

**CITY OF WARD
ORDINANCE 2022-04**

**AN ORDINANCE AMENDING ORDINANCE E-1-1981, AN ORDINANCE ESTABLISHING A
FRANCHISE TAX FOR ELECTRICAL REVENUES WITHIN THE CORPORATE CITY OF WARD,
ARKANSAS; DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES**

WHEREAS, ARKANSAS CODE ANNOTATED (A.C.A.) 14-200-101 states the Cities are permitted to determine the terms and conditions upon which a public utility may be permitted to occupy the streets, highways, or other public areas within the municipality and to collect a reasonable franchise fee; and,

WHEREAS, ORDINANCE E-1-1981 SECTION 1 (Attached) amended Ordinance E-1-1980 which established "...a franchise tax of 2.25% of the proceeding month's electrical revenue before the application of any adjustment clause..."; and,

WHEREAS, ORDINANCE 2006-06 SECTION 6 (Attached) established the Franchise Fee for all "Public Utilities"¹ to be 4%; and,

WHEREAS THE CITY OF WARD desires to amend Ordinance E-1-1981 (Attached).

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WARD,
ARKANSAS THAT ORDINANCE E-1-1981 IS HEREBY AMENDED AS NOTED BELOW:**

SECTION 1: Section 9; replace "Two-point twenty-five percent (2.25%) with "four percent (4%)"

SECTION 2: No other alterations or amendments of Ordinance E-1-1981 or E-1-1980 are intended and the remainder of said Ordinances not heretofore specifically amended shall remain in full force and effect.

SECTION 3: The Mayor and/or the City Clerk are hereby authorized to execute any and all documents, contracts, and agreements necessary to effectuate this Ordinance.

SECTION 4 – EMERGENCY CLAUSE: The Ward City Council has determined that an emergency exists to ensure the public peace, health and safety of the citizens of Ward. As such, this Ordinance is hereby effective and in full force on March 1, 2022.

¹ As defined in A.C.A 23-1-101

SECTION 5 – SEVERABILITY: If, for any reason, any portion or portions of this ordinance shall be held invalid, such invalidity shall in no way affect the remaining portions.

PASSED AND ADOPTED THIS 21st DAY OF February, 2022

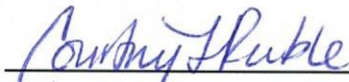
YEAS: 5 NAYS: 0

APPROVED:



Charles Gastineau, Mayor

ATTEST:



Courtney Ruble, City Clerk



ORDINANCE NO. E-1-1981

AN ORDINANCE AMENDING SECTION 9 OF ORDINANCE NO. E-1-1980
ESTABLISHING A FRANCHISE TAX FOR ELECTRIC REVENUES WITHIN THE CORPOR-
ATE CITY OF WARD, ARKANSAS

WHEREAS, the City of Ward has entered into an agreement with First Electric Cooperative Corporation for the supply of electric power and energy to the City of Ward and its inhabitants as set forth in Ordinance No. E-1-1980; and

WHEREAS, the City of Ward and First Electric Cooperative Corporation have agreed to amend Section 9 of Ordinance No. E-1-1980 by establishing a franchise tax of two point twenty-five percent (2.25%) of the preceding month's electric revenues

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Ward, Arkansas, as follows:

Section 1: That Section 9 of Ordinance No. E-1-1980 be amended to read as follows:

Section 9: Beginning in January, 1981, and thereafter during the life of this franchise, the Grantee shall pay to Grantor each month, a franchise tax in an amount equal to Two point twenty-five percent (2.25%) of the preceding month's electric revenues before the application of any adjustment clause as paid to the Grantee by consumers located within the corporate limits of the City of Ward. 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 consumers on which said franchise tax is due. In the event of a controversy between the Grantor and Grantee as to the amount of revenues received by grantee in the City of Ward 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 con-

sidered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes, general ad valorem taxes and other general taxes applicable to all citizens and tax payers) 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 to pay Grantor the franchise tax as set forth herein shall immediately terminate.

Section 2: Nothing herein shall be construed to diminish in anyway whatsoever the force and effect of any part of Ordinance No. E-1-1980 not hereby amended.

Section 3: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 4: An emergency is therefore declared and this ordinance being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage.

APPROVED this 12 day of Jan, 1981.

R. C. Dick Bayles
R. C. Dick Bayles, MAYOR

ATTEST:

Sybil M. Cook
City Clerk-Recorder

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CITY OF WARD, ARKANSAS

ORDINANCE NUMBER O-2006-03

**AN ORDINANCE ESTABLISHING A REASONABLE FRANCHISE FEE
FOR THE OCCUPATION OF STREETS, HIGHWAYS, OR OTHER
PUBLIC PLACES WITHIN THE CITY OF WARD, ARKANSAS;
AND FOR OTHER PURPOSES**

**NOW THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF
THE CITY OF WARD, ARKANSAS:**

Section 1: **PURPOSE.** To the extent permitted by law, the Council of the City of Ward, Arkansas, is enacting this Ordinance to establish jurisdiction to determine the quality and character of each kind of, and rates for, product or service to be furnished or rendered by any public utility within the City of Ward, and all other terms and conditions, including a reasonable franchise fee, upon which the public utility may be permitted to occupy the streets, highways, or other public places within the City of Ward.

