

ORDINANCE NO. 2024-001

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

**ORDINANCE OF THE MAYOR AND BOARD OF ALDERMEN OF
THE CITY OF CARTHAGE, MISSISSIPPI
REGULATING TRANSIENT VENDORS WITHIN THE CITY LIMITS OF
CARTHAGE, MISSISSIPPI**

WHEREAS, pursuant to Miss. Code 21-17-5, the City governing authorities have the power to adopt any orders, resolutions or ordinances with respect to such municipal affairs, property and finances which are not inconsistent with the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi, and shall likewise have the power to alter, modify and repeal such orders, resolutions or ordinances; and

WHEREAS, pursuant to Miss. Code 21-19-35, the City is vested with the power to adopt reasonable ordinances regulating transient vendors; and

WHEREAS, the Board of Aldermen has determined that it is necessary to reasonably enact regulations, in order to protect and secure the general health, safety and welfare of the City and its citizenry, governing certain business aspects of transient vendors and mobile food vendors operation within the municipal limits. These regulations are hereby deemed fair, reasonable and necessary for their stated and intended purpose and the regulations are NOT enacted in order to unfairly or unreasonably restrict trade, commerce or competition.

WHEREAS, the City is aware of Miss. Code Ann. Section 75-85-1, *et seq.*, which sets forth a licensing scheme for transient vendors; and

WHEREAS, the City desires to adopt a "Transient Vendor Ordinance" pursuant to its authority in Miss. Code 21-19-35; and

WHEREAS, the City desires to ensure that those property owners, who allow transient vendors, do not allow for a transient vendor to have a permanent location; and

WHEREAS, the City desires to ensure that the City streets are free from obstructions and minimize trash and litter throughout the City; and

WHEREAS, the City desires that all transient vendors are in compliance with the relevant building and fire codes; and

WHEREAS, due to licensing, ensuring compliance of the transient vendor ordinance and statutes, and traffic issues, the City has an interest in knowing which properties transient vendors occupy; and

WHEREAS, the Ordinance, provides specific guidelines for the Governmental authorities and transient vendors, and serves the legitimate City interest; and

WHEREAS, the Board authorizes the Mayor, or her designee, to sign such documents or take actions that are necessary or required for the effectuation of this Ordinance.

WHEREAS, the Board of Aldermen have maturely considered the aforesaid subject matter and this ordinance and have determined that the said ordinance is not zoning in nature and therefore no public hearing is otherwise required before passage of same and that this ordinance is necessary to promote the general health, safety and welfare of the City and its citizenry, and is permissible according to state law.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CARTHAGE, MISSISSIPPI, THAT RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CARTHAGE, MISSISSIPPI TO ADOPT THE CITY OF CARTHAGE CODE OF ORDINANCES, TITLE VIII, CHAPTER 7, and SECTION 8-163 AS FOLLOWS:

Sec. 1-1. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Person means an individual, corporation, association, partnership or other entity. Transient business means 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 months in each year, even though the owner of such business may conduct the business at another location for more than six months in each year.

Transient vendor means 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, movable structure, motor vehicle, railroad car or real property. Sec. 8-163. - License fee; hours.

Sec. 1-2 – Application for license.

- (a) A transient vendor who desires to transact business in the city shall apply for and obtain a license. The license application shall be filed with the City Clerk, and must include:
- (1) The name and permanent address of the transient vendor making the application;
 - (2) A statement describing the kind of business to be conducted, the length of time for which the applicant desires to transact the business, and the proposed location of the business;
 - (3) The name and permanent address of the applicant's registered agent or office; and
 - (4) Proof that the applicant has acquired all other required city, county and state permits and licenses. Such proof shall include a state sales tax number and, if the transient vendor desires to transact business in a municipality, such number shall include such municipality's sales diversion code.
- (b) 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.
- (c) The following exceptions for obtaining a license to conduct transient business shall be made:
- Solicitations, sales or distributions made by charitable, educational or religious organizations which have their principal place of activity in the City of Carthage.
 - A business with a central, brick and mortar location within the corporate limits of the City of Carthage.
 - Permitted holiday-related sales for vendors who solely sell fireworks, pumpkins, and Christmas trees at designated locations.

