

**AN ORDINANCE AMENDING CHAPTER 18 OF THE EUREKA SPRINGS
MUNICIPAL CODE REGARDING ANIMAL-DRAWN VEHICLES**

WHEREAS, the City Council of the City of Eureka Springs is concerned with the health and safety of its citizen and visitors;

WHEREAS, the operating of one or more animal-drawn vehicles for hire on the public streets and ways of the city is a privilege and not a right; and

WHEREAS, many of the streets and ways of the city cannot be safely traversed by animal-drawn vehicles.

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

Section 1. That Section 41 of Chapter 18 of the Eureka Springs Municipal Code is hereby amended by the addition of three terms and definitions which read as follows:

Depot means the place where the city, in concert with the chief of police, has authorized a holder of an animal-drawn vehicle business franchise to park animal-drawn vehicles for hire out of service awaiting a passenger.

For hire means an agreement to transport a person or persons for a fare.

Veterinarian means a person licenses to practice veterinary medicine.

Section 2. That the introductory paragraph Section 44 of Chapter 18 of the Eureka Springs Municipal Code is amended to read as follows:

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 5350.00 to the finance department of the city and shall file with the finance department an application for a franchise, verified by oath and setting forth the following information:

Section 3. That Section 44 of Chapter 18 of the Eureka Springs Municipal Code is amended by the addition of three sub-paragraphs - (13), (14) and (15) - which read as follows:

(13) That with the operation of this franchise there will be no more than three franchises operating within the city limits.

(14) That that 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.

(15) Each franchise holder will provide to the police chief a current list of emergency telephone numbers of persons who can take temporary responsibility for the animal(s) and/or animal-drawn vehicle(s).

Section 4. That Section 45 of Chapter 18 of the Eureka Springs Municipal Code is amended to read as follows:

18-45. Hearing. Upon the payment of the fee and the filing of the application required by this chapter, the application shall be placed on the agenda of a regular meeting of the city council

to be held within 30 days after the filing of the application for consideration by the council. The applicant shall be present at the meeting. A franchise shall be granted only upon the affirmative vote of a majority of the members of the council. Each application shall be considered on its own merits and in light of requirements for public safety, convenience and necessity of the city, its inhabitants and visitors. If the application is not granted, the clerk/treasurer shall promptly refund the application fee to the applicant.

If a franchise is granted, the application fee shall be deemed to be a franchise fee and the franchise shall be valid for a period of five years from the date of issuance unless earlier suspended or revoked. (In the event of a suspension or revocation of a franchise, there shall be no refund of the franchise fee.) If the franchise holder is in compliance with all the terms and conditions set out in this chapter, and of all applicable safety requirements and city ordinances, the franchise holder may request, within 45 days of the expiration of the franchise date, that the franchise be extended for another term of five years. If the renewal is granted the franchisee agrees to comply with all terms and conditions required by the City for the operation of a franchise. The request of the franchise holder will be considered before other applicants will be considered.

Section 5. That Section 46 of Chapter 18 of the Eureka Springs Municipal Code is amended to read as follows:

Vehicles can be operated only on streets which have been pre-approved by the City Council and the Chief of Police. Each franchisee is to operate within their own designated routes as approved. No animal-drawn vehicles are to be permitted upon any other franchisee's routes unless otherwise pre-approved. No animal-drawn vehicles are to be permitted on Spring Street between the junction of Highway 23 and Main Street and the junction of Hillside and Spring Street before 6:00 p. m. unless pre-approved by the Chief of Police.

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 6. That Section 47 of Chapter 18 of the Eureka Springs Municipal Code is amended by changing the term "permittee" to "franchisee" and to add the following paragraph at the end thereof:

It shall be the responsibility of the franchise holder to provide the proper collection bags for droppings from animals pulling vehicles and to take the necessary steps to keep all streets, alleys, and other public ways of the City of Eureka Springs cleared of droppings from animals pulling vehicles.

Section 7. That Section 48 of Chapter 18 of the Eureka Springs Municipal Code is amended by changing the term "permittee" to "franchisee" and adding the following paragraph at the end thereof:

No animal-drawn vehicle for hire driver shall solicit passengers for hire except at the depot. The driver of said vehicle shall remain in the driver's seat or immediately adjacent to said vehicle at all times when such vehicle is upon the public streets; provided further, that nothing herein contained shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of said vehicle. No driver of said vehicle shall solicit patronage in a loud or annoying tone of voice, or in any manner annoying any person, or to obstruct the movement of any person or follow any person for the purpose of soliciting patronage.

Section 8. That Section 49 of Chapter 18 of the Eureka Springs Municipal Code is amended by changing the term "permittee" to "franchisee".

Section 9. That Section 50 of Chapter 18 of the Eureka Springs Municipal Code is amended by changing the term "permittee" to "franchisee" and the term "permit" to "franchise".

Section 10. All ordinances and parts of ordinances in conflict herewith are repealed to the extent of said conflict.

Section 11. In the event any one or more of the provisions contained in this ordinance shall for any reason be held by a court of law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this ordinance, and this ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, THIS 8th DAY OF December, 2003.

APPROVED:

[Handwritten signature]

ATTEST:

Mary Jean Sell
MARY JEAN SELL, Clerk