

Conway (new)  
32 R20826

W

U #1999- 24211

**ORDINANCE 0-99- 101**

**AN ORDINANCE ESTABLISHING PROCEDURES FOR GRANTING OF FRANCHISES FOR USE OF PUBLIC RIGHTS-OF-WAY; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES:**

**Whereas**, due to extreme emergencies, existing needs and/or the public interest, it is desirable from time to time to allow private entities to utilize public rights-of-way for private purposes, such as elevated walkways, construction of fences and planting of shrubs and trees, and;

**Whereas**, it is desirable to have an established procedure for the granting of such franchises;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:**

**Section 1:** That, upon the finding of an extreme emergency, an existing need and/or a public interest, the City Council may grant a franchise to a private entity for the use of public right-of-way if the procedures established by this ordinance are followed.

**Section 2:** That the following procedures shall be followed in the issuance of a franchise for the use of the public right-of-way:

1. **An** appropriate number of copies (**as** established by the Mayor) of completed application forms, drawings showing the location, size and nature of the proposed encroachment into the public right-of-way and any other submitted documents are to be submitted to the appropriate department (as established by the Mayor) no less than seven (7) days prior to the City Council meeting in which the franchise is to be considered.
2. An application fee of \$75.00 shall be paid at the time of the application.
3. City departments (as established by the Mayor) shall be furnished copies of the submitted application in a timely fashion to allow review and response to the proposed granting of the franchise.
4. In order to issue the franchise, **an** ordinance granting the franchise must be passed.
5. Conditions may be attached to the franchise. No franchise shall be effective until all conditions have been met and a signed copy of a letter acknowledging those conditions returned to the appropriate department (as established by the Mayor).
6. At the City Council's discretion, additional fees may be established for a franchise. These fees may be a one time charge or a recurrent charge.

**Section 3:** That where a franchise involves building construction, a building permit must be obtained prior to construction. The franchise shall establish the allowed location of the building, since normal setbacks from lot lines can not be taken into consideration.

**Section 4:** That the City of Conway assumes no maintenance responsibility for the permitted item. The City shall not be responsible for damage to the item by the City or by utility (public or franchised private) crews while performing normal maintenance work in the public right-of-way or easements. The City assumes no liability for personal injury or

property damage as a result of the placement of permitted items and the applicant shall indemnify and hold the City harmless from actions, claims, costs, damages and expenses to which the City may be subjected arising out of the placement of permitted items in the public right-of-way.

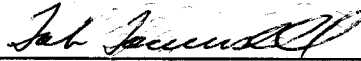
**Section 5:** That upon notice from the appropriate city department (as established by the Mayor), the franchisee shall remove the permitted items from the public right-of-way or easements at their own expense for any public improvement project or if the situation becomes a public nuisance.

**Section 6:** That all ordinances or parts of ordinances of a permanent and general nature in effect at the time of adoption of this ordinance, and not included herein, are hereby repealed where they are in conflict with this ordinance.

**Section 7:** That it is ascertained and declared that it is necessary for the public peace and welfare of the citizens of the City of Conway, Arkansas, an emergency is hereby declared to exist and this ordinance shall take effect and be in force from and after its passage and publication.

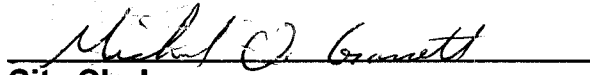
PASSED this 12<sup>th</sup> day of October, 19 99.

APPROVED:



Mayor

ATTEST:

  
City Clerk