

AN ORDINANCE REGULATING ITINERANT VENDORS AND OTHERS WHO CONTRACT OR OFFER TO CONTRACT TO CONSTRUCT OR REPAIR ROOFING, SHINGLING, DO TREE TRIMMING OR REMOVAL, AND REQUIRING TEMPORARY PERMIT AND BOND THEREFOR.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRICHARD, ALABAMA, AS FOLLOWS:

Section 1. DEFINITIONS: The following words and phrases, when used in this article shall have the meanings respectively ascribed to them in this section.

~~"Itinerant Vendors"~~ The term "itinerant vendors" means and includes and shall be construed to mean and include all persons, as well as their agents and employees, who engage in transient business in the City, of selling or offering for sale any building construction, remodeling or repair services, including but not limited to roofing, floorlaying, glazing, siding, sheetrocking, shingling, bricklaying, carpeting, tree trimming or removal, when such work is obtained by contract derived from any form of general solicitation or public advertisement by means of telephoning from directories or lists, direct mail campaigns, door-to-door, street, or public place canvassing, handbill distribution, newspaper advertising, or similar means, or by referrals, other than those received through resident business, trade and professional associations or governmental agencies with which such person is duly registered or enrolled, and the selling or offering for sale of any goods or merchandise or exhibiting the same for sale or exhibiting the same for the purpose of taking orders for the sale thereof and who, for the purpose of carrying on such business or conducting such exhibit thereof, use trucks parked upon the streets or vacant lots of the City or use the vacant lots in the City, or who either hire, rent, lease or occupy any room or space in any building, structure or other enclosure in the city from, through or in which any goods or merchandise may be sold, offered for sale, exhibited for sale or exhibited for the purpose of taking orders for the sale thereof.

"Transient". The word "transient" means and shall be construed to mean any business of any itinerant vendor as may be operated or conducted by persons or by their agents or employees, who reside away from the city, or who have fixed places of business in places other than the city, or who have their headquarters in places other than the city, or who move stocks of goods or merchandise, or samples thereof, into the city with the purpose or intention, which purpose or intention shall be presumed as to all persons to whom one or more terms of this definition are applicable, of removing them or the unsold portion thereof, away from the city before the expiration of thirty days after the beginning operations in the city. The word for transient also mean and shall be construed to mean any business of any itinerant vendor as may be operated or conducted by persons or by their agents or employees, who reside within the city, or who have fixed places of business in the city, or who have their headquarters in places in the city, or who move stocks or goods or merchandise, or samples thereof into the city, with the purpose or intention of moving away from the city before the expiration of thirty days after beginning operations in the city, who are not licensed to do such business within the city.

Section 2. PERMIT REQUIRED. It shall be unlawful for any itinerant vendor to sell, offer for sale, exhibit for sale or exhibit for the purpose of taking orders for the sale thereof, any building, construction, remodeling, or repair services, as defined in Section One hereof, any goods or merchandise in the city, without first obtaining a permit as provided in this article.

Section 3. SAME APPLICATION: INFORMATION TO ACCOMPANY.

The itinerant vendor shall make application for a permit to the License Officer of the City prior to the date of his contemplated sale or exhibit to be held in the city, which application shall be in the form of an affidavit, stating the full name and address of the itinerant vendor, the location of his principal office and place of business, the names and addresses of its officers, if such itinerant vendor is a corporation, and the partnership name and the names and addresses of all partners, if such itinerant is a firm.

Before a permit shall be issued the application therefor must be accompanied by

1. A statement showing the kind and character of the services, goods or merchandise to be sold, offered for sale or exhibited.

2. A certified copy of the charter, if the itinerant vendor is a corporation incorporated under the laws of the state.
3. A certified copy of its permit to do business in Alabama if the itinerant vendor is a corporation incorporated under the laws of some other state than Alabama.

During the time of a civil emergency or disaster in the city, and until declared to be terminated by ordinances, applicants hereunder may be issued permits conditioned to be valid only if the documents required by subsections 2 and 3 above are filed within five(5) days after the issuance of permit.

