

ORDINANCE NO. 195

AN ORDINANCE REPEALING AND REPLACING ORDINANCE #118 REGULATING THE OPERATION OF MOBILE FOOD VENDORS/MOBILE VENDORS, CONCESSION TRAILERS, PUSH CARTS IN THE CITY OF GARFIELD, ARKANSAS; REQUIRING A PERMIT, AND FOR OTHER PURPOSES AND DECLARING AN EMERGENCY TO EXIST

WHEREAS, The City Council of the City of Garfield has determined that Ordinance #118 is in need of repealing and the regulation of mobile food vendors/mobile vendors, concession trailers, and push carts needs to be updated; and

WHEREAS, The City of Garfield has been granted the authority to regulate vending, markets and marketplaces within its municipal limits pursuant to Arkansas Code Annotated §14-140-101 et seq; and

NOW, THEREFORE, be it ordained by the City Council of The City of Garfield, Arkansas, that the following language shall hereby repeal the existing Ordinance #118 and shall provide by this Ordinance a uniform set of rules and regulations that are fair and equitable, to promote stable vendors who will enrich the city's ambiance, and to serve and protect the health, safety and welfare of the general public; and declaring an emergency to exist:

SECTION 1: DEFINITIONS

MOBILE FOOD VEHICLE: A food establishment preparing and/or serving foods from a self-contained vehicle either motorized or within a trailer that is readily movable without disassembling for transport to another location. Mobile food vehicles may serve as a conveyance for outdoor vending at a fixed location.

MOBILE FOOD VENDOR: Any person that owns or operates a mobile food vehicle for the purpose of mobile vending, as defined.

OUTDOOR VENDING: Exhibiting, displaying, selling or offering any food, beverages, goods, wares, or merchandise from a conveyance at a fixed location on public or private property.

OUTDOOR VENDOR: A person that exhibits, displays, sells or offers any food, beverages, goods, wares or merchandise from a conveyance at a fixed location. This definition does not include a door-to-door solicitor, mobile food vending, children's lemonade stands or homeowners having garage sales.

OUTDOOR PARK: A site that contains more than one outdoor vendor on a regular basis as the principal use of land.

REGULATORY AUTHORITY: The Mayor or his representative, and any state or federal enforcement body or authorized representative having jurisdiction.

SECTION 2: RULES AND REGULATIONS

- A. All Mobile Food Vendors shall comply with all applicable rules and regulations pertaining to food establishments set forth by the regulatory authority of the Arkansas Department of Health and will be held in compliance by this body and shall not connect to city services unless approved by the Garfield Planning Commission.
- B. Mobile Food Vendors and Outdoor Vendors must apply for either a temporary permit or a fixed permit with the Recorder-Treasurer, after first obtaining all required permits issued by the State of Arkansas.
- C. Temporary permits must be applied for no less than 5 days prior to vending and are only good for the days stated on the application.
- D. Mobile Food Vendors and Outdoor Vendors must renew their permits every calendar year beginning on January 1st.
- E. Mobile Food Vendors and Outdoor Vendors must have proof of sales tax and use permit
- F. Mobile Food Vendors and Outdoor Vendors must display their permit in the window or display it prominently on the vehicle. This permit shall be visible to any City official. Mobile Food Vendors must also display all other department permits and/or licenses required by regulatory authorities.
- G. Mobile Food Vendors and Outdoor Vendors application for a permit must include, but not limited to:
 - 1.) The applicant's full name, current address, telephone number and proof of identity together with a full-face photograph of the applicant, not less than two inches or more than three inches square.
 - 2.) A brief description of the nature, character, and quality of goods, wares, or merchandise to be offered or sold.
 - 3.) Site plan showing proposed location.
 - 4.) Detailed scaled drawing or photo of the conveyance showing dimensions and location of any proposed signs.
 - 5.) Written consent of property owner, if applicable
 - 6.) If the applicant is engaged in the sale of food or beverages, a copy of the State Health Department Inspection certificate shall be provided.
 - 7.) If a motor vehicle is to be used, the motor vehicle make, year, model and license number.
 - 8.) Proof of current driver's license for all drivers
 - 9.) Proof of current liability insurance, for the mobile food vehicle.

