

ORDINANCE NO. 2009-11

**AN ORDINANCE TO PROVIDE FOR THE REGISTRATION
AND REGULATION OF TRANSIENT MERCHANTS AND
FOR OTHER PURPOSES**

WHEREAS, the State of Arkansas has adopted Act 587 of 1983, amended ACT-2007, No 1603 17-49-102, which provides for the registration and regulation of transient merchants by counties; and

WHEREAS, said Act provides that cities may levy additional license fees and may require additional bonding for transient merchants; and

WHEREAS, the City of Clinton desires to enact an ordinance requiring transient merchants to obtain a registration certificate to conduct their business in the city limits of Clinton, Arkansas.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY
COUNCIL OF THE CITY OF CLINTON, ARKANSAS:**

Section 1. Definitions:

- a) Person: Any individual, corporation, partnership, association or other entity.
- b) Temporary or transient business: Any business conducted for the sale or offer for sale of goods, or merchandise which is carried on in any building, structure, motor vehicle, railroad car, or real estate for a period of less than six (6) months in each year without written evidence of a right to occupy the premises on which a person is conducting business;
- c) Transient Merchant: Any person, firm, corporation, partnership or other entity which engages in, does or transacts any temporary or transient business in the city limits of the City of Clinton, either in one locality or in traveling from place to place in the city, offering for sale or selling goods, wares,

merchandise or services.

Section 2. Exemptions:

The provisions in this Ordinance shall not apply to:

- a) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;
- b) Wholesale trade shows or conventions;
- c) Sales of goods, wares, or merchandise by sample catalogue or brochure for future delivery;
- d) Fairs and convention center activities conducted primarily for amusement or religious organization;
- e) Any general sale, fair, auction, or bazaar sponsored by any church or religious organization;
- f) Any event, festival, farmer's market, fair, general sale, auction, or bazaar sponsored by City of Clinton or Van Buren County.
- g) Garage sales held on the premises devoted to residential use;
- h) Sales of agricultural products, except nursery products and foliage plants;
- i) Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of the premises;
- j) School-sponsored bazaars and sales, concessions at school athlete and other events, and sales of paraphernalia used in the celebration of any nationally recognized holiday or used in connection with any public school, university, or college-related activities, flea markets, retail fireworks establishments, gun shows, sales by charitable organizations, and expositions sponsored by government entities or by nonprofit trade associations.
- k) A transient merchant not otherwise exempted from the provisions of this subchapter shall not be relieved or exempted from the provisions of this subchapter by reason of associating himself temporarily with any local dealer, auctioneer, trader, contractor, or merchant or by conducting such temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor, or merchant.

Section 3. Enforcement:

It shall be the duty of the Clinton Police Department, Zoning Official, and the City Attorney to enforce the provisions of this Ordinance.

Section 4. Registration required:

It is unlawful for any transient merchant to transact business in the City of Clinton, Arkansas, unless the merchant and the owners of any goods, wares, or merchandise to be offered for sale or sold, if such are not owned by the merchant, shall have first secured a registration and shall have otherwise complied with the requirements of this ordinance.

Section 5. Penalties:

Any person or entity that transacts a transient business as defined in as amended A.C.A 17-49-103, without first having obtained a registration in accordance with the provisions of the subchapter, or who knowingly advertises, offers for sale, or sells any goods, wares, merchandise, or services in violation of the provisions of this subchapter, shall be guilty of a violation of the provisions of this subchapter, shall be guilty of violation and subject to a fine of up to \$500.00.

Section 6. Application:

- a) Any transient merchant desiring to transact business in the City of Clinton shall make application for and obtain a registration.
- b) The application for registration shall be filed with the City Clerk.
- c) The application for registration shall included the following information:
 - 1) The name and permanent address of the transient merchant making application and, if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation, as the case may be;
 - 2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation and, if the applicant is a corporation formed in a state other than the State of Arkansas, the date on which the corporation qualified to transact business as a foreign corporation in the State of Arkansas;
 - 3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business, and the location of the proposed place of business;
 - 4) The name and permanent address of the transient merchant's registered agent or office;
 - 5) Proof that the applicant has acquired all other required city, county, and state permits and licenses; and
 - 6) There shall be attached to the application a receipt or statement showing that any personal property taxes due on goods, wares or merchandise to be offered for sale have been paid;
- d) The City Clerk shall design and cause to be printed appropriate forms for applications for registration for the registration certificates to be issued to applicants under this subchapter.

