

ORDINANCE NUMBER NO. 2154

**AN ORDINANCE AMENDING TITLE 4 CHAPTER 28 OF THE EUREKA SPRINGS,
ARKANSAS MUNICIPAL CODE**

WHEREAS, the City Council of the City of Eureka Springs, Arkansas, has made a comprehensive study and review of the current Title 4 Chapter 28 of the Eureka Springs, Arkansas, Municipal Code; and,

WHEREAS, the Council believes that changes are necessary to better provide for efficient operation of future animal-drawn vehicle franchises

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

Section 1: That subsection 4.28.01 is hereby amended as follows:

The following definition shall be added:

Carriage(s) refers to any animal-drawn vehicle used for hire within the Corporate City limits of Eureka Springs, Arkansas.

The following definition shall be amended as follows:

Depot means a fixed location where the City, in concert with the Chief of Police, has authorized a holder of an animal-drawn vehicle franchise to park animal-drawn vehicles for hire out of service awaiting a passenger(s), and is considered the primary point of picking up and dropping off passengers.

Section 2: That subsection 4.28.04 is hereby amended to read as follows:

4.28.04 Permit and fee Before any person or business shall have one or more animal-drawn vehicles operated for hire on the public streets and ways within the City, such person or business shall pay an application fee of three hundred fifty dollars (\$350.00) to the Finance Department of the City and shall file with the City Clerk an application for a franchise. Franchise applications deemed complete and accurate by the City Clerk will be presented to the City Council for consideration. No franchise shall be granted to any applicant whose application is found to be incomplete or inaccurate. It shall be grounds for revocation of an approved franchise if the application is discovered to be incomplete or inaccurate after approval. Each application presented to the Clerk must be verified by oath, setting forth the following information:

- A. That the applicant is able to comply with the ordinances of the City and the laws of the State
- B. That the applicant has a policy of liability insurance in force or a valid binder for such policy with respect to the business enterprise in which the animal-drawn vehicles are employed, wherein the minimum policy limits are \$10,000.00/\$20,000.00/\$5,000.00 and agrees to maintain such liability insurance in force if the permit is issued. Applicant shall attach proof of such liability insurance policy or binder to the application.
- C. The trade name of the business enterprise of the applicant; the name and address of each partner if a partnership; the name and address of each officer, director and shareholder if a

corporation.

D. A list, with attached full color photos, of the animal-drawn vehicle(s) proposed for use by the applicant, setting forth the style, type of construction and passenger seating capacity of each animal-drawn vehicle including the dimensions of the carriages. No carriage shall be more than five and three-quarters ($5\frac{3}{4}$) feet across at its widest point and no more than eleven and one-half ($11\frac{1}{2}$) feet long, not including the animal and its harnessing apparatus. Each shall be pulled exclusively by one animal unless otherwise approved specifically by the City Council prior to use. All carriages shall have at least one rearview mirror and be equipped with a horn or other approved warning device capable of emitting a warning sound audible at forty feet under normal conditions. Carriages shall be equipped with a fifth wheel or cut-under turning mechanism on the front axle to allow better operation in the narrow and curvy streets of Eureka Springs. The application shall include a statement regarding the ownership of all carriages and whether any or all are subject to liens and, if so, in favor of whom.

E. A list of the animals proposed for use by the applicant in conjunction with the animal-drawn vehicles, the age of each animal, the physical health of each animal, as verified by a veterinarian licensed by the State; and a statement as to the ownership of each such animal and as to whether such ownership is subject to any lien or security agreement and, if so, in favor of whom

F. A complete statement of all facts pertaining to the experience, qualifications and financial responsibility of the applicant and the ability of the applicant to operate the proposed business enterprise

G. The specific proposed hours of operation of the proposed business enterprise

H. Each application shall provide a depot address in addition to a specific list of other drop off and pick up point addresses for the proposed routes of the proposed enterprise.

I. The proposed schedule of rates to be charged by the applicant while conducting the proposed business enterprise

J. The names, ages and addresses of the proposed drivers of each animal-drawn vehicle and the training and experience of each driver with respect to driving an animal-drawn vehicle

K. That the applicant is aware that there shall be no more than three franchisees operating within the city limits unless otherwise approved by City Council upon a finding that the available business justifies the addition of a greater number

L. That the applicant is aware no person or business can own more than two franchises nor more than two-thirds of the exclusive routes allowable for use by animal-drawn vehicles operated for hire

M. That the applicant is aware each franchise holder will provide to and maintain with the Police Chief a current list of at least two emergency telephone numbers of persons who can take temporary responsibility for the animal(s) and/or animal-drawn vehicle(s).

