
**LAMAR COUNTY BOARD OF COMMISSIONERS
ORDINANCE NO. 2023-06**

AN ORDINANCE TO AMEND CHAPTER 2-12 OF THE LAMAR COUNTY CODE OF ORDINANCES ENTITLED “LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS”; TO AMEND ARTICLE III ENTITLED “PEDDLERS TRANSIENT SELLING”; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF
LAMAR COUNTY, GEORGIA**

SECTION 1. Code Chapter Amended. Chapter 2-12, Article III of the Code of Ordinances of the Lamar County, Georgia, entitled “Peddlers Transient Selling” is hereby amended by deleting said Article and sections thereunder in its their entirety and substituting in lieu thereof a new Article III to be entitled “Transient Selling” which shall read as follows:

Sec. 2-12-51. Purpose; exemptions; and definitions.

- (a) Purpose: To provide regulations for those who conduct business, whether for-profit or non-profit, outside of an established and permanent building and surrounding grounds, in order to continue to protect the health, safety, and welfare of the citizens and visitors of Lamar County.
- (b) Exemptions: Specifically exempted from these regulations are political organizations and political candidates; religious organizations providing information only, but not wares for sale; fundraising events for public entities such as fire departments and schools unless contracted to a third party; merchants who are contacted directly by homeowners to conduct business in their home (examples are Avon, Tupperware, Rainbow Vacuums, etc.), however, these merchants are required to obtain an occupational tax permit if their base of operations is located in unincorporated Lamar County.
- (c) Definitions: As used in this chapter, the term “transient merchant” means any person, firm, or corporation, as principal or agent, or both, which is not a regular retail or wholesale merchant with a permanent place of business in this state, but rather one who displays samples, model goods, wares, or merchandise in any lot, building, room or structure of any kind, whether fixed or mobile, for the purpose of securing orders for the retail sale of such items or items of like kind or quality for immediate or future delivery. The term “transient merchant” shall not include any person, firm, or corporation that is run solely by a child under 18 years of age who sells non-consumable goods, lemonade, or other non-potentially hazardous or nonalcoholic beverages, and generates less than \$5,000 annually; sells agriculture or forestry products; makes house-to-house or personal calls for the purpose of displaying samples or taking orders for shipment directly from a manufacturer; conducts business at any industry or association trade show; or sells items at a rummage, garage, antique, or similar sale when such person, firm, or corporation is a resident of this state or has a permanent place of business within this state and such sale

is not part of the regular business activity of such person, firm, or corporation or when the net proceeds of such sale are to be used for charitable purposes.

Every transient merchant must provide a registered agent that is a resident of Lamar County. The name and permanent address of the agent shall be filed with the Clerk of Superior Court of Lamar County.

Sec. 2-12-52. Prohibitions and Regulations.

Transient merchants shall:

- (1) Not carry on his business upon any street, alley, sidewalk, park, or any other public place unless part of an event sanctioned by Lamar County and given express permission by the county to sell at that location. This regulation does not apply to Ice Cream Trucks selling their goods on a public road.
- (2) Not carry on his business upon any private property without the written permission of the property owner.
- (3) Not possess any pornographic or obscene material as defined under the laws of the State of Georgia.
- (4) Not refuse to leave premises upon being notified by the owner, occupant, or agent to leave.
- (5) Not misrepresent or make false statements concerning the quality of goods, wares, merchandise, or services.
- (6) Not carry on his business without first obtaining the proper license to do so. The license shall be posted in a conspicuous location and shall be shown to any person requesting it.
- (7) Not carry on his business in any area not zoned commercial or manufacturing unless part of a county approved event. This regulation does not apply to Ice Cream Trucks.
- (8) Be responsible for collecting all trash and materials discarded by customers of the business within a fifty foot (50') radius of the conveyance.
- (9) Carry on his business utilizing amplified sound. This regulation does not apply to Ice Cream Trucks.
- (10) Not carry on his business using advertising signs that are not affixed to the conveyance with the exception of a single sign not to exceed 4 square feet located outside of any right-of-way.
- (11) Shall have sufficient parking on the premises to provide parking for the customers and must not allow parking on the streets or adjoining property without approval.

Secs. 2-12-53—2-12-56. Reserved

Sec. 2-12-57. Application.

