

Sponsor: R Peters/Colby

ORDINANCE NO. 53-21

AN ORDINANCE REPEALING AND AMENDING CHAPTER 731 OF THE CODIFIED ORDINANCES OF THE CITY OF JACKSON TO GOVERN TRANSIENT MERCHANTS.

WHEREAS, the legislative authority of the City of Jackson hereby enacts and codifies the laws, rules and regulation governing Transient Merchants within the City of Jackson and directs that these be amended as Chapter 731 to the Codified Ordinances of the City of Jackson as attached hereto in Exhibit "A".

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE CITY OF JACKSON, OHIO THAT CHAPTER 731, AS ATTACHED HERETO AS EXHIBIT "A", WITH THE STRUCK THROUGH LANGUAGE TO BE REPLACED WITH THE LANGUAGE THAT APPEARS IN ALL CAPITALIZED PRINT, BE ADDED AND MADE PART OF THE CODIFIED ORDINANCES OF THE CITY OF JACKSON AND THAT IT BE PLACED, IN REGULAR TYPE TEXT, WITHIN THE JACKSON CITY CODE AT ITS NEXT PUBLICATION.

It is hereby found and determined that all formal actions of this Council concerning and relating to adoption of this ordinance were adopted in an open meeting of this Council and the deliberations of this Council and any of its committees that resulted in such formal action were in a meeting open to public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 23 day of August, 2021.

Daniel D. Fulke
President of Council

ATTEST:
Candi R. Kuhn
Clerk of the Legislative Authority

Approved this 23 day of Aug, 2021.

[Signature]
Mayor

CHAPTER 731

TRANSIENT MERCHANTS

731.01 Definition.

731.02 General Provisions.

731.03 Operating Requirements.

731.04 Transient Merchant – Vender Permits.

731.99 Penalty.

CROSS REFERENCES

Littering - see GEN. OFF. 521.08

Fraud - see GEN. OFF. 545.05

Peddlers - see BUS. REG. Ch. 709

731.01 DEFINITION

A Transient Merchant means any person who is engaged in any business operations temporarily located at a fixed location in the City. A place of business is not temporary if the same person conducted business at the place continuously for more than six months, or occupied the premises as the person's permanent residence for more than six months, or if the person intends to be a fixed place of business, AND is not defined as a mobile food service vehicle as defined in Chapter 737 of the Codified Ordinance, Ordinance No. 35-21 or is not defined as Ice Cream Truck Operations as defined in Chapter 735 of the Codified Ordinance, Ordinance 118-06, except for the following:

- (a) A person selling by sample only
- (b) A person selling agricultural articles or products which the person himself has grown
- (c) A person under the age of 18 with property owner written permission and adult supervision
- (d) A person selling manufactured articles or products which the person himself has manufactured
- (e) A person selling articles or products on behalf of a charitable or educational organization
- (f) A person selling articles or products in a street fair approved by Council, including the Apple Festival, so long as the person is located in the fair area or Apple Festival area as such area is designated by Jackson City Council;
- (g) A charitable or nonprofit organization.
(Ord. 72-94. Passed 11-14-94.)

731.02 GENERAL PROVISIONS

(A) Transient Merchants must make application with the City and receive approval to operate as a transient merchant before operating in any form.

(B) It is a violation to operate as a transient merchant at any location except at the location designated on the permit.

(C) All operations of a transient merchant must be in compliance with the requirements of this Ordinance and the permit issued to the operator.

Transient Merchants must comply with all State and Local business and tax regulations and be in compliance with all order and or requirements of the Ohio Department of Health and the Jackson County Health Department.

731.03 OPERATING REQUIREMENTS

(A) Transient merchant requirements

- (1) Transient merchants must operate on a temporary basis, not to exceed six (6) months of continual occupancy at a fixed location.
- (2) Transient merchants must be licensed in accordance with the rules and regulation of any local, state and federal agency having jurisdiction and all products sold therein must be properly licensed, permitted, and allowed by local, state, and federal laws and regulation.

(B) Right-of-way

- (1) Transient merchants shall not operate, stop, stand, or set up in any area of the right-of-way that is intended for use by vehicular travel or that in any way impedes the use of the right-of-way or that present an unsafe condition for patrons, pedestrians, or vehicles.
- (2) Transient merchants may operate within the right-of-way only at times and locations designated with the locations set forth in the permit and it is the duty of all operators to obtain current knowledge of the right-of-way designations prior to establishing operations in any area.
- (3) Unless authorized in writing by the city, all transient merchants are prohibited from operating in public alleys.
- (4) Transient merchants may operate on private property only upon written consent of the property owner, with established dates for operations.

(C) Business access: no transient merchant may operate in a location that impedes the ingress to, egress from, or signage of another business or otherwise cause undue interference with access to other businesses or emergency areas, paths, or facilities.

(D) Pedestrians: transient merchants shall not reduce the clear pedestrian path of travel on the sidewalk to less than six feet (6'). This includes all components of the unit and any patron queue. all awnings or canopies of the unit shall be at least six feet, eight inches (6'8") above the sidewalk.

