

ORDINANCE NO. 96

AN ORDINANCE REQUIRING LICENSES FOR THE PRIVILEGE OF CARRYING ON A BUSINESS WITHIN THE TOWN OF AVOCA, ARKANSAS; PRESCRIBING THE MANNER OF FIXING THE FEES THEREFORE, FIXING THE TIME WHEN SUCH LICENSES SHALL BE PAID, THE PENALTY FOR NON-COMPLIANCE WITH THE ORDINANCE; REPEALING ORDINANCE NO. 79, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES.

WHEREAS, it is necessary and desirable for the Town of Avoca, Arkansas (the "Town"), to regulate all persons, entities or corporations conducting business within the corporate limits of the Town; and

WHEREAS, the regulations of such businesses requires that the Town acquire and maintain such records of the identities and contact information of the persons, entities or corporations conducting business within the corporate limits of the Town; and

WHEREAS, the acquisition and maintenance of such records assist in ensuring the safety of the citizens of the Town; and

WHEREAS, by requiring business licenses, the Town can insure compliance by such businesses with all Town ordinances and regulations; and

WHEREAS, Arkansas Code Annotated §26-77-102, *et al.*, authorizes the town council of any municipal corporation to enact ordinances requiring any person, firm, individual or corporation who shall engage in, carry on or follow any trade, business, profession, vocation or calling within the corporate limits of the town pay a license fee; and

WHEREAS, an application to conduct business within the Town limits should be completed before commencing any business activity to allow the Town to maintain adequate records of all businesses within the Town limits.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Avoca, Arkansas:

Section 1: General. The conducting and carrying on of any business, including but not limited to, all trades, occupations, vocations, 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 Town, within the boundaries of the Town of Avoca, 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 therefore in the procedure and

amounts as required and set out hereinbelow. For the purpose of this Ordinance, "business" is defined as any commercial activity whether such activity is the providing of a service or of goods.

Section 2: Business Licenses Required. It shall be unlawful for any person in the Town of Avoca to engage in, exercise, or pursue any line of business without first having obtained a business license therefore from the Town of Avoca. For purposes of this Ordinance, "person" shall be defined as any individual, firm, entity, partnership or corporation.

Section 3: Exempted Businesses. Certain businesses shall be exempted from the requirements of this Ordinance. The Town Council of the Town of Avoca is authorized to amend this list from time to time by resolution, duly adopted. The list of 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 livestock;

B. Child care services, except for those businesses which are required to obtain a license or permit for 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 Town limits.

Section 4: License Renewal. All new business licenses issued under this Ordinance shall be valid from the date of issuance through December 31st of the year issued. All licenses issued under this Ordinance, or any previous version of this ordinance, shall become due in the amount of Twenty-Five Dollars (\$25.00) on January 1st of each year. No license shall be issued for a period of time longer than one (1) year.

If the renewal fee is not paid by March 1st, a penalty of Twenty-Five Dollars (\$25.00) will be assessed against the licensee. A penalty of Ten Dollars (\$10.00) will continue to be assessed for each following month that the license fee, together with any and all fines and costs necessary for the collection including, but not limited to, court costs and reasonable attorneys fees, has not been paid in full.

It shall be the responsibility and duty of any licensee to give notice to the Town Recorder/Treasurer, in writing, if they do not wish to renew any license or licenses. Failure or neglect to do so will not remove the licensee from liability for fees due under this ordinance. Such notice must be received no later than the date of expiration of the license held.

Section 5: Application. Any application for a license shall be made to the Town Recorder/Treasurer who shall collect from the applicant the license fee, which is hereby set at Twenty-Five Dollars (\$25.00). If not otherwise prescribed herein, upon approval, the Town

Recorder/Treasurer shall issue to the applicant a license certificate which shall state the amount thereof, the period covered thereby, the name of the person to whom issued, the business name to be carried, the type of business to be operated, and the locations of the place where the business is to be carried on. Applications shall be made available at the office of the Town Recorder/Treasurer. If the applicant is required to undergo a fire inspection in accordance with the applicable fire code, applicant must present proof of inspection along with the licensing fee. No license shall be issued until the applicant submits a copy of its State of Arkansas sales tax permit for the business, or proof of exemption, as required by the State of Arkansas.

All persons required to purchase a license under this Ordinance shall pay the full amount unless said person is applying for a new business license during the last four (4) months of the year. Should such application be made within the last four (4) months of the year, then the amount owed shall be prorated on the following schedule:

A. The license fee for applications made during the month of September shall be Twenty Dollars (\$20.00) for the business license for the remainder of the year;

B. The license fee for applications made during the month of October shall be Fifteen Dollars (\$15.00) for the business license for the remainder of the year;

C. The license fee for applications made during the month of November shall be Ten Dollars (\$10.00) for the business license for the remainder of the year; and

D. The license fee for applications made during the month of December shall be Five Dollars (\$5.00) for the business license for the remainder of the year.

Section 6: Separate License for Each Business. Any person engaged in two or more businesses, or conducting business at two or more locations within the Town of Avoca, shall be required to obtain a license for each separate business or business location.

Section 7: Zoning Code Compliance. Prior to the issuance of a license, the Avoca Zoning Official or Mayor must verify compliance with zoning district.

Section 8: Fee Not Returnable. The license fee provided for in this Ordinance, when paid for any period provided herein, shall not be refundable for any reason, including but not limited to the surrender of the license by the licensee, revocation of the license by the Town, or in the event that the licensee discontinues his business.

Section 9: Transfer Prohibited. No license issued pursuant to the provisions of this Ordinance shall be transferred from one person to another, from one business or business activity to another, or from one location to another.

Section 10: Posting, Display of License. It shall be the duty of any person conducting a licensed business in the Town to keep his procured license posted in a prominent place on the premises used for such business at all times. The holder of a license shall show the license to any officer or agent of the Town upon request.

Section 11: Severability of Parts of Ordinance. It is hereby declared to be the intention of the Avoca Town Council that each section of the 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 12: Revocation. Any business license may be revoked due to non-compliance of any Town of Avoca, Benton County, State of Arkansas, or Federal ordinances, laws, statutes, etc. Revocation of a license shall require the approval of the Mayor or Town Council.

Section 13: Repealing Clause. All ordinances or part of ordinances in direct conflict herewith are hereby repealed. This Ordinance when adopted shall repeal and replace Ordinance No. 79 of the Town of Avoca, in its entirety.

Section 14: Effective Date. This Ordinance shall be effective from the date of its passage as set out in herein pursuant to the emergency clause.

Section 15: Emergency Clause. This Ordinance is necessary for the immediate preservation of the public peace, health and safety; therefore an emergency is hereby declared, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 10th day of December, 2013.



THOMAS O'DELL, Mayor



DIANE BOWEN, Town Recorder/Treasurer