Unauthorized connections or modifications
4.16.23	Severability
4.16.24	Passage and effective date
4.16.25	Modifications
4.16.26	Fee payments
4.16.27	Service standards

4.16.01 Short title This ordinance shall be known and cited as The City of Clarksville Cable Television Franchise Ordinance. Within this document it shall also be referred to as "this Franchise" or "The Franchise Agreement." (Ord. No. 310, Sec. I.)

4.16.02 Definitions For the purpose of this Franchise Agreement, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in 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. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

City means the city of Clarksville, a city in Johnson County, state of Arkansas. The City Council is the authority of the city.

Force majeure means a strike, acts of God, acts of public enemies, orders of any kind of a government of the United States of America or of the state of Arkansas or any of their departments, agencies, political subdivision, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, tornadoes, volcanic activities, storms, floods, washouts, droughts, civil confluent, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a system.

System means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable television service which includes video programming and which is provided to multiple subscribers within the city. (Ord. No. 310, Sec. II.)

Gross receipts means all service fees, installation charges and all other fees or charges collected by the Grantee from the subscribers of the system. Gross receipts shall include but not be limited to the following services:

- A. Basic service
- B. Standard service
- C. Pay television service
- D. Pay per view service
- E. Subscriber equipment charges

Gross receipts shall not include:

- A. Uncollected revenue (bad debt)
- B. Excise taxes
- C. Sales taxes or any other taxes or fees, including franchise fees, which are imposed on the Grantee or any subscriber by any governmental unit and collected by the Grantee for such governmental unit.

Person means any corporation, partnership, proprietorship or organization authorized to do business in the state of Arkansas or any natural person.

Public property means any real property other than a street owned b any governmental unit.

Street means the surface of and the space above and below any street, road, highway, freeway, lane, path, way, alley, court, sidewalk, boulevard, parkway, drive or any public easement or right-of-way now or hereafter held by the city of Clarksville, Arkansas, which shall entitle Grantee to the use thereof for the purpose of installing or transmitting over poles, wires, cables, conductors, ducts, confluent, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a system.

System means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable television service which includes video programming and which is provided to multiple subscribers within the city.

4.16.13 Grant of authority

- A. For the purposes of constructing, operating and maintaining a system in the city, Grantee may erect, install, construct, repair, replace, relocate reconstruct and retain in, on, over, under, upon, across and along the streets within the city such lines, cables, conductors, ducts, confluent, vaults, manholes, amplifiers, appliances, pedestals, attachments and other operating equipment as are necessary and pertinent to the operation of the system.
- B. Such system shall be located and maintained so as not to endanger or interfere with the lives or property of persons or the public or as to interfere with any improvements the city has made or may deem proper to make or to hinder unnecessarily or obstruct the free use of streets, alleys, bridges and other public property.
- C. Construction and maintenance of the 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 Clarksville affecting electrical installations which may presently be in effect or may be enacted by the city of Clarksville.
- D. Installation and house-drop hardware shall be uniform throughout the city except the Grantee shall be free to change its hardware and installation procedures as improvements therein are developed and except where changes are permitted or required by regulations and ordinances of the city of Clarksville presently in effect or which may be enacted hereafter.
- E. Nothing in this agreement shall amend, alter or replace the agreement made effective January 1, 1973, between Clarksville Light & Water Company and Warner Cable of Clarksville, predecessor of Time Warner Entertainment company, L.P. (Ord. No. 310, Sec. III.)

4.16.04 Compliance with applicable laws and ordinances This franchise is granted pursuant to the terms and conditions contained herein. Grantee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. Grantee shall comply with all applicable general laws and ordinances enacted by the City pursuant to the power. (Ord. No. 310, Sec. IV.)

4.16.05 Territorial area involved This franchise is granted for the territorial boundary of the city. In the event of annexation by the city, any new territory shall become part of the area covered. (Ord. No. 310, Sec. V.)

