

*Amended
12-1-09
by Ord. # 414*

ORDINANCE NO. 350

AN ORDINANCE REGULATING TRANSIENT VENDORS

BE IT ORDAINED BY THE MAYOR AND BOARD OF THE CITY OF LUCEDALE, MISSISSIPPI:

SECTION 1: SHORT TITLE. This ordinance shall be known and may be cited as "The Transient Vendor Ordinance."

SECTION 2: PURPOSE. This ordinance is adopted pursuant to the provisions of Mississippi Code Annotated, Section 75-85-1, et. seq., as amended by Senate Bill 3119 adopted during the 1994 Mississippi Legislative Session.

SECTION 3: DEFINITIONS.

1. The word "transient vendor" shall mean any person who transacts transient business in this state either in one locality or by traveling from place to place in this state. The term includes a vendor who for the purposes of carrying on such business hires, leases, uses, or occupies any building, structure, motor vehicle, railroad car, or real property.
2. The word "transient business" shall mean any business conducted for the sale of merchandise or services that is carried on at a particular location for a period of less than six (6) months in each year, even though the owner of such business may conduct the business at another location for more than six (6) months in each year.
3. The word "person" shall mean an individual, corporation, association, partnership, or other entity.
4. The provisions of this ordinance shall not apply to:
 - (a) Civic and nonprofit organizations or wholesale sales to retail merchants by commercial travelers;
 - (b) Wholesale trade shows or conventions;
 - (c) Sales of goods, wares, services, or merchandise by sample, catalogue or brochure for future delivery;
 - (d) Fairs and convention center activities conducted primarily for amusement or entertainment;
 - (e) Any general sale, fair, circus, auction, or bazaar sponsored by a church or religious organization;
 - (f) Garage sales held on premises devoted to residential use;

- (g) Sales or repairs of crafts or sales or repairs of items made by hand by the person making the crafts or items;
- (h) Duly licensed flea markets operating from a fixed location;
- (i) Sales of agricultural, dairy, poultry, seafood, or forest management products or services related to forest management or silvicultural activities, nursery products, foliage plants, or ornamental trees, except such products or services sold at retail and not grown or produced within Mississippi;
- (j) Sales of agricultural services.

SECTION 4: TRANSIENT VENDOR LICENSE REQUIRED. A transient vendor who desires to transact business in the City of Lucedale shall apply for and obtain a license from the City of Lucedale Tax Collector. The license shall expire 90 days after issuance.

SECTION 5: LICENSE FEE. Each applicant for a transient business license shall include a license fee of \$250.00 with the application, and the fee shall be deposited in the general fund of the City of Lucedale.

SECTION 6: BOND REQUIRED. Each applicant shall also execute a cash bond or surety bond issued by a corporate surety authorized to do business in the State of Mississippi in an amount that is the lesser of either \$2,000.00 or 5% of the wholesale value of any merchandise or service to be offered for sale by the applicant. The surety bond shall be issued in favor of the State of Mississippi and shall be conditioned upon payment of (a) all taxes due from the applicant to the State of Mississippi (b) any fines assessed against the applicant or the applicant's agents or employees for violation of State statute and this ordinance and (c) any judgment rendered against the applicant or the applicant's agent or employees in a cause of action commenced by purchasers of merchandise or services not later than one year

after the date the merchandise or services were sold by the applicant.

The transient vendor shall maintain the bond during the period that the vendor conducts business in the City and for a period of one year after the termination of the business. After the transient vendor furnishes satisfactory proof to the City Tax Collector that the vendor has satisfied all claims of purchasers of merchandise from or services offered by the vendor and that all sales taxes and other applicable taxes have been paid, the bond shall be released.