SECTION 3: RULES AND REGULATIONS

- A. Outdoor vendors shall be permitted on developed private property in the commercial zoning district only. Outdoor vendors are prohibited in residential zoning districts.
- B. Only one outdoor vendor shall be permitted per lot. However, if more than one vendor is proposed for a single lot, it shall be considered an outdoor vendor park and shall meet the requirements for outdoor vendor park below.
- C. Outdoor vendors shall first obtain written permission from the property owner prior to submitting for an application.

- D. Outdoor vendor parks shall be permitted on private property as a conditional use, if a conditional use permit has been applied for and approved by the Garfield Planning Commission.
- E. The planning commission shall review the application based on conditional approval recommendations by the Code Enforcement Officer.
- F. The property owner proposing an outdoor vendor park may be required to make any of the following necessary improvements to the property in order to meet the city ordinances and be approved for the semi-permanent use:
 - 1.) Make any improvements necessary to the site to meet the requirements of Ordinance 153. This may include construction or designation of parking and handicapped parking spaces.
 - 2.) Make necessary improvements to provide permanent utility connections for each outdoor vending unit in the outdoor vendor court. This may include permanent water, sewage, or electric connections.
 - 3.) Make any improvements necessary to ensure safe pedestrian and vehicular access to the site.
 - 4.) Individual outdoor vendor units operating in an outdoor vendor park shall obtain an outdoor vendor permit and shall meet all of the applicable requirements.
- G. Mobile Food Vendors and Outdoor vendors may not operate within 25 feet of any street or intersection nor within 10 feet of any stop sign, flashing beacon, yield sign, or other traffic control signal, or any area within 10 feet of a fire hydrant.
- H. Mobile Food Vendors and Outdoor Vendors shall operate any day between the hours of 5:30 a.m. and 11:00 p.m.
- I. Mobile Food Vendors and Outdoor Vendors must supply, in a prominent location, trash containers sufficient in size to collect all waste generated by customers and staff. Trash must be collected by the mobile vendor and removed each day.
- J. Mobile Food Vendors and Outdoor Vendors shall not use stakes, rods, or any method of support that is required to be drilled, driven, or otherwise fixed, in asphalt pavement, curbs, sidewalks or buildings.
- K. Mobile Food Vendors and Outdoor Vendors shall not impede access to the entrance or driveway of any adjacent building or property.
- L. Mobile Food Vendors and Outdoor Vendors are prohibited to the use of PA systems, loud music, flashing or strobe type lights.
- M. Mobile Food Vendors and Outdoor Vendors are prohibited from parking in a public space during any hours between sunset and sunrise, whether attended or unattended, unless they are part of an Outdoor Vendor Park.
- N. Any signs, banners or other advertisements must be in compliance with Ordinance 177.

SECTION 4: PENALTIES

The violation of this ordinance shall constitute a misdemeanor, and by ordinance subject the offender to a civil penalty, upon the issuance of a citation for said violation. The procedure for issuance of a citation with escalating fines are as follows:

- A. First offense: Verbal or written warning from the Code Enforcement Officer.
- B. If offense is determined to be in violation and violations continue with escalating fines, such fines shall be issued as follows:
 - 1. Per day for each ten (10) days violation \$ 25.00
 - 2. Per day for each of the next ten (10) days of violations.....\$ 50.00
 - 3. Per day for each day of violation thereafter..... \$100.00
- C. If found to be in excessive and habitual violation of this ordinance, the mobile vendor's permit may be revoked and not allowed to reapply for a period of twelve (12) months.

SECTION 5: EMERGENCY CLAUSE

The City of Council of Garfield having received inquiries from the citizens of Garfield concerning the location and types of vending operations that interfere with the safety and health of the citizens declares that an emergency exists, and that this Ordinance shall be in full force and effect from the date of its passage.

PASSED AND APPROVED THIS 11th DAY OF May, 2021

APPROVED:

Gary Blackburn
Gary Blackburn, Mayor

ATTEST:

Teresa A. Vining
Teresa Vining, Recorder-Treasurer