4.16.06 Franchise terms

- A. This franchise shall commence upon the effective date of this ordinance and shall expire ten (10) years thereafter unless renewed, revoked or terminated sooner as herein provided, or extended according to (B) below.
- B. In lieu of renewal, this franchise may be extended by the City for an additional term of ten (10) years upon written request by Grantee within six (6) months of the expiration of the franchise. Grantee shall confirm its request that it still possesses the fiscal and technical capability to operate a system in the City pursuant to the terms and conditions herein. Approval of Grantee's extension request shall not be unreasonably withheld by the City.
- C. This franchise shall be renewed in accordance with applicable state and federal law. (Ord. No. 310, Sec. VI.)

4.16.07 Franchise non-exclusive The franchise granted herein is non-exclusive. The City specifically reserves the right to grant, at any time, one or more additional franchises for a system throughout the City in accordance with state and federal law and under substantially the same terms and conditions as contained herein. (Ord. No. 310, Sec. VII.)

4.16.08 Written notice All notices or demands required to be given under this franchise agreement shall be deemed to be given when delivered personally to the persons designated below or upon the date actually received as evidenced by registered or certified mail receipt addressed as follows:

If to the city: City of Clarksville, P.O. Box 409, Clarksville AR 72830

If to the Grantee: Time Warner Cable Communications, P.O. Box 6929, Englewood, CO 80155-6929

Attn: Director of Government Affairs and Warner Cable Communications
1101 North El Paso, P.O. Box 864, Russellville AR 72801

Attn: System General Manager (3)

Such addresses may be changed by either party upon notice to the other party given as provided in this section. (Ord. No. 310, Sec. VIII.)

4.16.09 Repair of streets and property

- A. Wherever 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 or repaired and the surface restored in compliance with City's specifications 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 begin such restoration within such time, if the restoration cannot be made within such time or upon the Grantee's delay of more than twenty-four (24) hours in the continuation of a restoration 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 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 Grantee upon demand by the City.
- B. 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 of replacement of pavements and to excavations in streets and other public places not inconsistent with their use for the purposes contemplated by this ordinance. During the course of any work or repairs conducted by Grantee. Grantee shall at all times erect adequate barriers, fences, boardings, signals and other safety devices for the protection of the public. (Ord. No. 310, Sec. IX.)

4.16.10 Notice of rate increases or service modification Prior to implementing any rate increase or service modification, Grantee shall give the following notice:

- A. At least twenty (10) days' advance written notice to the City; and
 B. At least twenty (20) days' advance notice to subscribers.
 (Ord. No. 310, Sec. X.)

4.16.11 Damages and defenses

- A. Grantee shall at all times indemnify and hold the City harmless from all claims, actions, suits, liability, loss, expenses or damages of every kind and description, including reasonable attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence and alleged contractual dispute of the Grantee in the ownership, construction, repair, replacement, operation and maintenance of the system and by reason of license, copyright, property right or patent of any article or system used in the construction or operation of said system, provided the City gives the Grantee prompt notice of any such claims, actions and suits, without limitation, in writing as provided herein.

- B. In order for the City to assert its rights to be indemnified and held harmless, the City must:
1. Promptly notify Grantee of any claim or legal proceeding which gives rise to such right;
 2. Afford Grantee the opportunity to participate in and fully control any compromise, settlement, resolution or disposition of such claim or proceeding; and
 3. Fully cooperate in the defense of such claim and make available to Grantee all such information under its control relating thereto. (Ord. No. 310, Sec. XI.)

4.16.12 Liability insurance

- A. Grantee shall maintain, throughout the term of this franchise agreement, liability insurance insuring the city and the Grantee with regard to all damages mentioned in Section XII above in the following minimum amounts:
1. Two Million Dollars (\$2,000,000.00) for all other types of liability.
 2. Two Million Dollars (\$2,000,000.00) for all other types of liability.
- B. Upon request of the City, Grantee shall furnish to the city satisfactory evidence that an insurance policy has been obtained and is in full force and effect. (Ord. No. 310, Sec. XII.)

