

ORDINANCE NO. 187

AN ORDINANCE REQUIRING LICENSES FOR THE PRIVILEGE OF CONDUCTING BUSINESS OPERATIONS WITHIN THE CITY OF GARFIELD, ARKANSAS, PRESCRIBING THE MANNER OF FIXING THE CHARGES THEREFORE, FIXING THE TIME WHEN SUCH LICENSES SHALL BE PAID, THE PENALTY FOR NON-PAYMENT, REPEALING ORDINANCE 61 & 125, DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, it is necessary and desirable for the City of Garfield, Arkansas, to regulate all businesses, institutions, corporations, LLCs, LLPs, partnerships, corporations, sole proprietorships or other non-governmental entities with a physical address or which operates either a legally permitted home occupation or a short-term rental within the corporate limits of the City of Garfield, Arkansas; and

WHEREAS, the regulation of such businesses requires that the City of Garfield acquire and maintain such records of the identities and contact information for businesses, institutions, corporations, LLCs, LLPs, partnerships, corporations, sole proprietorships or other non-governmental entities with a physical address or which operates either a legally permitted home occupation or a short-term rental of the conducting business within the corporate limits of the City of Garfield, Arkansas ; and

WHEREAS, the acquisition and maintenance of such records assists in ensuring the safety of the citizens of the City of Garfield; and

WHEREAS, by requiring business permits, the City of Garfield, Arkansas can ensure compliance by such businesses with all City Ordinances and regulations; and

WHEREAS, Arkansas Code Annotated § 26-77-102 authorizes the City Council of any municipal corporation to enact Ordinances requiring any person, firm or corporation who shall engage in, carry on or follow any trade, business, profession, vocation or calling within the limits of the City to pay a license fee; and

WHEREAS, an application to conduct business within the City limits should be completed to allow the City of Garfield to maintain adequate records of all businesses within the City limits.

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

Section 1: General Definitions. For the purposes of this Ordinance, "Business" is defined as any commercial activity whether such activity is the providing of a service or of goods. The conducting and carrying on of any business, including but not limited to, all trades, occupations, vocations, short term rentals, callings and professions, except those specifically exempted in Section 3 of this Ordinance, those specifically exempted by the laws of the State of Arkansas, and also excepting public utilities otherwise taxed by the City, within the boundaries of the City of Garfield, is hereby declared to be a privilege, and each and every person conducting or engaging in any such business shall apply for and pay for a license in the amounts as set out herein. No license shall be issued prior to the completion and submission of an Application to the Recorder/Treasurer of the City of Garfield.

For purposes of this Ordinance and as the word is used in this Ordinance, "Person" shall be defined as an individual, firm, sole proprietorship, partnership, short term rental, limited liability company or corporation. The word Person as used herein shall refer to any entity legally engaging in Business pursuant to any law, statute, or regulation whether federal in nature or promulgated by the State of

Arkansas.

Section 2: Business Licenses Required. It shall be unlawful for any Person in the City of Garfield to engage in, exercise, or pursue any line of business without first having obtained a business license and any other permits that may be required therefore from the City of Garfield.

Section 3: Exempted Businesses. Certain businesses shall be exempt from the requirements of this Ordinance. The City Council of the City of Garfield is authorized to amend this list from time to time by resolution, duly adopted. The list of currently exempted businesses is as follows:

- a) Animal husbandry businesses including but not limited to beef, pork, poultry, and dairy production unless the sole purpose of the business is commercial breeding of livestock;
- b) Child care services except for those businesses which are required to obtain a license or permit from the State of Arkansas to conduct business;
- c) Charitable and non-profit businesses;
- d) Building contractors unless they have an established, permanent office located within the City Limits;
- e) Arts and crafts businesses conducted in a residence which do not provide the major source of income for those persons engaged in the business; and
- f) Door to door sales businesses.

