**BILL NO. 2023-04 ORDINANCE NO: 2023-08-16**

**AN ORDINANCE OF THE CITY OF URICH, MISSOURI, REQUIRING BUSINESS LICENSES TO ENGAGE IN THE SALE OF GOODS AND SERVICES WITHIN THE CORPORATE BOUNDARIES OF URICH, MISSOURI, AND TO ADDRESS THE QUALIFICATIONS FOR, ENFORCEMENT OF, AND SUSPENSION AND REVOCATION OF BUSINESS LICENSES.**

**WHEREAS**, pursuant to Missouri Revised Statutes §94.270, the City of Urich, Missouri (“City”), is authorized to regulate and license certain businesses; and

**WHEREAS**, the City requires that any business who desires to operate within the City boundaries apply for, be granted, and maintain a business license; and

**WHEREAS**, the City wishes to address qualifications for obtaining a license, suspension or revocation of license, and afford appropriate due process and enforcement regarding the same.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF URICH, MISSOURI, AS FOLLOWS:**

**SECTION 1.** The following provisions are hereby enacted:

**SECTION 1: License Required**

It shall be unlawful for any person, either directly or indirectly, to conduct any business, trade, location, calling, or occupation, as further defined in Section 94.270, RSMo., in whole or in part, for which a license or permit is required by this Ordinance, without the license or permit so required having been first procured and thereafter kept in effect after all such times as required by this Ordinance and by virtue of authority granted to the City as a city of the fourth class, and in accordance with Chapter 94, RSMo., as amended. Any person shall be deemed to be in business or engaging in a non-profit enterprise and thus subject to the requirements of this Ordinance when any selling, manufacturing. soliciting, transfer, bartering or offering of any goods, wares, real, intangible, and tangible personal property or services takes place. One act thereof shall constitute doing business.

**SECTION 2: Taxes Be Paid Prior To Issuance**

1. No license or permit provided for or required under this Ordinance or any ordinance of the City shall be issued by the City to any person or entity until the City personal tax, real property tax, merchants' ad valorem license tax, and all other taxes, charges, assessments, or other debts to the City, whatsoever in nature, of the applicant for such license or permit shall have first been paid.
2. It shall be the duty of the City Clerk to establish and promulgate rules relative to an orderly method of checking unpaid personal taxes, real property taxes, and merchants’ ad valorem license tax in order to determine the amounts thereof due and owing to the City by any applicant.
3. Each applicant for a business license under this Ordinance shall submit a statement from the Missouri Department of Revenue pursuant to Section 144.083.4, RSMo., stating that no tax is due, which statement is a prerequisite to the issuance or renewal of a City business license. The statement required by this section shall be dated within ninety (90) days of submission of the business license application or renewal application.

**SECTION 3: Separate License For Each Business**

The payment by any person or entity of any business license required by this Ordinance shall not authorize such person to engage in the City, in any other business, occupation, profession, trade or agency for which a license is required by this Ordinance, or any other ordinance of the City, without having first procured and paid for a license for such other business, occupation, profession, trade or agency, unless expressly permitted to do so by the terms of this Ordinance or some other ordinance of the City.

**SECTION 4: License Contents; Delivery To City Clerk**

All licenses issued by the City shall be in the name of the City; they shall be signed by the City Clerk and be attested by the seal of the City; and they shall designate to whom issued, for what purpose issued, the business, trade, or vocation for which issued, the period of time for which issued.

**SECTION 5: Issuance**

1. The City Clerk shall not issue any license until the applicant has complied with every provision of this Ordinance and every applicable provision of state law, other applicable City ordinances, rules, and regulations, including workers’ compensation insurance if applicable.
2. Every license shall show on the face thereof the name of the licensee, the nature of the business and the location thereof (provided said business has a fixed location), the time for which it is issued and the amount of the fee and penalty, if any, paid.
3. Any applicant, whose application is denied, may request that his application be submitted to the Board of Aldermen for consideration.
4. Any license approved by the Board of Aldermen shall show approval on the face of the same.