Section 4. SAME ISSUANCE; FEE. -The License Officer of the city shall issue to any itinerant vendor a permit authorizing such itinerant vendor to sell, exhibit for sale, offer for sale or exhibit for the purpose of taking orders for the sale thereof in the city his services, goods or merchandise only after such itinerant vendor shall have fully complied with the provisions of this article and made payment in the sum of Fifty Dollars (\$50.00) for the permit, which permit shall authorize the conducting of such business from only one room or space in any building, structure or other enclosure, from only one vacant lot or from only one truck, but not from both. The sum of \$50.00 shall be compensation to the city for the services required of it, and to enable the city to partially defray the expense of enforcing the provisions of this article. Provided, however, that until the governing body of the city declared by ordinance the rehabilitation and restoration of property damaged by Hurricane Frederic to be substantially complete, permitted itinerant vendors of building construction, remodeling and repair services, goods and merchandise may conduct their business anywhere within the city limits and further provided that such vendors shall always maintain on file with the City Clerk a current address and telephone number where he may be contacted.

Section 5. SAME - TRANSFERABILITY. The permit required by section four of this code shall not be transferable nor give authority to more than one person to sell or exhibit services, goods or merchandise as an itinerant vendor, either by agent or by clerk or any other way than his own proper person, but any person having obtained such permit may have the assistance of one or more persons in conducting the sale or exhibit, who shall have the authority to aid the principal, but not to act for or without him.

Section 6. SAME - DURATION; REVOCATION; RENEWAL.

A. Duration. The permit provided for in Section Two of this Ordinance shall continue so long as:

1. Such services, sale or exhibit be continuously held in the city, but, in no event, for more than forty days after the issuance of the permit; and
2. The permittee complies with all requirements of this Article, all ordinances of the city and the laws of the State of Alabama.

B. Revocation. In the event the License Officer of the City determines, upon credible evidence, that;

1. Any vendor permitted hereunder has failed to comply with any requirements of this ordinance; or
2. Any vendor permitted hereunder has failed to comply with any requirements of any ordinances of the City of Prichard; or
3. Any vendor permitted hereunder has failed to comply with any provisions of any law of the State of Alabama; or
4. Any Permittee's itinerant Vendor's bond has been reduced by adverse final judgment of a court of law, or otherwise reduced, to less than the principal sum of \$5,000.00; and said vendor has not paid or otherwise discharged such judgment or restored the unencumbered or chargeable principal bond sum to \$5,000.00 or more; or

5. Any vendor permitted hereunder has failed to provide a current address and telephone number where said vendor may be contacted, or has failed to give notice of any change of address;

The said License Officer is hereby empowered to revoke the said vendor's permit, effective as of any date the said License Officer shall specify after three days' written notice, addressed to said vendor at his last address of record with the city, setting forth the reasons for revocation and the effective date thereof, to the said vendor. Such notice shall be deemed served on the day the same is personally delivered to the said vendor or as of the day the same is deposited in the United States Mail, properly stamped and addressed to said vendor at his last address known to the City License Officer. The said vendor shall then forthwith surrender his permit to the City License Officer or any city police officer who demands the permit.

- C. Renewal. At the expiration of the initial forty-day permit, a renewal for a thirty-five day interval may be obtained by the payment of a \$50.00 permit renewal fee, provided, however, that if the City License Officer has determined, upon credible evidence, that;

1. Any vendor heretofore permitted hereunder has failed to comply with any requirement of this ordinance; or
2. Any vendor heretofore permitted hereunder has failed to comply with any requirement of any ordinance of the City of Prichard; or
3. Any vendor heretofore permitted hereunder has failed to comply with any requirement of any ordinance of the State of Alabama
4. Any permittee's itinerant vendor's bond has been reduced by adverse final judgment of a court law, or otherwise reduced to less than the principal sum of \$5,000.00; and said vendor has not paid or otherwise discharged such judgment or restored the unencumbered or chargeable principal bond sum to \$5,000.00 or more; or
5. Any vendor heretofore permitted hereunder has failed to provide a current address and telephone number where said vendor may be contacted, or has failed to give notice of any change of address; or
6. Any vendor heretofore permitted hereunder has been the subject of one or more complaints, within any thirty-day period, of unsatisfactory performance under a contract undertaken by him, and upon investigation by the Inspection Services Department of the city certification is made in writing by an inspector of said department that the complaint (or complaints) be substantially correct as to (a) quality of work left undone under the contract or (b) the quality of materials when installed is found to be defective or of unusable composition, according to the applicable City Building Code;

Then the said License Officer of the City is hereby empowered to refuse to renew said vendor's permit, effective as of any date the said License Officer shall specify. A written statement of the reasons for non-renewal shall be furnished by said License Officer to such vendor if the latter requests the same. Upon failure to renew, the said vendor is no longer privileged or entitled to solicit future work in the City of Prichard for the duration of the Hurricane Frederic "Disaster Period" as declared by the President of the United States.