Section 4: Procurement of License. All licenses issued under this ordinance shall become due on January 1st of each year. If the business license fee is not paid by February 1st and the business continues in operation, a penalty of Twenty-Five Dollars (\$25.00) will be assessed. The penalty shall continue at the rate of Twenty-five Dollars (\$25.00) per month for each month the business license fee remains unpaid on the first day of the month. The penalty shall accrue on the first day of the month and become due and payable on that date. This penalty is to reimburse the City of Garfield for the administrative costs incurred in enforcement and collection. The accrued penalty plus the costs necessary for collection, including but not limited to court costs, litigation costs and reasonable attorney fees, will be collected from the delinquent business in the event that legal action becomes necessary and results in a judgment against the business. All licenses shall be payable annually and no license shall be issued for a longer period than one (1) year.

Section 5. Application Contents. Applications for all licenses required by this article shall be made in writing to the City Recorder/Treasurer. Each application shall state the name of the applicant; the location at which the business will be conducted, brief description of the business; and the fee to be paid; and each application shall contain such additional information as may be needed for the proper guidance of the City officials in issuing the license applied for. No license shall be issued authorizing the operation of any business until the applicant submits a copy of its State of Arkansas sales tax permit, or provides proof of a state sales tax identification number, as required by the State of Arkansas for the business.

Section 6. Issuance of License. Each license issued shall bear the signature of the City Recorder/Treasurer. All applications required hereunder shall be kept and filed by the City Recorder/Treasurer. Any applications for a business license shall be made to the City Recorder/Treasurer who shall collect from the applicant the license fee as established by the Garfield City Council, as may be amended from time to time, which as of the date of passing is **Fifty Dollars**

(\$50.00) per year, before any applicable penalties as set out in Section 4, and the City Recorder/Treasurer shall issue to the applicant a license certificate which shall state the amount paid thereof, the period covered thereby, the name of the Person to whom issued, the business to be conducted, and the location of the place at which the business will be conducted.

Section 7. Separate License for Each Business. Any Person who is engaged in two or more businesses, or who conducts business at two or more locations within the City of Garfield, shall be required to obtain a license for each separate business, and/or business location.

Section 8. Code Compliance Required. Prior to the issuance of a license pursuant to this Ordinance the City Code Enforcement Officer must certify that the business making the application is not in violation of any City Ordinance or regulation. The City Code Enforcement Officer shall have the further authority to determine that the business seeking permission to operate within the City limits is in conformity with all federal and state statutes, codes, and regulations. No license shall be issued for the conduct of any business if the premises and building to be used for the purpose do not fully comply with the requirements of the City. No such license shall be issued for the conduct of any business or performance of any act which would involve a violation of the zoning Ordinance of the City.

Section 9. Fee Not Returnable. After payment of the license fee provided for in the Ordinance, no refund shall be issued in the event that the licensee, for any reason, surrenders his license or discontinues his business, or if the application is denied for violation of any City Ordinance or regulation and any sum paid to obtain the business license shall not be returnable to any person.

Section 10. Transfer Prohibited. No license issued pursuant to the provisions of this Ordinance shall be transferred from one Person to another or from one business to another without authorization from the City Council.

Section 11. Posting, Display of License. It shall always be the duty of any Person conducting a licensed business in the City to keep his license posted in a prominent place on the premises used for such business. The holder of a license shall show the license to any officer or agent of the City upon request.

Section 12. Inspection of Licensed Premises. Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by Ordinance, or are reasonably necessary to secure compliance with any Ordinance provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto, for the purpose of making the inspection, any officer or employee of the City who is authorized or directed to make such inspections at any reasonable time admission is requested.