4.16.13 City's right to revoke In addition to all other rights which the City has pursuant to law or equity, the City reserves the right to revoke, terminate or cancel this franchise and all rights and privileges pertaining thereto in the event that:

- A. Grantee violates any material provision of this franchise agreement; or
- B. Grantee practices any fraud upon the City or any subscriber; or
- C. Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt. (Ord. No. 310, Sec. XIII.)

4.16.14 Revocation procedures

- A. The City shall notify the Grantee of its intention to revoke, terminate or cancel this franchise. The written notice shall describe in reasonable detail the specific violation so as to afford Grantee an opportunity to remedy the violation.

- B. Grantee shall have ninety (90) days subsequent to receipt of the notice in which to correct the violation before the City may formally revoke, terminate or cancel this franchise. Grantee may, within thirty (30) days of receipt of the notice, notify the City that there is a dispute as to whether a violation has, in fact, occurred. Such notice by Grantee to the City shall stay the ninety (90) day period described above.
- C. The City shall hear Grantee's dispute and shall determine whether a default or violation by Grantee has occurred. In the event the City shall determine that a default or violation has occurred the City shall supplement the decision with written findings of fact.
- D. If after hearing the dispute Grantee has been found to be in default, Grantee shall then have ninety (90) days from such a determination to remedy the violation or failure. At any time after that ninety (90) day period the City may, by formal action at a public hearing affording reasonable notice and opportunity for Grantee to be heard, revoke, terminate or cancel this franchise. (Ord. No. 310, Sec. XIV.)

4.16.15 Removal upon revocation Upon the revocation of this franchise as herein provided, Grantee shall remove all of its above-ground attachments and wires from poles used as authorized herein. (Ord. No. 310, Sec. XV.)

4.16.16 Force majeure If by reason of a force majeure any party is unable in whole or in part to carry out its obligations hereunder, that party shall not be deemed to be in violation of default during the continuance of such inability. (Ord. No. 310, Sec. XVI.)

4.16.17 Maps Upon the request of the City, Grantee shall maintain on file with the city a true and accurate map or set of maps showing all system equipment installed and in place in streets and other public places. (Ord. No. 310, Sec. XVII.)

4.16.18 Service area

- A. Residents in those areas with an average density of at least twenty-five (25) homes per aerial mile or twenty-five (25) homes per underground mile, as measured from the nearest point of usable trunk, shall be provided service upon payment of the standard installation charge and applicable monthly fees; except that installations requiring underground drops or aerial drops in excess of one hundred and fifty (150) feet shall be considered a non-standard installation to be charged at Grantee's actual cost of installation.
- B. Service to home not meeting those density requirements above shall be provided on a time plus material basis. (Ord. No. 310, Sec. XVIII.)

4.16.19 Relocation of system facilities

- A. For public works Whenever because of public necessity or the welfare of the public generally, the City shall elect to change or alter the grade of any street, alley, or public way, or to sell or vacate any street, alley, easement or public way, or to construct or re-construct facilities and other public improvements, Grantee shall, after forty-five (45) days' prior written request from the City, remove, relay and relocate its poles, wires, cables, conduits, and other fixtures at its own expense.
- B. Temporary relocation Grantee shall, upon the request of the city of Clarksville, Arkansas, or any person holding a building, moving or demolition permit issued by the City, temporarily raise, lower, relay, relocate or remove its wires, cables, and other facilities, to accommodate the moving or demolition of the building, as the Grantee shall determine. The expense of such temporary relocation of Grantee's facilities shall be paid by the person requesting the same, except in the case where the City is moving or demolishing a building without issuing of a permit, and Grantee shall have the authority to establish the reasonable cost of such changes and require such payment in advance. Grantee shall be given no less than fifteen (15) days' advance written notice to arrange for such temporary changes. (Ord. No. 310, Sec. XIX.)