SECTION 7: LICENSE APPLICATION. Applicants for transient vendor licenses must file with the City Tax Collector an application providing the following information:

- a. The name and permanent address of the transient vendor making the application.
- b. A statement describing the kind of business to be conducted, and the length of time for which the applicant desires to transact the business, in a proposed location of the business.
- c. The name and the permanent address of the applicants registered agent or office. The registered agent must be a resident of the City of Lucedale and shall be the agent upon any process, notice, or demand required or permitted by law to be served on the transient vendor may be served. The registered agent must agree in writing to act as the agent. The licensed applicant must file a copy of the registered agent agreement with the application.
- d. Proof that the applicant has required all other required city, county, and state permits and licenses. Such proof shall include a Mississippi sales tax number and such number shall include the City of Lucedale sales tax diversion code.
- e. If the applicant is an association or a corporation, the applicant must also include the names and addresses of the members of the association or the officers of the corporation. If the applicant is a corporation, the application must state the date of incorporation and the state in which it was incorporated. If the applicant is a corporation organized under the laws of another state, the applicant must state the date on which the corporation qualified to transact business as a foreign corporation in this state.

SECTION 8: LICENSE NOT TRANSFERRABLE. No transient vendor's license shall be used at any time by any person other than the one to whom it was issued.

SECTION 9: ALTERING LICENSES PROHIBITED. It shall be unlawful for any person to alter or deface any license under this ordinance.

SECTION 10: RENEWAL OF LICENSE. A transient vendor's license may be renewed by payment of a \$25.00 renewal fee and the filing for renewal with the City Tax Collector before the expiration of a current license. A license may be renewed only one time, after of which a transient vendor must once again purchase a new license pursuant to the provisions a this ordinance.

SECTION 11: REQUIRED NOTICES. While transacting his business, a transient vendor shall post in a prominent place, so that they may clearly be seen by purchasers of the merchandise or services which he is offering, his state sales tax number, his transient vendor license number, and a statement that he is required to give purchasers, at the time of payment, receipts for purchases that include sales tax. The postings required in this section shall be written in bold, legible letters and numbers not less than one (1) inch in height. The transient vendor shall keep a running total of his sales.

SECTION 12: LIST OF VENDORS. The City Tax Collector shall maintain an alphabetical list of all transient vendors in the City of Lucedale and the names and addresses of their registered agents.

SECTION 13: REPEALING CLAUSE. Ordinance No. 288, with the exception of Section 8 thereof, is hereby repealed, and all other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

SECTION 14: SAVING CLAUSE. If for any reason any section, paragraph, provision, clause, or part of this ordinance shall be held unconstitutional or invalid, that fact shall not affect nor invalidate any other section, paragraph, provision, clause, or part of this ordinance in and of itself valid, and the unaffected portions of this ordinance shall be in force without regard to any part invalidated.

SECTION 15: PENALTY.

- a. Any person who fails or refuses to comply with any part of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500.00 or be imprisoned more than six (6) months or be both fined and imprisoned, and every day that a violation of this ordinance shall continue shall constitute a separate, distinct offense, and such fine and/or imprisonment shall be in addition to the fee for the license and to any other penalty imposed by law.
- b. The City Tax Collector may seize and sell any property of the person liable for the tax and penalty in the same manner as property of tax payers for the payment of ad valorem taxes due on personal property may be distrained and sold.


SECTION ¹⁶~~13~~: PUBLICATION AND EFFECTIVE DATE. This

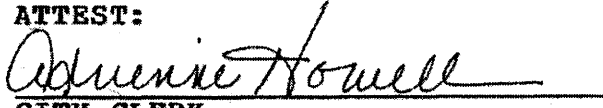
ordinance shall be published as required by law and shall be in force 30 days from and after its passage.

ON June 7, 1994, the foregoing ordinance was read, discussed, and considered section by section and as a whole; voted on section by section and as a whole; and passed section by section as a whole; the vote in every instance being as follows:

ALDERMAN PAUL COWART Alderman At-Large	VOTED	<u>YEA</u>
ALDERMAN RALEIGH L. SARGENT, SR. Alderman for Ward One	VOTED	<u>YEA</u>
ALDERMAN LLOYD WELFORD, JR. Alderman for Ward Two	VOTED	<u>YEA</u>
ALDERMAN EDMOND E. HOB DY Alderman for Ward Three	VOTED	<u>YEA</u>
ALDERMAN PAYTON DUDLEY Alderman for Ward Four	VOTED	<u>YEA</u>

The motion having received the affirmative vote of a majority of the members of the Governing Body present, the Mayor declared the motion carried and the ordinance adopted on this the 7th day of June, A.D. 1994.


