

## **ORDINANCE NO.:1815**

### **ORDINANCE REGARDING TRANSIENT MERCHANTS**

WHEREAS, the City of Northport has received complaints of unsightly areas where transient merchants or peddlers are selling merchandise along City streets;

WHEREAS, the City of Northport believes it is in the best interest of the City to modify the regulations and limitations concerning transient businesses;

WHEREAS, the City Council is of the opinion that the changes set forth below will address the various competing interest related to these issues.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHPORT, ALABAMA, AS FOLLOWS:**

1. The existing Section 66-285, Transient Merchant, is hereby repealed.
2. Section 66-285, Transient Merchant, shall address transient merchants, both at fixed locations and door to door sales, and shall read as follows:

#### **Section 66-285, Transient Merchants.**

##### **I. DEFINITIONS**

(a) The word “transient merchant” or “peddler” for the purpose of this section shall mean and include all persons, both principals and agents, who engage or conduct in this City a temporary or transient business of selling or soliciting orders for the sale of goods, wares, or merchandise either at a fixed location or by traveling door to door.

(b) The words “fruit or produce” shall mean those products harvested from plants, trees or vines growing in soil.

(c) The word “traveling from place to place” shall mean those sellers which travel from door to door or location to location calling on potential customers rather than selling from a fixed temporary location.

## II. GENERAL PROVISIONS

(a) Reports of sales: All transient merchants shall make a verified report of sales every thirty (30) days and within seven (7) days of the close of business.

(b) Representations and Advertisements: A transient merchant shall not advertise, represent, or hold forth a sale of goods, wares, or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver, manufacturer's wholesale, canceled order, or misfit sale or closing-out, or a sale of any goods damaged by smoke, fire, or water, otherwise, unless before so he shall state in writing under oath to the city administrator/clerk of the City of Northport at the time he makes application for a license all the facts relating to the reason and character of such special sales, so advertised, held forth or represented, including a statement of the names of persons from whom goods, wares, or merchandise were purchased, and the date of delivery of same to the person applying for license, and such details necessary to exactly located and fully identify all goods, wares or merchandise to be sold, and make such further disclosure to and give such information as may be required by the city administrator/clerk of the City of Northport. Such transient merchants shall also include in said statement names and residences of the owners in whose interest the business is conducted and whether conducted as an individual, firm, association or corporation.

(c) It shall be unlawful for any transient dealer to sell or exhibit for sale either at public or private sale any goods, wares, or merchandise without first complying with the provisions of this section. Provided, however, that nothing in this section contained shall be construed as abridging or denying the right and power of the city council of the City of Northport to refuse or withhold the granting of any license or to revoke the same, if granted, to a transient dealer upon any hearing thereof when in the discretion of said council on the basis of the disclosures as aforesaid, or from other information deemed by them sufficient, such action may be deemed necessary or proper to protect or safeguard the public from imposition of mischief or fraud.

## III. FIXED LOCATION

(a) If a transient merchant operates from a fixed location, the license shall be for a duration of fifteen (15) consecutive days. A person or entity shall not be allowed more than two (2) transient licenses for a fixed location within a calendar year.

(b) A transient merchant may only conduct business from a fixed location:

- (1) At a City of Northport, church or school sponsored event, such as Dickens Downtown, Blue Angels Airshow, school or church festival, parades, etc. or,
- (2) Enclosed within a permanent structure with permanent electrical service and permanent restroom facilities available to its customers.

#### IV. SALE OF FRUIT OR PRODUCE

(a) A transient merchant's license for the sale of fruit or produce may be obtained once every calendar year for a period of 180 consecutive days.

(b) A transient merchant selling fruit and/or produce must be located on a site that has permanent electrical service and permanent restroom facilities for use by its customers.

(c) A transient merchant selling fruit and/or produce may not have any storage facilities, temporary restroom facilities, tent, umbrellas or other temporary covers or structures on site.