4.16.20 Service to public facilities

- A. Upon the request of the City, any law enforcement agency of the City or any public elementary or secondary school facility, Grantee shall provide one (1) cable extension to the exterior of any building housing the requesting party, free of charge for installation and monthly basic service, provided the building is readily serviceable and located within one hundred fifty (150) feet of Grantee's distribution system.
- B. The cost of installing service to the interior of said buildings shall be free for one (1) outlet. The cost of any extra interior wiring of additional outlets, shall be determined by Grantee according to the amount of labor and materials required to install the number of service outlets requested. The requesting party shall reimburse Grantee for the reasonable cost of labor and materials to wire such interior extensions. (Ord. No. 310, Sec. XX.)

4.16.21 Franchise payment to city

- A. In consideration of the rights herein granted, and as compensation to the city of Clarksville for use of its streets, alleys, easements and other public places, and in lieu of any occupational or license tax, or any other utility tax, the Grantee shall pay to the City an amount equal to three percent (3%) of Grantee's gross annual receipts. Payments shall be made quarter-annually, and shall be due and payable not later than thirty (30) days after the last day of each calendar quarter.

- B. Should federal law permit the payment of franchise fees according to a higher percentage of gross annual receipts, the City may decide to increase the percentage of franchise fee payment, not to exceed the maximum allowed by federal law, at the end of each calendar year. Grantee shall begin paying the new franchise fee percentage upon ninety (90) days' advance written notice from the City.
- C. For the purpose of verifying the accuracy of the amount of said fees, the duly authorized agent of the City shall have the right to examine Grantee's receipt records at Grantee's place of business upon reasonable notice. The records of Grantee shall be closed to the City three (3) years after the anniversary date thereof, and after an examination of such records has been made by the City. (Ord. No. 310, Sec. XXI.)

4.16.22 Unauthorized connections or modifications

- A. It shall be unlawful for any person, without the expressed consent of the Grantee to make any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise with or to any segment of the system for any purpose whatsoever.
- B. It shall be unlawful for any person, to willfully interfere, tamper, remove, obstruct or damage any part, segment or content of the system for any purpose whatsoever.
- C. It shall be unlawful for any person to construct, operate or maintain a system without having first applied for and received a franchise from the City. (Ord. No. 310, Sec. XXII.)

4.16.23 Severability If any term, condition or section of this franchise agreement or the application thereof to by person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or section to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this franchise and all the terms, conditions and sections hereof shall, in all other respects, continue to be effective and to be complied with. Nothing contained in this franchise agreement shall require Grantee to violate or waive its First Amendment rights or any statute, regulation, rule or decision of any federal, state or local governmental entity, agency or court having jurisdiction. (Ord. No. 310, Sec. XXIII.)

4.16.24 Passage and effective date This franchise agreement, having been published as required, shall take effect and be in force from and after thirty (30) days following its final passage and approval. (Ord. No. 310, Sec. XXIV.)

4.16.25 Modifications The terms and conditions contained in the franchise agreement shall not be deemed to be modified by course of conduct of any party. All modifications to the terms and conditions of this agreement shall be in writing. (Ord. No. 310, Sec. XV.)

4.16.26 Fee payments Payment of Grantee's franchise fee under this agreement shall not be deemed to excuse Grantee from payment of any business or occupation tax which may in the future be imposed by the City or an ad valorem taxes assessed with respect to the real or personal property of the Grantee by the City. (Ord. No. 310, Sec. XVI.)

4.16.27 Service standards

- A. That Grantee shall meet the Federal Communications Commission (FCC) Customer Service Standards as promulgated by 1992 Cable Act.
- B. Grantee agrees to maintain a local payment center and service technician for the duration of this agreement. (Ord. No. 310, Sec. XVII.)

CHAPTER 4.20

TAX ON PRIVATE CLUBS

Sections:

4.20.01 City tax levied

4.20.01 City tax levied All private clubs within the city of Clarksville, Arkansas, serving alcoholic beverages shall pay to the city a supplemental tax equal to one-half (1/2) of the amount paid to the state. Proceeds from this tax shall be deposited into the city's General Fund.