MAYOR

(SEAL)
ATTEST:

CITY CLERK

BOARD APPROVED 6-7-94
BOOK 32 PAGE 198

ORDINANCE NO. 400

AN ORDINANCE TO AMEND ORDINANCE NO. 350 (COMMONLY KNOWN AS "THE TRANSIENT VENDOR ORDINANCE")

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LUCEDALE, MISSISSIPPI:

SECTION 1: That Ordinance No. 350 should be and it is hereby, amended to read as follows:

WHEREAS: Adequate protection of the public health, safety and welfare requires that such conditions be regulated, abated or prohibited;

REGULATIONS APPLICABLE TO TRANSIENT VENDORS WHO SELL FRESH AND FROZEN FISH, MEAT AND POULTRY AS AUTHORIZED BY SECTION 21-19-35 OF THE MISSISSIPPI CODE NOT INCONSISTENT WITH SECTION 75-85-1 THROUGH 75-85-19 OF THE MISSISSIPPI CODE

All transient vendors who engage in the selling of fresh or frozen fish, meat or poultry at any place in the City of Lucedale temporarily and who do not intend to become or do not become a permanent retailer at such place shall comply with the following regulations.

Transient vendors may not sell any products or services on any property without having first obtained written permission from the owner or legal occupancy of the premises upon which sales of products or services may be offered.

Upon application for a transient vendor's license, the vendor shall present a valid retail food store license issued by the Mississippi Department of Agriculture and Commerce acknowledging that the vendor is in compliance with the Departments rules on retail sales of fresh and frozen fish, meat and poultry from motor vehicles.

Transient vendors' name, address and telephone number shall be visible on the vendor's vehicle. The City's vendor's license and Department of Agriculture's retail food license must be conspicuously displayed on the vehicle during sales.

City personnel may inspect the vehicle at any time during the hours of operation.

The floors and walls of the vehicle shall be completely enclosed.

The floors and walls of the vehicle and the products contained shall be made of material having a smooth surface and cleaned and maintained in a sanitary condition with the use of cleaning product recognized by the food industry and used in accordance with the manufacturer's labeling instructions.

All food products stored or offered for sale from mobile vehicles must have containers that are leak proof or placed in a leak proof container.

All fresh fish or poultry shall be maintained at 41 degrees Fahrenheit or less. This can be accomplished by maintaining adequate ice on the fish or poultry without mechanical refrigeration or combination of ice and mechanical refrigeration only.

All meat, fish or poultry shall be protected from contamination from dust, dirt, foreign or injurious contamination and from cross-contamination by other type food products, including other types of meat, fish or poultry.

Sample boxes shall not be displayed out of refrigeration. Products sold to customers at locations other than the vehicle must be picked up by the customer from the vehicle.

Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00), and every day that a violation of this Ordinance continues shall constitute a separate and distinct offense.

SECTION 2: ORDINANCES REPEALED. Ordinance No. 350 and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are, to the extent of the conflict, hereby repealed.

SECTION 3: EFFECTIVE DATE. The public welfare so requiring, this ordinance shall take effect and be in force immediately after its passage.

SECTION 4: PUBLICATION. This Ordinance shall be published for one time in a newspaper published in the City of Lucedale.

On December 5, 2006, the foregoing ordinance was read, discussed, and considered section by section and as a whole; voted on section by section and as a whole; and passed section by section and as a whole; the vote in every instance being as follows:

ALDERMAN LOUIS VALENTINE Alderman At-Large	VOTED <u>Yea</u>
ALDERMAN CARRIE MOULDS Alderman Ward One	VOTED <u>Yea</u>
ALDERMAN LLOYD WELFORD, JR. Alderman Ward Two	VOTED <u>Yea</u>
ALDERMAN JESSIE UNDERWOOD Alderman Ward Three	VOTED <u>Yea</u>
ALDERMAN PAYTON DUDLEY Alderman Ward Four	VOTED <u>Yea</u>

The motion having received the affirmative vote of the majority of the members of the Governing Body present, the Mayor declared the motion carried and the ordinance adopted on this the 5th day of December, A.D. 2006.

D. J. White
MAYOR

(SEAL)
ATTEST:

Kathy Johnson
CITY CLERK