**SECTION 6: Requirement Of Insurance**

No license required under the provisions of this Ordinance shall be issued by the City Clerk to any construction contractor until such person produces certificates of insurance showing the business has and maintains general liability insurance in an amount not less than five hundred thousand dollars ($500,000) and workers’ compensation coverage (if the applicant for the license is required to have workers’ compensation coverage under Chapter 287, RSMo.). It is further made a violation of this article to provide fraudulent information regarding insurance coverage to the City Clerk.

**SECTION 7: Duties Of Licensee Generally**

General standards of conduct. Every licensee under this Ordinance shall:

1. Ascertain and at all times comply with all laws and regulations applicable to such licensed business.
2. Avoid fraud, misrepresentation, or false statements made in the course of carrying on his or her business; avoid conducting his or her business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
3. Refrain from operating the licensed business on premises after expiration of the license and during period the license is revoked.
4. Allow fire inspections at the licensed premises of the business and maintain compliance with all lawfully enacted fire codes and regulations at licensed premises. Non-compliance with any City fire code or regulation at licensed premises may subject the licensee to revocation of the applicable license.
5. Allow property and building code inspections at the licensed premises of the business if required and maintain compliance with the City zoning code and building code regulations.
6. Keep a copy of the business license conspicuously posted in the place of business if there is a place of business.

**SECTION 8: Collection Of Fees; Register Of Licenses**

It shall be the duty of the City Clerk to collect all fees for licenses issued under the provisions of this Ordinance, or any other ordinance of this City. The City Clerk shall keep an accurate register of all licenses issued in such form as will clearly show what licenses are in force, to whom issued, the businesses for which the license is issued, and the amount paid for the license.

**SECTION 9: License Term; No Proration Of Fee**

Except as otherwise provided, all licenses granted under this Ordinance shall be valid for a term of one (1) year beginning on September 1 and expiring on August 31. The cost of a license granted under this Ordinance shall not be prorated, regardless of when it is applied for or issued.

**SECTION 10: Transfer Of Licenses And Multiple Locations**

No license required by this Ordinance shall be assigned or transferred, and no license issued shall be held to authorize the conduct of the designated occupation at more than one location in the City at the same time. No refund of any part of a license fee shall be made on any license by reason of the licensee discontinuing or retiring from the business, calling, or occupation for which such license was issued.

**SECTION 11: Persons Exempted From This Ordinance**

1. The terms of this Ordinance shall not be interpreted to include persons selling for non-resident, bona fide wholesale establishments to retail dealers in the City, nor to delivery persons whose employers have been duly licensed by the City, nor shall it include or apply to farmers or producers, or any employee of any farmer or producer, who offers for sale or sells any market fruits, vegetables, or garden products and grown by such farmer or producer from lands cultivated by him within the State of Missouri.
2. Any profession listed as exempt under §§71.620 and 71.630, RSMo will be exempt from this Ordinance.

**SECTION 12: Qualifications For, Enforcement Of, And Suspension And Revocation Of Business Licenses**

(a) Qualifications for license. An applicant for a new and renewed business license pursuant to this Ordinance:

(1) Shall be a majority owner or corporate officer responsible for the business, or have primary managerial control of the business location for which the license will apply;

(2) Shall not have had a business license previously revoked in the one (1) year immediately preceding the application;

(3) Shall not have been convicted within the previous five (5) years of a violation of the provisions of any law related to the manufacture or sale of intoxicating liquor or controlled substances, which conviction was related to the type of business for which the applicant seeks a business license;

(4) Shall not employ in his or her business any person whose license has been revoked related to the sale of intoxicating liquor or controlled substances or who has been convicted of violating laws related to the sale of intoxicating liquor or controlled substances within the previous five (5) years, which convictions and violations relate to the type of business for which the applicant seeks a business license;

(5) Shall be of good moral character such that operation of the prospective business by the applicant will not needlessly risk adverse effect to the public health, safety, or general welfare. In determining good moral character, the City may consider the following as it relates to the applicant and the applicant’s business:

a. Penal history, especially as it pertains to the moral character necessary to conduct the type of business for which the business license is sought, pertains to financial malfeasance, pertains to a risk of the safety and wellbeing of those patronizing the business for which a license is sought, or evidences of an applicant’s repeated disregard for the law.

