

**ORDINANCE NO. \_149**

**AN ORDINANCE GOVERNING THE ISSUANCE AND REVOCATION OF  
LICENSES FOR THE RETAIL SALE OF BEER, WINE, AND LIQUOR WITHIN  
THE CITY OF GARFIELD; SETTING HOURS OF OPERATION;  
PRESCRIBING OTHER MATTERS PERTAINING THERETO AND  
DECLARING AN EMERGENCY**

**WHEREAS**, municipal corporations shall have the power to make and publish bylaws and ordinances, not inconsistent with the laws of this state, which, as to them, shall seem necessary to provide for the safety, preserve the health, and promote the prosperity of citizens and residents pursuant to Ark. Code Ann. §14-55-102;

**WHEREAS**, pursuant to an election of the people of Benton County, Arkansas, the sale of alcohol, beer and wine is now permitted in Benton County; and

**WHEREAS**, in order to provide a safe environment for such sales, to comply with applicable state laws and to promote the orderly operation of business which will begin to sell alcohol, beer and wine in Garfield, the City Council adopts the following regulations pursuant to Ark. Code Ann. § 3-5-213:

**NOW THEREFORE, be it ordained by the City Council of the City of Garfield, Arkansas:**

**Section 1:** The City of Garfield hereby recognizes that the sale of alcohol, beer and wine, whether wholesale, retail or by the drink, is thoroughly regulated by the State of Arkansas, and nothing in this ordinance shall contradict the laws of Arkansas. The definitions of the terms of this ordinance shall be consistent with those found in Title Three (3) of the most current Arkansas Code.

**Section 2:** The sale of alcohol, beer and wine in Garfield, Arkansas is declared a privilege and any seller of alcohol, beer or wine shall obtain a privilege license or "business permit" and shall renew it annually, in accordance with Garfield ordinances and Arkansas State Statutes. This privilege license shall be in addition to the current business license required of merchants conducting business within the city limits of Garfield. Fees shall be as follows and shall be consistent with Ark. Code Ann. §3-5-212(a)(2)(A)(B)(C):

a. Fifteen dollars (\$15.00) annually for a retailer whose total annual gross sales of alcohol, beer or wine do not exceed one thousand dollars (\$1,000.00), and

b. Twenty dollars (\$20.00) annually for a retailer whose total annual gross sales of alcohol, beer or wine do not exceed two thousand dollars (\$2,000.00), and

c. The city recorder/treasurer shall be empowered to collect an additional five dollars (\$5.00) for each one thousand dollars (\$1,000.00) gross annual sales of alcohol, beer or wine in excess of two thousand dollars (\$2,000.00)

**Section 3:** The permit issued by the State of Arkansas allowing the merchant to sell alcohol, beer and wine shall be prima facie evidence of the retailer's right to apply for and obtain a city privilege permit for the sale of alcohol, beer and wine and it shall be unlawful for the city recorder/treasurer to refuse to issue the permit upon proper application by the retailer.

**Section 4:** Each merchant engaged in the sale of alcohol, beer or wine as defined in Title Three (3) of the most current Arkansas Code shall submit on an annual basis a report containing the merchant's gross annual sales in dollars of alcohol, beer or wine to the Garfield recorder/treasurer and shall remit the balance of its license fee as set out herein in Section 2. This report shall be the sales report submitted to the Arkansas Department of Finance and Administration or any other regulatory body to which the merchant is required to submit reports of alcohol, beer and wine sales.

**Section 5:** If a retailer of alcohol, beer and wine shall fail to pay its license fee, the city recorder/treasurer shall notify the Director of the Alcoholic Beverage Control Division of such failure to comply and the retailer shall be subject to the penalties set out in Ark. Code Ann. §3-5-212(f).

**Section 6:** Current Arkansas law states that retailers may sell liquor, beer and wine for off-premises consumption only between the hours of seven a.m. (7 a.m.) and one a.m. (1:a.m.) on Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays and between the hours of seven a.m. (7 a.m.) and twelve midnight on Saturdays. The sale of alcohol, beer and wine within the city limits of Garfield shall be in conformity with these hours except for the limitations set out in Section 7. All Sunday sales are prohibited as set out in Title Three (3) of the most current Arkansas Code Annotated.

**Section 7:** The City of Garfield further prohibits the sale of alcohol, beer and wine before the hour of eight a.m. (8 a.m.) and between the hours of two p.m. (2 p.m.) and four p.m. (4 p.m.) on all days that are regularly scheduled school attendance days for the students of Garfield School as part of the Rogers School District. Sales of liquor, beer and wine for off-premises consumption are prohibited on Sundays and Christmas day. To facilitate compliance with these sales hours the City of Garfield shall furnish to each retailer of alcohol, beer and wine within the city limits a copy of the applicable school schedule no later than two weeks prior to the commencement of the school year and this calendar shall be furnished on an annual basis.

**Section 8:** Any violation of the local hours of operation shall result in the issuance of a citation by a local law enforcement officer within the jurisdiction of the City of Garfield and may be punishable by a fine of one hundred dollars (\$100.00) to five hundred dollars (\$500.00). This violation shall not be considered to be an administrative violation against the permit issued by the Alcoholic Beverage Control Division.

**Section 9:** As set forth in current Arkansas law, no store selling liquor for off-premises consumption may be located closer than one thousand feet (1000') to a church or schoolhouse, as defined by applicable Arkansas law, and no convenience store or other

retail outlet selling beer or wine, but not liquor, may be located closer than fifty feet (50') to a church or schoolhouse, as defined by applicable Arkansas law.

**Section 10:** In the event any section, subsection, subdivision, paragraph, or subparagraph, item, sentence, clause or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, as if such invalid or unconstitutional provision was not originally a part of this ordinance.

**Section 11:** This ordinance shall, upon its passage, be published pursuant to the ordinance setting out guidelines for publication of the City of Garfield ordinances.

**Section 12:** The City of Garfield, Arkansas being located in Benton County, Arkansas, which is currently making the transition from a dry county to a wet county, requires an ordinance setting out rules and procedures for issuance of permits for the sale of alcohol, beer and wine, the setting of hours of operation for sellers of alcohol, beer and wine with a restriction on certain hours of operation on specific days to protect the citizens of our community, to insure the safe transition of local school students from school premises to home, and to insure the health and safety of our citizens of Garfield, an emergency is hereby declared to exist and this ordinance deemed necessary for the immediate protection of the public shall take effect immediately on its passage and approval.

Passed and Approved this 5th day of March, 2013.

APPROVED: /s/ \_\_\_\_\_  
Honorable Laura Hamilton  
Mayor of Garfield

ATTEST: /s/ \_\_\_\_\_  
Merlene Snoderly  
Recorder/Treasurer