- Locally grown produce.
 - Civic and nonprofit organizations or wholesale sales to retail merchants by commercial travelers;
 - Wholesale trade shows or conventions;
 - Sales of goods, wares, services or merchandise by sample, catalogue or brochure for future delivery;
 - Fairs and Convention center activities conducted primarily for amusement or entertainment;
 - Any general sale, fair, circus, auction or bazaar sponsored by a church or religious organization;
 - Garage sales held on premises devoted to residential use, as otherwise authorized by city regulation;
 - Sales or repairs of crafts or sales or repairs of items made by hand by the person making the crafts or items;
 - Duly licensed flea markets operating from a fixed location;
- (d) A transient vendor not otherwise exempted from this chapter is not exempted from this chapter because of a temporary association with a local dealer, auctioneer, trader, contractor or merchant, or by conducting the transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor or merchant.

Sec. 1-3. - License fee, Insurance requirements.

- (a) Each applicant for a transient vendor license shall include a license fee of \$250.00 with the application.
- (b) The transient vendor shall maintain coverage of liability insurance of an amount not less than \$500,000.00, with the City of Carthage being named as the additional insured.

Sec. 1-4. - Issuance of license; validity of license; renewal of license.

- (a) The City Clerk shall issue a transient vendor license under this chapter only if all requirements of this chapter have been met. The license is not transferable and is valid only within the territorial limits of the City of Carthage. A license expires 90 days after the day of issuance.
- (b) A license may be renewed on payment of a \$25.00 renewal fee and filing for renewal with the City Clerk before the expiration of the current license. A license may be renewed only one time after which a licensee must once again purchase a new license pursuant to the provisions of MCA § 75-85-13 (1972, as amended).
- (c) If the vendor plans to stay past the 180 days, at that point the vendor will apply for a privilege license at City Hall.

- (d) The City Clerk shall maintain an alphabetical list of all transient vendors in the municipality and the names and addresses of their registered agents.

Sec. 1-5. - Posting of sales tax number, license number and statement concerning sales receipt; vendor to keep running total of sales.

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

Sec. 1-6. - Location and operation.

- (a) Due to concerns of public health, safety and welfare, transient business shall only be conducted in locations deemed appropriate by the Board of Aldermen:
Transient vendors shall not operate on any publicly owned right-of-way or other public lands, except at the City Park or in a location otherwise expressly allowed by the Board of Aldermen, particularly during special events.
- (b) Park and be located in zoned **Highway Commercial (C-3)**.
- (c) The permissible days and hours of operation for a transient vendor shall be Tuesday, Thursday, and Saturday 5a.m. – 9p.m. **Transient vendors may not park in any permitted location overnight.** Transient vendors locating beyond these times are considered an accessory use, requiring a commercial construction application for building review to site permanently on private property.
- (d) The following conditions of operation shall apply:
No Transient Vendor shall conduct public solicitation in the City in such a manner that their conduct is contrary to the public interest. No solicitation tactics shall be employed which are coercive, abusive or misleading. No effort may be made by any transient vendor to defraud any individual through the solicitation process. Repeated contact with the same household shall be considered harassment unless invited to return by the homeowner, and such conduct shall be and is hereby prohibited.
- All taxes due from the applicant to the state.
 - Any fines assessed against the applicant or the applicant's agent or employees for a violation of this act; and

- Any judgment rendered against the applicant or the applicant's agents or employees in a cause of action commenced by a purchaser of merchandise or services sold by the applicant.

Sec. 1-7. - Guidelines for Transient Vendor Operations.