Section 13. Suspension or Revocation of License. Any business license issued pursuant to the provisions of this article may be suspended or revoked for good cause by the City Council. Good cause for such suspension or revocation shall include, but is not limited to:

- (1) The existence of unsanitary conditions, noise, disturbances, or other conditions at, near or in the premises which causes or tends to create a public nuisance, which may injuriously affect the public health, safety or welfare, or which unnecessarily affects the adequate allocation of public safety resources;
- (2) The commission of, or permitting or causing the commission of, any act in the operation of the business which is prohibited by any Ordinance, rule or law of the town, state or federal government;
- (3) Fraudulent practices and misrepresentation in the operation of the business;
- (4) Concealment or misrepresentation in procuring the business license;

- (5) Not filing for any other permits that may be required for the business license;
- (6) The business for which the license has been issued is unlawful or is prohibited by any ordinance, code, rule or law of the town, state or federal government;
- (7) The license was issued by mistake or is in violation of any of the provisions of this article;
or
- (8) The premises used to conduct said business have been condemned, declared a fire hazard, or declared unsafe for business occupancy pursuant to applicable building, property maintenance, or fire codes.

Section 14. Suspension or Revocation Procedure. The City Council, on its own motion or initiative, or upon the written complaint of any person or City staff, may, by resolution, set a hearing date to determine whether good cause exists to suspend or revoke a license issued pursuant to this article.

A notice of the hearing, along with a copy of the resolution setting the hearing date, shall be served by certified mail with return receipt requested, to the person holding the business license at the address shown on the business license application. Such notice and resolution shall also be hand delivered to the licensee at the address shown on the business license application if the person is present. If the person is not present, the notice and resolution may be delivered to the person in actual charge of the premises at the time of delivery. If the business is closed, a copy of the notice and resolution shall be posted in a conspicuous location on the property.

The notice and resolution shall inform the licensee of the allegations which constitute the basis for the hearing and shall provide that the licensee will be given the opportunity to appear and be heard at the hearing.

At the hearing, the City Council will make a determination as to whether good cause exists to suspend or revoke the license. This determination shall be made only after the licensee has been afforded a reasonable opportunity to be heard on the issue.

In the event the City Council finds good cause to suspend the license, it shall have the authority to place reasonable conditions and restrictions on the licensee during the suspension period. Any violation of these conditions and restrictions shall result in the revocation of the license.

In the event the City Council finds that good cause exists to revoke the license, the City Council shall, by ordinance, revoke the license and shall direct the City Recorder/Treasurer to notify the licensee of the revocation of the license, and to direct the licensee to immediately cease all business activity at the business location. Notice shall be completed in accordance with Section 14, paragraph 2 herein.

Any activity that constitutes conducting business activity in violation of a revocation ordinance shall be punishable by those penalties prescribed in this Code, and each sales transaction shall constitute a separate and punishable offense.

Any business or person who has had a license revoked pursuant to the provisions of this Ordinance shall not be eligible for another license until the business or person has complied with the requirements of Sections 2-12 of this Ordinance and has obtained City Council approval before a new license may be considered.

Section 15. Severability of Parts of Ordinance. It is hereby declared to be the intention of the Garfield City Council that each section of this Ordinance is severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decrees of a court of competent jurisdiction, such unconstitutionality shall not affect any of the

remaining phrases, clauses, sentences, paragraphs, and sections of the Ordinance.

Section 16. Repealing Clause. All Ordinances or part of Ordinances in conflict herewith are hereby repealed. This Ordinance when adopted shall repeal and replace Ordinance 123 & 61 in its entirety.

Section 17. Effective Date. This Ordinance shall be effective from the date of its passage as set out in herein pursuant to the emergency clause.

Section 18. Emergency Clause. It is declared that an emergency exists in that transient businesses are operating within the City of Garfield thereby endangering the health and safety of the electors and citizens of Garfield and this Ordinance, being necessary for the proper regulation and oversight of all businesses within the City limits of Garfield, and this Ordinance being necessary for the preservation of the health and safety of the citizens and electors of Garfield shall take effect and be in effect from its passage and approval.

PASSED AND APPROVED this 9th day of June, 2020.

APPROVED: Gary Blackburn
Gary Blackburn, Mayor

ATTEST: Teresa Vining
Teresa Vining, Recorder/Treasurer