(E) Noise: amplified music or other sounds may not at any time unreasonable disturb nearby business, pedestrians, or vehicles.

(F) Utilities: all transient merchants shall comply with the current version of the electrical code adopted by the city and any power, water, or sewage, shall be self-contained and shall not use utilities drawn from other sources, unless identified on the license/permit.

(G) Fire extinguishers: if there is a power and/or heat source there must be an inspection by the fire department and there must be a fire extinguisher that is certified annually by a licensed company.

(H) Alcohol sales: transient merchants are prohibited to selling or distributing alcoholic beverages.

(I) Insurance: transient vendors, when given permission to operate on city owned property, must provide a certificate of liability coverage, no less than \$300,000. If the transient merchant does not have this coverage, they must agree, in writing, to indemnify, defend, hold harmless the city of Jackson and its officers, official, agents, and employees from and against any and all claims, actions, liabilities, damages, losses or expenses, including reasonable court costs, attorneys' fees and costs of claim processing, investigation and litigations for bodily injury or personal injury or death, or loss or damage to tangible or intangible property caused or alleged to be caused in whole or part, by any acts or omissions of the vendor or any of its owners, officers, directors, agents, employees, subcontractors, participants or volunteers.

(A) Transient vendors must acknowledge and comply, upon application, with required documentation set forth by the city of Jackson.

04 TRANSIENT MERCHANT - VENDOR PERMIT

- (A) Issuance. A Vendor Permit shall be issued upon full completion, review, and approval of the application required by this section, except that no Vendor Permit will be issued to an operator, or any person affiliated with the Operator for purposes of operating as a transient merchant that is the subject of a suspended Vendor Permit or has held a ~~revoked permit~~ within the prior twelve (12) month period
- (B) Fees. Fees shall be set by the Director of Public Service and Safety and published in a list of permit fees to be maintained in the City of Jackson Memorial Building, Office of the Director of Service and Safety.
- (C) Expiration. A Vendor Permit expires on the date twelve (12) months after issuance and may be renewed provided that all City requirements are met and the license has not been suspended or revoked.
- (D) Transferability. A Vendor Permit may not be transferred.
- (E) Enforcement.
- (1) Warning. ~~The City Code Enforcement Office, and/or~~ an officer of the Jackson Police Department may provide one (1) warning to any Operator for a violation of this section except that a citation shall be issued as set forth in the section.
 - (2) Citation. ~~The City Code Enforcement Office, and/or~~ n officer of the Jackson Police Department must issue a citation to the Transient Merchant for a second violation found to have occurred after a warning was issued within the previous six (6) months.
 - (3) An officer of the Jackson Police Department must issue a citation to the Transient Merchant for any violation that constitutes ground for revocation of a ~~Transient Merchant Permit~~
 - (4) Suspension. A Vendor Permit shall be suspended until reinstatement upon issuance of a citation for any of the following reasons.
 - ~ A second violation of this section is found to have occurred after a warning has been issued within the previous six (6) months.
 - ~ The required vehicle license, health permit, or business tax license for the Operator or the Transient Merchant Vehicle has expired or been suspended, revoked, or otherwise terminated.
 - ~ The Operator fails to obtain or maintain the insurance coverages required by this section.
 - (5) Revocation. Permits may be revoked for any of the follow reasons.
 - ~ Fraud, misrepresentation, or false statements contained in the application for the license.
 - ~ Fraud, misrepresentation, or false statement made in the course of carrying on the business.
 - ~ After two suspensions within a twelve (12) month period.
 - ~ The Operator operates in an unlawful manner such a manner as to constitute a disturbance of the peace, interferes with the normal use of the right-of-way, or otherwise constitutes a menace to the health, safety, or general welfare of the public.
 - (6) Reinstatement.
 - ~ Suspension. An Operator may reinstate a suspended Vendor Permit by payment of a fee of \$500.00 to offset the City's cost of compliance measures, necessary inspections, and the correction of any circumstance that lead to the suspension.
 - ~ Revocation. The City may allow an Operator to reapply for a Vendor Permit after twelve (12) months from the date of revocation. The Operator shall correct all circumstances that led to the violations, the Operator shall pay a fee in the amount of five hundred dollars (\$500.00) to offset the City's costs of compliance measures, necessary inspections, and the circumstances that led to the suspension have been corrected.

Notice of Denial, Suspension or Revocation. Upon denial, suspension or revocation of a Vendor Permit, the City shall give notice to the Operator in writing. There shall be no refund of any other fee paid to the City.

Appeal. Citations may be appealed to the Mayor, whose decision, which will be based upon a written summation of the facts submitted by the office charged with Transient Merchant compliance (City Code Enforcement Officer and the Jackson Police Department), and the permit holder, is final.

731.99 PENALTY

In addition to the penalty provided by Section 701.99, whoever violates any provision of this chapter shall be fined five hundred dollars (\$500.00) to offset the City's cost of compliance measures. Said fine shall be payable to the City of Jackson.