1. All felony convictions and all misdemeanor convictions and ordinance violations within the previous five (5) years, the reasons therefore, as well as the facts and circumstances related to said conviction.

2. For new business license applications only, penal history shall be assessed utilizing a criminal record check issued by the Missouri State Highway Patrol, or such other document as may be approved by the City Clerk.

3. A criminal record check provided with a business license application in accordance with this Ordinance shall be obtained by the license applicant at no cost to the City.

b. Business license history. The business license history of the applicant; whether such person, in previously operating in this or another state under a license, has had such licenses revoked or suspended, the reasons therefor, and the demeanor of the applicant subsequent to such action;

c. General personal history. Such other facts relevant to the general personal history of the applicant as necessary to fairly determine the eligibility of the applicant.

(6) No person, partnership, or corporation shall be qualified for a license under this Ordinance if such person or entity, or anyone holding a ten percent (10%) or more financial interest therein, or any person employed by the entity, has had a license revoked within the past five (5) years or has been convicted of violating the provisions of any law related to the manufacture or sale of intoxicating liquor or controlled substances within the past five (5) years, except as permitted by law;

(7) Shall operate his or her business pursuant to all applicable zoning and land use laws, regulations, and ordinances.

(b) Suspension or revocation of a business license.

(1) Grounds for suspending or revoking include the following:

a. Making a statement showing an incorrect annual gross receipts bracket for the preceding license year (if applicable).

b. Making a false statement as to any other condition or factor upon which a license should be based.

c. If any person who is issued a license under this article, including any of licensee’s employees, is convicted of violating any of the provisions of this Ordinance, other ordinances of the City, or laws of any other jurisdiction, which relate to the conduct or operation of the licensee’s business.

d. If a license has become delinquent for more than 30 (thirty) days.

e. Failing to provide proof that the license holder is not delinquent in any tax owed to the City or the State of Missouri within 10 (ten) days of such request.

f. Failing to comply with any of the provisions of this Ordinance.

g. Failing to comply with any lawful request or directive issued by a City official or employee related to this Ordinance.

h. Causing a condition such that the licensee no longer meets the requirements of this Ordinance.

(2) Process for suspending or revoking a business license.

a. Notice. The City Clerk or her designee shall serve notice upon the licensee that a hearing shall be held to determine whether or not the licensee’s license should be suspended or revoked. The notice shall include the date, time, and location of the hearing. Service may be accomplished by certified letter, personal service to the licensee’s place of business, posting notice at the licensee’s place of business, or a combination thereof. At least one form of service must occur more than ten (10) days before the scheduled hearing.

b. Hearing procedures.

1. The hearing shall be open to the public and on the record.

2. The City Clerk or his or her designee shall serve as the hearing officer and conduct the hearing.

3. The hearing officer shall rule upon all motions by the parties and make note of any objections raised.

4. The licensee may be represented by counsel and has the right to present evidence.

5. The technical rules of evidence shall not apply in the hearing. Any relevant evidence may be admitted and considered by the hearing officer if it is the sort of evidence of which responsible persons are accustomed to rely in the conduct of serious affairs. Objections to evidence shall be noted and a ruling given by the hearing officer.

6. All testimony shall be under oath, which may be administered by the hearing officer or other party authorized to administer oaths.

7. A recording shall be made by the City or a written record of the hearing may be made by a reporter to be employed by the City.