Section 7. Fees:

- a) The application for a transient merchant license shall be accompanied by a fee of Fifty Dollars (\$50.00) and by a cash bond or a surety bond issued by a corporate surety authorized to do business in the State of Arkansas, in the amount of Two Thousand dollars (\$2000.00) or five percent

- (5%) of the wholesale value of any goods, wares, merchandise, or services to be offered for sale, whichever sum is lesser.
- b) The surety bond shall be in favor of the City of Clinton and shall assure the payment by the applicant of all taxes that may be due from the applicant to the city, the payment of any fines that may be assessed against the applicant or its agents or employees for violation of the provisions of this subchapter, and for satisfaction of all judgments that may be rendered against the transient merchant or its agents or employees in any cause of action commenced by any purchaser of goods, wares, merchandise, or services within one (1) year from the date of sale by the transient merchant.
 - c) The bonds shall be maintained so long as the transient merchant conducts business in the City of Clinton, Arkansas and for a period of one (1) year after the termination of business. The bonds shall be released only when the transient merchant furnishes satisfactory proof to the City Clerk that is has satisfied all claims of purchasers of goods, wares, merchandise, or services from the merchant and that all city sales taxes and other taxes have been paid.
 - d) Bond requirements may be waived by Mayor at his discretion if determined product sold does not need to be bonded.

Section 8. Issuance and terms of registration.

- a) A transient business registration shall be issued hereunder only when all requirements of this subchapter have been met.
- b) The registration shall:
 - 1) Not be transferable;
 - 2) Be valid only for a period of thirty (30) days; and
 - 3) Be valid only for the business stated in the application.
- c) A license so issued shall be valid for only one (1) person, unless the person shall be a member of a partnership or employee of a firm or corporation obtaining the license.

Section 9. Permit fees

All vendors that are determined by the Mayor or his designee not to be a Transient Merchant or not exempt by Section 2 of this ordinance, must purchase a permit in the amount of twenty-five dollars (\$25.00), said permit must be displayed at vendor's stand at all times. Permit is for three days and the vendor must relocate after three days. All vendors that operate within the City of Clinton during the Archey Fork Festival, Chuckwagon races, or any other special event, but are outside the designated area of said event, must purchase a permit from the City of Clinton in the amount of one hundred dollars (\$100.00). This permit will be good for 14 days from date of issue and must be displayed at the vendor's stand at all times. All vendors must display sign at least 2'x2' with their name and address listed, also must state if they are the producers of the product or a re-seller.

Section 10. Yard Sales

Continuous yard sales or garages sales are not allowed in any Zoning District within the City of Clinton, any sales event of this type shall not exceed three days in duration and only once in any given month, said sales events shall not exceed four each year. All indoor garage sales or flea markets that extend beyond this time limit shall follow licensing requirements of Local Business Licensing within the City of Clinton.

PASSED: August 13, 2009



Roger Rorie, Mayor

ATTEST:

Merl Eoff
Merl Eoff, Recorder/Treasurer

VAN BUREN COUNTY
DEMOCRAT

PROOF OF PUBLICATION AND INVOICE FOR LEGAL ADVERTISING

Date: 9-30-2009

Bill to: City of Clinton
P.O. Box 970
Clinton AR 72031

REMIT PAYMENT TO:
Central Arkansas Newspapers
P.O. Box 428
North Little Rock, AR 72115

Refer to invoice # _____

AD COPY:

Published on following dates:

September 24, 2009

ad # 0013477

TOTAL CHARGES: \$ 269.32

see attached

PROOF OF PUBLICATION
STATE OF ARKANSAS
COUNTY OF VAN BUREN

I do solemnly swear that I am an employee of Stephens Media dba the Van Buren County Democrat, a weekly newspaper printed and published in said County, State of Arkansas: That I was an employee of Stephens Media at and during the publication of the annexed legal advertising in the case of:

Ordinance # 2009-11

City of Clinton

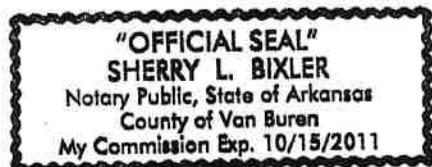
pending in the _____ Court, in said County and at the dates of the several publications of said advertisement stated above, and that during said periods and at said dates said newspaper was printed and has a bona fide circulation in said County, and had a bona fide circulation therein for the period of more than one month before the date of the first publication of said advertisement, and that said advertisement was published in the regular weekly issue of said newspaper as stated above.

Jerry O'Connell

Subscribed and sworn to before me this 30th day
of September 20 09

Notary Public Sherry L Bixler

My commission expires 10/15/2011



LEGAL NOTICES

registration and regulation of transient merchants by counties; and

WHEREAS, said Act provides that cities may levy additional license fees and may require additional bonding for transient merchants; and

WHEREAS, the City of Clinton desires to enact an ordinance requiring transient merchants to obtain a registration certificate to conduct their business in the city limits of Clinton, Arkansas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLINTON, ARKANSAS:

Section 1. Definitions:

- a) Person: Any individual, corporation, partnership, association or other entity
- b) Temporary or transient business: Any business conducted for the sale or offer for sale of goods, or merchandise which is carried on in any building, structure, motor vehicle, railroad car, or real estate for a period of less than six (6) months in each year without written evidence of a right to occupy the premises on which a person is conducting business;
- c) Transient Merchant: Any person, firm, corporation, partnership or other entity which engages in, does or transacts any temporary or transient business in the city limits of the City of Clinton, either in one locality or in traveling from place to place in the city, offering for sale or selling goods, wares, merchandise or services.

Section 2. Exemptions:

The provisions in this Ordinance shall not apply to:

- a) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;
- b) Wholesale trade shows or conventions;
- c) Sales of goods, wares, or merchandise by sample catalogue or brochure for future delivery;
- d) Fairs and convention center activities conducted primarily for amusement or religious organization;
- e) Any general sale, fair, auction, or bazaar sponsored by any church or religious organization;
- f) Any event, festival, farmer's market, fair, general sale, auction, or bazaar sponsored by City of Clinton or Van Buren County.
- g) Garage sales held on the premises devoted to residential use;
- h) Sales of agricultural products, except nursery products and foliage plants;

LEGAL NOTICES

i) Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of the premises;

j) School-sponsored bazaars and sales, concessions at school athletic and other events, and sales of paraphernalia used in the celebration of any nationally recognized holiday or used in connection with any public school, university, or college-related activities, flea markets, retail fireworks establishments, gun shows, sales by charitable organizations, and expositions sponsored by government entities or by nonprofit trade associations.

k) A transient merchant not otherwise exempted from the provisions of this subchapter shall not be relieved or exempted from the provisions of this subchapter by reason of associating himself temporarily with any local dealer, auctioneer, trader, contractor, or merchant or by conducting such temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor, or merchant.

Section 3. Enforcement:

It shall be the duty of the Clinton Police Department, Zoning Official, and the City Attorney to enforce the provisions of this Ordinance.

Section 4. Registration required:

It is unlawful for any transient merchant to transact business in the City of Clinton, Arkansas, unless the merchant and the owners of any goods, wares, or merchandise to be offered for sale or sold, if such are not owned by the merchant, shall have first secured a registration and shall have otherwise complied with the requirements of this ordinance.

Section 5. Penalties:

Any person or entity that transacts a transient business as defined in as amended A.C.A 17-49-103, without first having obtained a registration in accordance with the provisions of the subchapter, or who knowingly advertises, offers for sale, or sells any goods, wares, merchandise, or services in violation of the provisions of this subchapter, shall be guilty of a violation of the provisions of this subchapter, and subject to a fine of up to \$500.00.