(d) A transient merchant selling fruit and/or produce must provide the City with signed written permission to sell from a fixed site by both the owner of the property and the current tenant of the property, if different from the property owner, acknowledging that the transient merchant has permission to locate at this site and that the transient merchant's customers would have access to permanent restroom facilities.

#### V. DOOR TO DOOR SALES

(a) A business license for door to door sales or otherwise not selling from a fixed site may be obtained for a duration of ninety (90) days once every calendar year. A transient merchant making door to door sales shall make an application at least twenty (20) days prior to holding such sale or solicitation. Every such transient merchant shall furnish to the City a verified license application setting forth the following:

(1) Name and address of the applicant and also the name of the true owner if the applicant is not such true owner of the goods, wares or merchandise to be sold;

(2) Name, manner and time of the proposed sale or solicitation.

(3) Inventory of the goods, wares or merchandise, on hand and on order, which the applicant intends to offer for sale at such sale. The inventory shall show the quantity, kind or grade of each item, the wholesale cost thereof, the price at which each item is proposed to be sold, and the total wholesale and retail value of the inventory based on the foregoing, and if sales are to be made other than from inventory, a copy of the catalogue or other sales materials, and/or a listing of the samples to be displayed.

(4) A statement of the amount of gross receipts realized from each sale conducted in the City by the applicant, and the date(s) thereof, if such sale was within the preceding five (5) years;

(5) Such other information as the City administrator/clerk may prescribe;

(6) Address of any permanent place of business in the State of Alabama, or, if there be no permanent place of business in the State of Alabama, a copy of a certificate of the Secretary of State of Alabama evidencing the fact that the dealer has qualified to do business in Alabama and the name and address of its agent for the service process in the state.

(b) Deposits and Bond: Every applicant for a transient dealer's license for door to door sales shall execute and file with the City administrator/clerk a good and sufficient bond in the sum of \$5,000.00 or ten percent of anticipated sales, whichever is greater, with the surety thereon being a surety company authorized to do business in the State of Alabama; approved by said City administrator/clerk, and shall be payable to the City of Northport to the extent that any taxes or fines as determined by the city administrator/clerk of the city to be due are not paid, and upon judicial determination, to those authorized to file suit there under; shall be conditioned upon faithful observance of all the conditions of this section, and the payment of city, county and state license, sales, use, income or occupational license taxes due or to be withheld and paid by the licensee hereunder; shall also indemnifying any purchaser at such sale who suffers any loss by reason of defective merchandise or any misrepresentation in said sale Said

bond shall also provide that the City of Northport, Tuscaloosa County, Tuscaloosa County Special Tax Board and the State of Alabama any file suit in their own name against the licensee and/or the surety on said bond for any taxes, fees or fines due from the licensee which are not paid within thirty (30) days of the termination of the sale and that any purchaser at such sale may maintain an action against the license and/or said surety for claims arising from such sale. Said bond shall also provide that it shall continue in effect for one year after the termination of the sale for which it is made and until all actions are concluded and the judgment or judgments, if any, have been paid and fully satisfied, or the amount of the bond exhausted by such payments. This bond shall be in addition to all deposits required under other ordinances of the city, including but not limited to the sales and use tax ordinances. The above bond and certificate of qualification to do business in Alabama shall be public records open to examination upon request and copies thereof shall be furnished on request upon payment of a fee of \$3.00 per page.

(Ord. No. 1629, § 1, 11-13-06)

**ORDAINED** this the 15<sup>th</sup> day of July, 2013.

**CITY COUNCIL OF THE  
CITY OF NORTHPORT**

BY:   
Its President

ATTEST:

  
City Administrator/Clerk

APPROVED this the 15<sup>th</sup> day of July, 2013.

  
Mayor Bobby Herndon

Reading: July 8, 2013  
Offered By: Acker  
Reading: July 15, 2013  
Motion: Harper  
Second: Sullivan