N. That the applicant is aware that each franchisee is granted an exclusive route which cannot be shared, crossed or otherwise infringed upon by any other franchise without approval in writing by the Police Chief and the franchise holders due to safety and traffic concerns. This provision shall not apply to any participation by any franchise in any city-approved parade.

O. That the applicant is aware that each franchise shall only be allowed one (1) to four (4) approved carriages.

P. That the applicant is aware that no carriages shall be operated by any franchise holder upon US Highway 62 or on Main Street between the Historical Museum and the junction of Main Street and US Highway 62 unless accompanied by a police escort as part of a special event

Q. That the applicant is aware that, due to traffic and safety concerns, no carriages shall be allowed to operate before 4:00 p.m. within the City Limits unless accompanied by a police escort as part of a special event.

Section 3. That subsection 4.28.05 is hereby amended by adding the following sentence:

If at any time after a franchise is granted, the franchisee's application is found to be inaccurate or incomplete or otherwise ineligible, the franchise may be suspended and/or revoked by a majority vote of the City Council.

Section 4. That subsection 4.28.06 is hereby amended to read as follows

4.28.06 Change of hours, routes, rates Vehicles can be operated only on streets which have been pre-approved by the City Council and the Police Chief. Each franchisee is to operate within designated routes as approved. No animal-drawn vehicles are to be permitted on Spring Street before 4:00 p.m. or after midnight unless pre-approved by the Police Chief with the exception of parades. No carriage operator shall use trolley stops/stands as points of pick up or drop off of passengers. The franchisees shall make no changes in the routes to be followed, including points of boarding, disembarking, departure and termination which were set forth in the hearing on the application unless each such change is approved by the City Council at a regular meeting.

Section 5. Subsection 4.28.08 is hereby amended as follows: the phrase "pre-established route termini" is hereby replaced with the word "depot."

Section 6. The following subsection shall be added to Title 4 Section 28

Animals: No animal shall work more than eight (8) consecutive hours or ten (10) hours with a one and one half (1 ½) hour break, disconnected from the carriage, in a twenty-four (24) hour period. No animal shall be worked more than six (6) days in a seven- (7) day period. The Animal Control Officer of the City of Eureka Springs, Arkansas is hereby authorized to order that any animal he or she believes to be in distress be removed from service until cleared for return to use by a qualified veterinarian. A violation of this subsection is hereby deemed a misdemeanor and is punishable by a fine of not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (100.00) plus court costs. Furthermore, violations of this subsection shall additionally be grounds for suspension and/or revocation of the franchise by a majority vote of the City Council.

Section 7. Subsection 4.28.10 shall be amended to read as follows:

At any time the requirements of 4.28 are not complied with, the franchise is subject to suspension or revocation. The City Council may, at any time, on its own initiative or upon the petition of any resident or property owner of the City, review any franchise at any regular or special meeting of the Council upon at least 72 hours prior notice to the franchisee of the time and place that the permit will be reviewed and the reasons for such review. If a majority of the members elected to the City

Council finds, after the franchisee has been granted an opportunity to be heard, that the permit should be suspended or revoked, as the case may be, such suspension or revocation shall not occur unless a majority of the Council finds that the franchisee is not in compliance with the provisions of this article and/or that such suspension or revocation is necessary in order to preserve the public health, safety, peace and/or welfare.

Section 8. The following subsection shall be added to Section 4.28

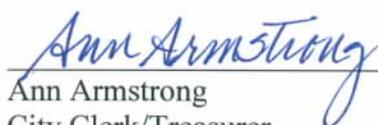
False Statements. Any person who knowingly makes a false statement of material fact to the City Council with regard to any hearing or application is hereby deemed to have committed a misdemeanor punishable by a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (1,000.00) plus court costs. Furthermore, violations of this subsection shall additionally be grounds for suspension and/or revocation of the franchise by a majority vote of the City Council.

Section 9. Repeal Clause: All Ordinances, Resolutions, and parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, ON THIS 23rd DAY OF JULY 2012.

APPROVED:

ATTEST:



Ann Armstrong
City Clerk/Treasurer



Morris Pate
Mayor

Aldermen voting "Aye" – Lany Ballance, James DeVito, Karen Lindblad, and Butch Berry