Failure to renew hereunder is cumulative of all other remedies of the city respecting noncompliance with the terms of the License Code of the City of Prichard, or the Prichard City Code, but not limited to, recourse against the itinerant vendor bond.

Every vendor aggrieved by the revocation of the non-renewal of his permit shall have the right to appeal such revocation of such non-renewal to the City Council through the procedure provided by the License Code of the City and the Prichard Municipal Code, where he shall be accorded the right to counsel, to present evidence, confront accusers and cross-examine. During the pendency of any appeal the revocation shall remain operative.

Additional renewals may be made and shall be required after the termination of the initial forty-day permit so long as the itinerant vendor conducts business within the city. Four consecutive renewals shall be deemed to constitute the vendor a resident of the city and no longer subject to renewal requirements, providing he has continuously conducted his business in the city under the terms of and in compliance with this ordinance.

No additional bond shall be required unless a claim upon such bond, reduced to final judgment, or otherwise, has decreased the sum available under such bond to less than \$5,000.00.

Section 7. SAME - DISPLAY. The permit or true copies thereof, required by Section Two of this ordinance, shall be prominently displayed in a conspicuous place on the premises where, or the truck from which, such services, sale or exhibit are being conducted and shall remain so displayed so long as any goods or merchandise are being so sold or exhibited.

Section 8. SAME - BOND. A bond in the sum of not less than Five Thousand Dollars (\$5,000.00) shall be executed by the itinerant vendor, as Principal, with a good and sufficient surety duly authorized to do business in this state, and in a form approved by the City Attorney, which bond shall be payable for the use and benefit of any person entitled thereto, conditioned that the Principal and Surety will pay all damages to persons caused by or arising from or growing out of the wrongful, fraudulent or illegal conduct of the itinerant vendor, while conducting the services, sale or exhibit in the city. The bond shall remain in full force and effect for the entire duration of the permit, as provided in this ordinance, and for two years thereafter. Such bond shall be posted before the permit shall be issued. A building services vendor, as defined herein, may commence business upon payment of the permit fee only until the City Council passes the ordinance declaration provided by Section Four.

Section 9. APPLICABILITY OF ARTICLE. This article is not, and shall not be held applicable to the following:

- (a) Ordinary commercial travelers, who sell or exhibit for sale, goods or merchandise to parties engaged in the business of buying, selling and dealing in such goods or merchandise.
- (b) Vendors of farm products, poultry, stock or agricultural products in their natural state; however, this exemption shall not exempt from the provisions of this article sales or exhibits for sale of lumber or wooden poles.
- (c) Sales of goods or merchandise donated by the owner thereof, the proceeds whereof to be applied to any charitable or philanthropic purpose.
- (d) Sales of goods or merchandise, art objects, coins, stamps, products displayed or produced at arts and crafts shows, and hobby shows, and other articles and materials exhibited in a publicly owned building or area under the sponsorship of a local group or groups, the majority of the membership of such group or groups being at all times permanent residents of the city, having a license, tenancy or right of occupancy of such publicly owned building or area.
- (e) Persons currently and duly licensed to conduct such business within the city.

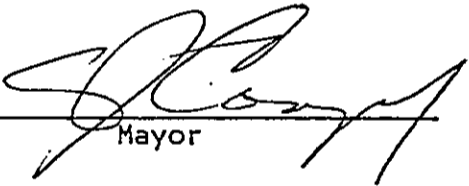
At expiration of the initial forty-day period, a renewal for a thirty-five day interval may be obtained by the payment of the \$50.00 permit fee. No additional bond shall be required unless a claim upon such bond, reduced to final judgment, has decreased the sum available under such bond to less than \$5 000.00. Additional renewals may be made and shall be required

after the termination of the initial forty-day permit so long as the itinerant vendor conducts business within the city. Four consecutive renewals shall be deemed to constitute the vendor a resident of the city, providing he has continuously conducted his business in the city under the terms of and in compliance with this ordinance.

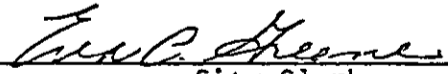
Section 8. Any person who shall violate any provisions of this city ordinance or do business within the city, as defined in this ordinance, without first obtaining a permit or license as provided herein shall be subject to fine in an amount not to exceed \$500.00 or imprisonment not to exceed six months, or to both such fine and imprisonment, in the discretion of the Court trying the case.

Adopted this 28th day of September, 1979.

Approved


Mayor

Attest


City Clerk

Please publish: Wednesday, October 3, 1979