CHAPTER 4.22

NET METERING

Sections:

- 4.22.01 Definitions
- 4.22.02 General provisions
- 4.22.03 Net metering requirements
- 4.22.04 Interconnection of net metering facilities to existing electric power systems
- 4.22.05 Interconnection agreement terms and conditions

4.22.01 Definitions

Billing period The billing period for net metering will be the same as the billing period under the customer's applicable standard rate schedule.

Biomass facility A facility that may use one or more organic fuel sources that can either be processed into synthetic fuels or burned directly to produce steam or electricity, provided that the resources are renewable, environmentally sustainable in their production and use, and the process of conversion to electricity results in a net environmental benefit. This includes, but is not limited to, dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, wood wastes and residues, aquatic plants, animal wastes, and other accepted organic, renewable waste materials.

Commercial customer A customer served under utility's standard rate schedule applicable to commercial service.

Commission The Arkansas Public Service Commission.

Electric utility Clarksville Light & Water engaged in the business of supplying electric energy to the ultimate customer. Utility is an interchangeable term.

Fuel cell facility A facility that converts the chemical energy of a fuel directly to direct current electricity without intermediate combustion or thermal cycles.

Geothermal facility An electric generating facility in which the prime mover is a steam turbine. The steam is generated in the earth by heat from the earth's magma.

Hydroelectric facility An electric generating facility in which the prime mover is a water wheel. The waterwheel is driven by falling water.

Micro turbine facility A facility that uses a small combustion turbine to produce electricity.

Net metering Measuring the difference between electricity supplied by an electric utility and the electricity generated by a net metering customer and fed back to the electric utility over the applicable billing period.

Net metering facility A facility for the production of electrical energy that:

- A. Uses solar, wind, hydroelectric, geothermal or biomass resources to generate electricity including, but not limited to, fuel cells and micro turbines that generate electricity if the fuel source is entirely derived from renewable resources; and,
- B. Has a generating capacity of not more than twenty-five (25) kilowatts for residential or three hundred (300) kilowatts for non-residential use; and,
- C. Is located in Clarksville; and,
- D. Can operate in parallel with an electric utility's existing transmission and distribution facilities; and,
- E. Is intended primarily to offset part or all of the net-metering customer requirements for electricity; or,
- F. Is designated as eligible for net metering service pursuant to A.C.A. 23-18-604(B)(3).

Net excess generation The amount of electricity that a net metering customer has fed back to the electric utility that exceeds the amount of electricity used by that customer during the billing process.

Parallel operation The operation of on-site generation by a customer while the customer is connected to the utility's distribution system.

Residential customer A customer served under the utility's standard rate schedules applicable to residential service.

Solar facility A facility in which electricity is generated through the collection, transfer and or storage of the sun's heat or light.

Wind facility A facility in which an electric generator is powered by a wind-driven turbine. (Ord. No. 2015-740, Sec. 1.)

4.22.02 General provisions The following policy provisions are hereby adopted in order to establish rules and procedures allowing net energy metering and interconnections to the Clarksville Light & Water electric utility. (Ord. No. 2015-740, Sec. 2.)

4.22.03 Net metering requirements

- A. Electric utility requirements The Clarksville Electric Utility which offers residential, commercial electrical service or industrial service shall allow net metering facilities to be interconnected using an approved meter capable of registering the flow of electricity in two (2) directions.
- B. Metering requirements
1. Metering equipment shall be installed to both accurately measure the electricity supplied by the electric Utility to each net-metering customer and also to accurately measure the electricity generated by each net-metering Customer that is fed back to the electric Utility over the applicable billing period. Non-residential meters must be capable of measurement of demand.
 2. Accuracy requirements for both forward and reverse registration modes shall be as defined in the Arkansas Public Service Commission's special rules – electric. A test to determine compliance with this accuracy requirement shall be made by the Utility either before or at the time the net metering facility is placed in operation in accordance with these rules.
 3. Customer will pay the difference between a standard meter used by Clarksville Light & Water for the class of Customer and the required meter outlined above.
- C. Billing for net metering
1. On a monthly basis, the net metering Customer shall be billed the charges applicable under the currently effective standard rate schedule and any appropriate rider schedules. Under net metering, only the kilowatt-hour (kWh) units of a Customer's bill are affected.
 2. If the kWh's supplied by the electric Utility exceeds the kWh's generated by the net metering facility and fed back to the electric Utility during the billing period, the net metering Customer shall be billed for the net kWh's supplied by the electric Utility in accordance with the rates and charges under the Customer's standard rate schedule.

