

ORDINANCE NO. 2023

AN ORDINANCE REGULATING GROUP TOUR FRANCHISES

WHEREAS, in 1996 the City Council of the City of Eureka Springs adopted Article V of Chapter 54 of the Municipal Code providing for the definition and regulation of Group Tour Franchises; and

WHEREAS, franchises granted pursuant to this ordinance were deemed to exist for a period of five years unless revoked by the City Council; and

WHEREAS, there has been a decline in the ridership and an increase in costs in connection with the enforcement of this ordinance; and

WHEREAS, as a result of said declining ridership and increasing costs it is now necessary for the City Council to modify the Group Tour Franchise Ordinance.

NOW, THEREFORE, BE IT HEREBY ORDAINED THAT:

Section 1. That Section 54-181 is hereby amended in its entirety to read as follows:

54-181. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

“City-owned Vehicle” refers to any vehicle used by the Eureka Springs Transit Department (hereinafter referred to as “Transit”) for sightseeing services along the Historic Loop;

“Group Customer” means any person who is a part of an organized group that is traveling together for which a Group Tour Operator arranges sightseeing services along the Historic Loop on a City-owned Vehicle;

“Individual Customer” means (1) any person who arranges with and pays Transit directly for sightseeing services along the Historic Loop on a City-owned vehicle or (2) any person who uses a credit voucher from a person or entity that has been approved by Transit, including a Group Tour Operator, to arrange for sightseeing services along the Historic Loop on a City-owned Vehicle;

“Group Tour Operator” means any person who is in the business of arranging and selling travel-related products to groups that have been organized for the purpose of traveling together;

“Group Tour Franchise” means the agreement, as set forth in this article, between the City and a Group Tour Operator that intends to use Transit vehicles for the purpose of engaging in sightseeing for hire along the Historic Loop;

“Group Tour Franchisee” refers to any person that holds a Group Tour Franchise;

“Group Tour Guide” means any person with a current group tour guide certificate as set forth in this article;

“Group Tour Guide Certificate” means a nontransferable certificate with a unique number that is issued by the City to certify persons who have attended a tour guide seminar sponsored by the City;

“Historic Loop” means former U.S. Highway 62B, now marked by street signage as The Historic Loop, as bounded by the intersections of Spring Street and Main Street and Kingshighway at U.S. Highway 62 West at the Eureka Springs Public High School; and

“Streets and Public Ways” means all streets and highways under the exclusive jurisdiction of the City.

Section 2. That Section 54-182 of the Municipal Code is amended in its entirety to read as follows:

54-182. Grant of Authority.

No person shall engage in or carry on the business of group tours over or upon the streets and public ways of the Historic Loop of the City utilizing City transit vehicles without first procuring from the City Council a franchise authorizing such business and operation. No person may be the sole holder of more than one franchise. *The franchise shall be transferable. (added at the Council table 7/24/06)*

Section 3. That Section 54-184 of the Eureka Springs Municipal Code is hereby amended in its entirety to read as follows:

54-184. Duration of Group Tour Franchise.

The rights, privileges and authority granted by this article to each applicant shall exist and continue until December 31, 2008; provided, however, that on or before August 31, 2007, the Transit Department and the Group Tour Franchisees shall present to the City Council a long-range plan for Group Tour Franchises in Eureka Springs.

Section 4. That Section 54-187 of the Eureka Springs Municipal Code is hereby amended to substitute \$235.00 for \$500.00 for the application fee for a group tour franchise and it is further amended to add a new section (7) as follows:

(7) A statement that (a) the Applicant is in the business of arranging and selling travel-related products to groups that have been organized for the purpose of traveling together and that (b) Applicant will devote the time and resources that are necessary for the promotion of its Group Tour business.

Section 5. That Section 54-190 of the Eureka Springs Municipal Code is hereby amended to designate the existing language as subsection (a) and to add a new subsection (b) as follows:

Sec. 54-190. Fee For Use

(b) As of January 1, 2007, the fee for (1) the privilege of using the streets and public ways of the city; (2) helping to defray the cost of monitoring under this Article; and (3) for the use of City-owned vehicles, shall be determined as follows:

(1) For each Group Customer for whom a Group Tour Franchisee arranges seating on a City-owned vehicle, Transit shall be entitled to a fee equal to Forty (40%) Percent of the published Individual Customer Fee as of December 31, 2006.

(2) For each Individual Customer for whom Transit arranges seating on a City-owned Vehicle, Transit shall be entitled to a fee equal to Sixty (60%) Percent of the published Individual Customer Fee as of December 31, 2006.

- (3) The sum is due and payable of the 20th day of month for the preceding month. These charges shall be in addition to any and all occupation taxes, privilege taxes and license fees, of whatever kind or nature (except general ad valorem taxes).

Section 6. Conflicts: All Ordinances or Resolutions, and parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Severability: 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 this _____ day of _____, 2006.

APPROVED:

Kathy Harrison, Mayor

Attest:

Mary Jean Sell, City Clerk