Section 6. Application:

- a) Any transient merchant desiring to transact business in the City of Clinton shall make application for and obtain a registration.
- b) The application for registration shall be filed with the City Clerk.
- c) The application for registration shall include the following information:
 - c-1) The name and permanent address of the transient merchant making application and, if the

LEGAL NOTICES

applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation, as the case may be;

c-2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation and, if the applicant is a corporation formed in a state other than the State of Arkansas, the date on which the corporation qualified to transact business as a foreign corporation in the State of Arkansas;

c-3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business, and the location of the proposed place of business;

c-4) The name and permanent address of the transient merchant's registered agent or office;

c-5) Proof that the applicant has acquired all other required city, county, and state permits and licenses; and

c-6) There shall be attached to the application a receipt or statement showing that any personal property taxes due on goods, wares or merchandise to be offered for sale have been paid;

d) The City Clerk shall design and cause to be printed appropriate forms for applications for registration for the registration certificates to be issued to applicants under this subchapter.

Section 7. Fees:

a) The application for a transient merchant license shall be accompanied by a fee of Fifty Dollars (\$50.00) and by a cash bond or a surety bond

LEGAL NOTICES

c) A license so issued shall be valid for only one (1) person, unless the person shall be a member of a partnership or employee of a firm or corporation obtaining the license.

Section 9. Permit fees

All vendors that are determined by the Mayor or his designee not to be a Transient Merchant or not exempt by Section 2 of this ordinance, must purchase a permit in the amount of twenty-five dollars (\$25.00), said permit must be displayed at vendor stand at all times. Permit is for three days and the vendor must relocate after three days. All vendors that operate within the City of Clinton during the Archey Fork Festival, Chuck wagon races, or any other special event, but are outside the designated area of said event, must purchase permit from the City of Clinton in the amount of one hundred dollars (\$100.00). This permit will be good for 14 days from date of issue and must be displayed at the vendor stand at all times. All vendors must display sign at least 2'x2' with the name and address listed, also must state if they are the producers of the product or a re-seller.

Section 10. Yard Sales

Continuous yard sales or garage sales are not allowed in any Zoning District within the City of Clinton, a sales event of this type shall not exceed three days in duration and once in any given month, said sales events shall not exceed four each year. All indoor garage sales or flea markets that extend beyond this time limit shall follow licensing requirements of Local Business Licenses within the City of Clinton.

PASSED: September 13th, 2009

Roger Rorie, Mayor

ATTEST:
Merl Foff, Recorder/Treasurer

ORDINANCE NO. 2009-11

AN ORDINANCE TO PROVIDE FOR THE REGISTRATION AND REGULATION OF TRANSIENT MERCHANTS AND FOR OTHER PURPOSES

WHEREAS, the State of Arkansas has adopted Act 587 of 1983, amended ACT-2007, No 1603 17-49-102, which provides for the

Now you can SHIP where you SHOP!

Me We SHIP via UPS

Clinton Radio Shack
Northside Shopping Center
Clinton, AR 72031
501-745-4988
Hours: M-F 9-5:30 SAT 9-4

*Licensed Commercial Residential Builder
* Additions

Denard, AR
O. Box 130
Denard Collins, Owner

230 Highway 65 N, Suite 8
Clinton, AR 72031
(501) 745-7002

pg. 58

VAN BUREN COUNTY
DEMOCRAT

PROOF OF PUBLICATION AND INVOICE FOR LEGAL ADVERTISING

Date: 9-28-09

Bill to: City of Clinton
P.O. Box 970
Clinton, AR 72031

REMIT PAYMENT TO:
Central Arkansas Newspapers
P.O. Box 428
North Little Rock, AR 72115

Refer to invoice # 38288

AD COPY:

Published on following dates:

9/24/09

TOTAL CHARGES: \$ 269.32

PROOF OF PUBLICATION
STATE OF ARKANSAS
COUNTY OF VAN BUREN

I do solemnly swear that I am an employee of Stephens Media dba the Van Buren County Democrat, a weekly newspaper printed and published in said County, State of Arkansas: That I was an employee of Stephens Media at and during the publication of the annexed legal advertising in the case of:

Ordinance # 2009-11
transient merchants

pending in the _____ Court, in said County and at the dates of the several publications of said advertisement stated above, and that during said periods and at said dates said newspaper was printed and has a bona fide circulation in said County, and had a bona fide circulation therein for the period of more than one month before the date of the first publication of said advertisement, and that said advertisement was published in the regular weekly issue of said newspaper as stated above.

Janice D. Sneed

Subscribed and sworn to before me this 28th day

of September 20 09

Notary Public Monica Brons

My commission expires 11-20-15



see attached

registration and regulation of transient merchants by counties; and

WHEREAS, said Act provides that cities may levy additional license fees and may require additional bonding for transient merchants; and

WHEREAS, the City of Clinton desires to enact an ordinance requiring transient merchants to obtain a registration certificate to conduct their business in the city limits of Clinton, Arkansas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLINTON, ARKANSAS:

Section 1. Definitions:

a) Person: Any individual, corporation, partnership, association or other entity

b) Temporary or transient business: Any business conducted for the sale or offer for sale of goods, or merchandise which is carried on in any building, structure, motor vehicle, railroad car, or real estate for a period of less than six (6) months in each year without written evidence of a right to occupy the premises on which a person is conducting business;

c) Transient Merchant: Any person, firm, corporation, partnership or other entity which engages in, does or transacts any temporary or transient business in the city limits of the City of Clinton, either in one locality or in traveling from place to place in the city, offering for sale or selling goods, wares, merchandise or services.

Section 2. Exemptions:

The provisions in this Ordinance shall not apply to:

a) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;

b) Wholesale trade shows or conventions;

c) Sales of goods, wares, or merchandise by sample catalogue or brochure for future delivery;

d) Fairs and convention center activities conducted primarily for amusement or religious organization;

e) Any general sale, fair, auction, or bazaar sponsored by any church or religious organization;

f) Any event, festival, farmer's market, fair, general sale, auction, or bazaar sponsored by City of Clinton or Van Buren County.

g) Garage sales held on the premises devoted to residential use;

h) Sales of agricultural products, except nursery products and foliage plants;

i) Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of the premises;

j) School-sponsored bazaars and sales, concessions at school athlete and other events, and sales of paraphernalia used in the celebration of any nationally recognized holiday or used in connection with any public school, university, or college-related activities, flea markets, retail fireworks establishments, gun shows, sales by charitable organizations, and expositions sponsored by government entities or by nonprofit trade associations.

k) A transient merchant not otherwise exempted from the provisions of this subchapter shall not be relieved or exempted from the provisions of this subchapter by reason of associating himself temporarily with any local dealer, auctioneer, trader, contractor, or merchant or by conducting such temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor, or merchant.

Section 3. Enforcement:

It shall be the duty of the Clinton Police Department, Zoning Official, and the City Attorney to enforce the provisions of this Ordinance.

Section 4. Registration required:

It is unlawful for any transient merchant to transact business in the City of Clinton, Arkansas, unless the merchant and the owners of any goods, wares, or merchandise to be offered for sale or sold, if such are not owned by the merchant, shall have first secured a registration and shall have otherwise complied with the requirements of this ordinance.

Section 5. Penalties:

Any person or entity that transacts a transient business as defined in as amended A.C.A 17-49-103, without first having obtained a registration in accordance with the provisions of the subchapter, or who knowingly advertises, offers for sale, or sells any goods, wares, merchandise, or services in violation of the provisions of this subchapter, shall be guilty of a violation of the provisions of this subchapter, shall be guilty of violation and subject to a fine of up to \$500.00.