Section 2: **DEFINITION OF PUBLIC UTILITY.** The term "Public Utility", for the purposes of this Ordinance, shall mean any electric, gas, water, sewer, wastewater, cable or telephone company, and any company providing similar services.

Section 3: **NON-EXCLUSIVE FRANCHISE.** Unless specifically authorized, any franchise granted to a Public Utility is a non-exclusive franchise. Therefore, unless specifically authorized, the franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises for public utility services.

Section 4: **POWERS RETAINED BY THE CITY.** Nothing contained in a franchise issued to a Public Utility under this Ordinance shall be construed to prevent the City from purchasing or contracting for public utility services for city property from sources other than the Public Utility.

Section 5: **DUTIES OF THE PUBLIC UTILITY.** The Public Utility shall at all times comply with all laws and obtain all necessary permits; construct company facilities per plans and specifications filed; record all company facilities, maintain and operate company facilities in a safe manner; operate as marketer of services; obtain and maintain bonds/ insurance; reimburse the City for costs and expenses; file and maintain emergency response plan; and provide safe and efficient services to the City.

Section 6: **FRANCHISE FEE.** As a condition for the use of public rights-of-way, the City may assess a municipal franchise fee against a Public Utility for the privilege of providing utility services to the public and for occupying the streets, highways, or other

1 public places within the City of Ward. The franchise fee established herein shall be 4%
2 of gross receipts derived by the Public Utility from the sale, supply, delivery, distribution,
3 operation, transmission or transportation of goods, products and/or services within the
4 City of Ward. The franchise fee shall be applicable to all residential, commercial and
5 industrial customers. Such fee shall be exclusive and in addition to: (1) the usual and
6 general or special *ad valorem* taxes which the City is authorized to levy and impose upon
7 real and personal property; (2) sales taxes on the Public Utility's services to the extent
8 permitted by State law; and (3) assessments for public improvements.
9

10 Section 7: CONFIRMATION OF FEES. For the purpose of confirming the franchise
11 fee paid under this Ordinance, the Public Utility shall provide to the City documentation
12 supporting its gross receipt statements for the prior year. The City shall have the right to
13 conduct an independent review of the books and records of the Public Utility relating to
14 the calculation of the gross receipts calculation, and shall have the right to require an
15 audit of the Public Utility's books and records if the City has any questions about the
16 gross receipts calculation performed by the Public Utility.
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18 Section 8: EXISTING FRANCHISE AGREEMENTS. Nothing in this Ordinance
19 shall amend or adversely impact the terms and provisions of an existing and binding
20 franchise agreement between the City of Ward and a Public Utility.
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22 Section 9: BUSINESS LICENSE TAX. The Public Utility shall also pay the
23 business license tax as established.
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25 Section 10: NONCOMPLIANCE. Noncompliance with the provisions of any
26 ordinance or resolution adopted pursuant to the provisions of this agreement will result in
27 a penalty of not less than one hundred dollars (\$100.00) nor more than one thousand
28 dollars (\$1,000.00) for each day such continues to exist. Each day shall constitute a
29 separate offense.
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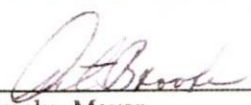
31 Section 11: INDEMNIFICATION AND HOLD HARMLESS. The Public Utility
32 shall agree to protect, hold harmless, and indemnify the City (including its officers,
33 agents, contractors, and employees) from and against all claims, losses, damages, causes
34 of action, suits and liability of every kind, which may occur to, or be suffered by, any
35 person or persons, corporation, or property by reason of any act or failure to act on the
36 part of the Public Utility.
37

38 Section 12: GENERAL. In the event the municipal boundaries of a city or town are
39 altered or amended by annexation or otherwise, the city or town shall notify the utility's
40 registered agent for service of process of the alteration or amendment.
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42 **Also to be added to the ordinance will be an emergency clause and effective date of**
43 **May 1. This new ordinance is because of some of the questions directed to us about**
44 **the language from the utilities.**

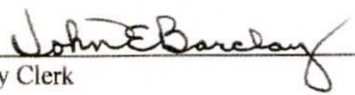
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ADOPTED BY THE COUNCIL OF THE CITY OF WARD, LONOKE
COUNTY, ARKANSAS, this 13th day of February, 2006.



Art Brooke, Mayor

Attest:



City Clerk