3. If the kWh's generated by the metering facility and fed back to the electric Utility exceeds the kWh's supplied by the electric Utility to the net metering Customer during the applicable billing period, the Customer shall not receive any compensation from the Utility for such net metering excess delivered kWh's during the billing period, but shall be credited with any excess net accumulation in the next billing period. Any net excess credit remaining at the end of the calendar year will be credited back at the electric utilities average cost per kWh of purchased power the previous fiscal year (fiscal year October 1 to September 30). Any amount in excess of that shall expire at the end of the calendar year. (Ord. No. 205-740, Sec. 3.)

4.22.04 Interconnection of net metering facilities to existing electric power systems

A. Requirements for initial interconnection of a net metering facility

1. A net metering customer shall execute a Standard Interconnection Agreement for Net Metering Facilities (Appendix A) prior to interconnection with the Utility's facilities.
2. A net metering facility shall be capable of operating in parallel and safely commencing the delivery of power into the Utility system at a single point of interconnection. To prevent a net metering Customer from back-feeding a de-energized line, a net metering facility shall have a visibly open, lockable, manual disconnect switch which is accessible by the electric utility and clearly labeled.
3. The Customer shall submit a Standard Interconnection Agreement to the electric Utility at least thirty (30) days prior to the date the Customer intends to interconnect the net metering facilities to the Utility's facilities. The Standard Information, Sections 1 through 4 of the Standard Interconnection Agreement must be completed for the notification to be valid. The Customer shall have all equipment necessary to complete the interconnection prior to such notification. If mailed, the date of notification shall be the third day following the mailing of the Standard Interconnection Agreement. The electric Utility will provide a copy of the Standard Interconnection Agreement to the customer upon request.
4. Following notification by the customer as specified in (3), the utility shall review the plans of the facility and provide the results of its review to the customer within thirty (30) days. Any items that would prevent parallel operation due to violation of safety standards and/or power generation

limits shall be explained along with a description of the modifications necessary to remedy the violations.

5. The net metering facility, at the net metering customer's expense, shall meet safety and performance standards established by local and national Electrical Codes including the National Electrical Code (NEC), the Institute of Electrical and Electronics Engineers (IEEE), the National Electrical Safety Code (NESC), and Underwriters Laboratories (UL), and shall be inspected annually by the customer or his/her professional installer.
 6. The net metering facility at the net metering customer's expense shall meet all permitting, safety and performance standards adopted by the utility and pursuant to these rules that are necessary to assure safe and reliable operation of the net metering facility to the utility's system. At any time if a safety inspection reveals or the utility identifies an unsafe condition at the net metering facility, said customer and the City Inspector will be notified and at the customer's expense a licensed installer shall be secured to complete the necessary repairs as soon as practical. If the City Electrical Inspector deems immediate repair, a necessity to remain operational, said net metering facility shall be switched off until the owner has made satisfactory repairs.
- B. Requirements for modifications or changes to a net metering facility
Modifications or changes made to a net metering facility shall be evaluated by the electric utility prior to being made. The net metering customer shall provide detailed information describing the modifications or changes to the electric utility in writing prior to making the modifications to the net metering facility. The utility shall review the proposed changes to the facility and provide the results of its evaluation to the customer within thirty (30) days of receipt of the customer's proposal. Any items that would prevent parallel operation due to violation of applicable safety standards and/or power generation limits shall be explained along with a description of the modifications necessary to remedy the violations.
- C. Requirement for new customer at location to comply with regulation When an existing net metering customer leaves Clarksville's service, the new customer at that address will be required to comply with the rules as a new customer and new service. (Ord. No. 2015-740, Sec. 4.)