Applicants for a license under this article shall file with the zoning administrator, at least one (1) day prior to the date upon which the applicant desires to begin his business, a sworn application, in writing, on a form furnished by the zoning administrator, providing the following information:

- (1) Name, physical description, age, social security number, driver's license number of the applicant.
- (2) The permanent home address and full local address of the applicant and a copy of the applicants Occupation Tax Certificate from their base jurisdiction.
- (3) A brief description of the nature of the business and goods shown for sale or for future delivery, including manufacturer, producer, and supplier of such goods. If goods for sale are regulated by a government agency, proof of inspection and/or compliance with that agency is required.
- (4) The length of time for which the right to do business is desired.
- (5) The exact location in which the applicant intends to do business together with the written permission of the property owner (if the location is to change during the license period, the applicant must so state on the application).
- (6) If vehicles are to be used, a description of the same together with license number and other means of identification for each vehicle. If the vehicle and/or conveyance used to sell the goods are regulated by a government agency, proof of inspection and/or compliance with that agency is required
- (7) The particular manner and means by which he intends to sell his goods or take his orders.
- (8) At the time of filing his application for a permit required by this article, the applicant shall present the driver's license of each person working with him or any other identification that may be requested.
- (9) A criminal history conducted by the Lamar County Sheriff's Office.
- (10) A state of Georgia sales tax ID number is required.
- (11) The name and permanent address of the registered agent or office.

Sec. 2-12-58. Fee.

The fee for a license issued under this article shall be provided in the schedule of fees and charges on file in the office of the county administrator or their designee. O.C.G.A. § 43-12-1 provides exemptions of payments for transient permits to certain veterans of the armed forces and to blind persons. An applicant who wishes to use this fee exemption must provide a sworn oath certified by the probate judge of Lamar County.

Sec. 2-12-59. Records required.

The zoning administrator shall maintain a record of all licenses issued pursuant to pursuant to the records retention schedule adopted by Lamar County Board of Commissioners.

Sec. 2-12-60. License non-transferrable.

Licenses issued under this article shall not be transferred or assigned.

Sec. 2-12-61. Duration.

Licenses issued under this article shall expire one year from the date issued. Private events and events that are community sponsored are exempt from any restrictions on number of days a transient merchant can operate.

- (1) Transient Merchants operating ice cream trucks may operate during daylight hours only.
- (2) Transient Merchants offering prepared food sales (food trucks) may operate from 7:00 am until 9:00 pm on Monday only and may not operate at any other time or day.
- (3) Transient Merchants offering all other types of wares as covered by this article may operate from 7:00 am until 9:00 pm but must not exceed more than 12 calendar days per year.

Sec. 2-12-62. Denial or Revocation—Grounds and procedure.

A license applied for or issued under this article may be denied or revoked by the Board of Commissioners after notice to the licensee and a hearing at which the licensee may be heard for any of the following causes:

- (1) Fraud, misrepresentation, or false statement contained in the application of the license.
- (2) Fraud, misrepresentation, or false statement made in the course of carrying on his business as a transient dealer.
- (3) Any violation of this article.
- (4) Conviction of or a plea of guilty or nolo contendere to any felony or to a misdemeanor involving moral turpitude.
- (5) Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace, or to constitute a menace to the public health, safety or general welfare of the public.
- (6) Any unpaid taxes due to Lamar County.

Notice of a hearing for revocation of a license issued under this article shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be personally served, or may be mailed, postage prepaid, to the licensee at his local address as set forth on the application, at least three (3) days prior to the date set for the hearing.

Secs. 2-12-63—2-12-69. Reserved.

SECTION 2.

This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

SECTION 3.

A. It is hereby declared to be the intention of the Board of Commissioners that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.

B. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other Section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other Section, paragraph, sentence, clause or phrase of this Ordinance.

C. In the event that any section, paragraph, sentence, clause or phrase of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the Ordinance and that, to the greatest extent allowed by law, all remaining Sections, paragraphs, sentences, clauses, or phrases of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION 4. Repeal of Conflicting Provisions. Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon its adoption by the Board of Commissioners of Lamar County, Georgia.

SO ORDAINED, this _____ day of _____, 2023.

RYRAN TRAYLOR, Chairman

ATTEST:

Carlette Davidson, County Clerk

(SEAL)

First Reading: _____

Second Reading/
Adoption: _____