Operation of a Transient Vendor on private property requires the following:

1. Written permission from the property owner
 2. Must be parked 20 feet from the street curb and/or Right of Way
 3. Ample distance for proper traffic flow and safe passage for customers
- Park no closer than 100 ft. from any “Brick and Mortar” restaurant.
 - Location shall be a well-lit/lighted area.
 - No more than two (2) transient permits per lot shall be issued by the City Clerk’s Office at any one time;
 - A minimum of four (4) off-street parking spaces must be available in addition to the spaces required for any other business on the property;
 - If any food or food stuffs is sold or dispensed to the public, the necessary sanitary facilities shall be provided in accordance with requirements of the Leake County Health Department.
 - Transient vendors shall meet applicable building and fire codes and submit to any and all inspections required by the city.
 - The transient vendor shall have no connection to or use of property owner’s utilities, nor can a transient vendor have utility poles set temporarily.
 - All transient vendors shall have a generator. A mobile food preparation vehicle shall have self-contained utilities and shall not use the city’s utilities or private utilities that are not self-contained and integral to the vendor unit.
 - Transient vendors are responsible for all waste/trash removal and must maintain the area within 25 ft. of the operation to be kept clear of all grease and refuse associated with the operation.
 - No speakers, noise production devices, or sound amplifications are permitted. Generators must adhere to noise ordinances.
 - No sales or service of alcohol is permitted by mobile vendors on public property except as permitted by State law and City Ordinances. Private location operations should consult the Mississippi Alcohol and Beverage Commission.
 - **Grease** may not be disposed of in wastewater, storm water, sewer utilities, tree pits, sidewalks, streets, other public places, or unpermitted private locations.
 - Sign must be attached to the food truck following the guidelines of the City Sign Ordinance.
 - Parking in City of Carthage Public Parks requires written permission. City of Carthage offices are located at 212 W. Main Street, Carthage, MS 39051, 601-267-8832.
 - Privilege license must be acquired with the City of Carthage after the Transient Vendor Permit has expired.

- Participation in Special Events (Public or Private) is permitted only with written permission of the event organizer at events permitted by the City of Carthage.

Sec. 1-9. - Violations, penalties.

Any person who knowingly or intentionally operates a transient business without a valid license as set forth in this article, or who knowingly or intentionally advertises, offers for sale or sells any merchandise or services in violation of this article shall, upon conviction, be guilty of a misdemeanor and, upon conviction, shall be fined not more than one thousand dollars (\$1,000.00) and/or be imprisoned in the county jail for not more than ninety (90) days. Such person may be proceeded against by suit, and the city clerk may seize and sell any property of the person liable for the tax and penalty in the same manner as property of taxpayers delinquent for the payment of ad valorem taxes due on personal property may be distrained and sold.

NOW, THEREFORE BE IT ORDERED that this Ordinance shall be in full force and effect one (1) month from and after its passage.

The foregoing Ordinance having been reduced to writing and having been read and considered by Section and then as a whole, Alderman Britt Barnes moved to adopt same by Sections and as a whole, Alderman Josh Stokes seconded the motion to adopt the Ordinance, and the Mayor having called to question to vote, the following vote was recorded:

Alderman Britt Barnes	"Yea"
Alderman Marcus Williams	"Yea"
Alderwoman Robin Burgess	"Yea"
Alderman Josh Stokes	"Yea"

NOW, THEREFORE BE IT ORDERED that the City Clerk, pursuant to Miss. Code 21-13-11, provide notice of the adoption of the Ordinance in the The Carthaginian for one (1) time.

NOW, THEREFORE BE IT ORDERED that the Mayor and City Clerk, any of their designees are authorized to take all actions, including the revision and administrative forms and procedures to effectuate the intent of this Resolution.

Having received a majority of affirmative votes, the Mayor declared that the Resolution was carried and adopted as set forth above on this the 4th day of March, 2024.

CITY OF CARTHAGE, MISSISSIPPI

BY: Laurie Henderson
LAURIE HENDERSON, MAYOR

ATTEST:

Penny Spears
PENNY SPEARS, CITY CLERK, CMC, MMC