Section 6. Application:

a) Any transient merchant desiring to transact business in the City of Clinton shall make application for and obtain a registration.

b) The application for registration shall be filed with the City Clerk.

c) The application for registration shall include the following information:

c-1) The name and permanent address of the transient merchant making application and, if the

ORDINANCE NO. 2009-11

AN ORDINANCE TO PROVIDE FOR THE REGISTRATION AND REGULATION OF TRANSIENT MERCHANTS AND FOR OTHER PURPOSES

WHEREAS, the State of Arkansas has adopted Act 587 of 1983, amended ACT-2007, No 1603 17-49-102, which provides for the

applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation, as the case may be;

c-2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation and, if the applicant is a corporation formed in a state other than the State of Arkansas, the date on which the corporation qualified to transact business as a foreign corporation in the State of Arkansas;

c-3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business, and the location of the proposed place of business;

c-4) The name and permanent address of the transient merchant's registered agent or office;

c-5) Proof that the applicant has acquired all other required city, county, and state permits and licenses; and

c-6) There shall be attached to the application a receipt or statement showing that any personal property taxes due on goods, wares or merchandise to be offered for sale have been paid;

d) The City Clerk shall design and cause to be printed appropriate forms for applications for registration for the registration certificates to be issued to applicants under this subchapter.

Section 7. Fees:

a) The application for a transient merchant license shall be accompanied by a fee of Fifty Dollars (\$50.00) and by a cash bond or a surety bond issued by a corporate surety authorized to do business in the State of Arkansas, in the amount of Two Thousand dollars (\$2000.00) or five percent (5%) of the wholesale value of any goods, wares, merchandise, or services to be offered for sale, whichever sum is lesser.

b) The surety bond shall be in favor of the City of Clinton and shall assure the payment by the applicant of all taxes that may be due from the applicant to the city, the payment of any fines that may be assessed against the applicant or its agents or employees for violation of the provisions of this subchapter, and for satisfaction of all judgments that may be rendered against the transient merchant or its agents or employees in any cause of action commenced by any purchaser of goods, wares, merchandise, or services within one (1) year from the date of sale by the transient merchant.

c) The bonds shall be maintained so long as the transient merchant conducts business in the City of Clinton, Arkansas and for a period of one (1) year after the termination of business. The bonds shall be released only when the transient merchant furnishes satisfactory proof to the City Clerk that he has satisfied all claims of purchasers of goods, wares, merchandise, or services from the merchant and that all city sales taxes and other taxes have been paid.

d) Bond requirements may be waived by Mayor at his discretion if determined product sold does not need to be bonded.

Section 8. Issuance and terms of registration.

a) A transient business registration shall be issued hereunder only when all requirements of this subchapter have been met.

b) The registration shall:

b-1) Not be transferable;

b-2) Be valid only for a period of thirty (30) days; and

b-3) Be valid only for the business stated in the application.

c) A license so issued shall be valid for only one (1) person, unless the person shall be a member of a partnership or employee of a firm or corporation obtaining the license.

Section 9. Permit fees

All vendors that are determined by the Mayor or his designee not to be a Transient Merchant or not exempt by Section 2 of this ordinance, must purchase a permit in the amount of twenty-five dollars (\$25.00), said permit must be displayed at vendor's stand at all times. Permit is for three days and the vendor must relocate after three days. All vendors that operate within the City of Clinton during the Archey Fork Festival, Chuckwagon races, or any other special event, but are outside the designated area of said event, must purchase a permit from the City of Clinton in the amount of one hundred dollars (\$100.00). This permit will be good for 14 days from date of issue and must be displayed at the vendor's stand at all times. All vendors must display sign at least 2'x2' with their name and address listed, also must state if they are the producers of the product or a re-seller.

Section 10. Yard Sales

Continuous yard sales or garages sales are not allowed in any Zoning District within the City of Clinton, any sales event of this type shall not exceed three days in duration and only once in any given month, said sales events shall not exceed four each year. All indoor garage sales or flea markets that extend beyond this time limit shall follow licensing requirements of Local Business Licensing within the City of Clinton.

PASSED: September 13th, 2009

Roger Rorie, Mayor

ATTEST:

Merl Eoff, Recorder/Treasurer