8. All decisions by the hearing officer must be made upon substantial and competent evidence presented at the hearing.

9. The hearing officer is authorized to develop and utilize forms, procedures, and any other tools necessary to carry out the requirements of this article that are not inconsistent with the provisions of this Ordinance or other City ordinances. The hearing officer is authorized to utilize a licensed attorney, magistrate, or other official to assist him or her in carrying out his or her duties.

c. Conduct of the hearing.

1. The City will be allowed to present its evidence first. Witnesses called by the City will be directly examined with an opportunity for the licensee to cross-examine, followed by an opportunity for the City to re-direct. Once the City’s case is presented, the licensee will have an opportunity to present his case. The same procedure for questioning witnesses will be followed. Then the City will have an opportunity for rebuttal, if it so chooses. Finally, the City and the licensee will have an opportunity to make closing remarks in that respective order.

2. Within thirty (30) days of the date of the hearing the hearing officer shall issue a decision based upon the evidence presented along with findings of fact and conclusions of law explaining the decision. The findings of fact shall be stated separately from the conclusions of law and shall include a concise statement of the findings on which the hearing officer’s decision is based. With regard to suspensions and revocations:

a. The decision may include a determination that the occurrence of any additional violations during a licensee’s suspension period, including the operation of a business without a license, shall be grounds for revocation of said license; and

b. The decision may suspend the license for five (5), seven (7), fourteen (14), or thirty (30) calendar days.

c. The decision to revoke the license if the underlying violation giving rise to the hearing cannot be cured or is habitual such that the business has previously been subject to a thirty (30) day suspension for a substantially similar violation within the previous two (2) calendar years.

3. Notice of the decision shall be accomplished by delivering or mailing such notice to the licensee.

4. Any party aggrieved by a decision issued under this article, including the City, may, within thirty (30) days after notice of the decision, file an administrative appeal pursuant to the rules established in Chapter 536 RSMo., for review of a contested case in the Circuit Court of Lafayette County. If no action is taken to appeal the decision of the administrative hearing officer as required by Chapter 536 RSMo., the decision shall be final.

(3) A new license may not be issued to any person or business whose license has been revoked for a period of one (1) year from the date of such revocation.

(c) Disconnection from water or sewer system. The service address of any business that is operating without a license in violation of this section and which is directly connected to the City water and/or sewer utility system, may be disconnected from the City water and/or sewer utilities if such violation is not corrected within twenty-one (21) days after mailing of notice of violation and if otherwise allowed by law.

(d) Revocation of a license will subject the licensee to concurrent revocation of any current liquor license(s) for that business.

**SECTION 13: State Retail Sales License Required**

1. In accordance with 144.083, RSMo., no license or permit provided for or required under this Ordinance shall be issued to any person, firm, or corporation, unless the applicant for such license or permit has acquired and exhibits to the City Clerk a retail sales license issued by the State of Missouri.
2. Whenever the retail sales license issued by the State of Missouri shall be revoked, such revocation shall automatically render the business license issued by the City, immediately null and void.

**SECTION 14: Fees**.

An administrative fee of fifteen ($15.00) shall be remitted to the City Clerk prior the issuance of a business license. Such fees are necessary to defray the administrative action and time expended by City staff in administering the provisions of this Ordinance.

**SECTION 15: Violation.**

Each and every day that any person, firm, or corporation shall operate any business in the City for which a license or permit is required, without such license or permit, and each day that a person, firm, or corporation shall continue to operate a business in the City after the license for such business shall have been automatically declared null and void, due to revocation of the state retail sales license, shall constitute a separate and distinct violation of this Ordinance.

**SECTION 2.** The provisions of this Ordinance are severable and if any provision hereof is declared invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remainder of this Ordinance.

**SECTION 3.** That this Ordinance shall be in full force and effect from and after the date of its passage and approval by the Board of Aldermen.

**Read twice, PASSED AND APPROVED this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 2023.**

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Randy Vogt, Mayor

ATTEST:

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Darla Conner, City Clerk