

Title

AN ORDINANCE TO AMEND ORDINANCE 08:005 AND SECTION 117-258, OF THE CODE OF ORDINANCES OF THE CITY OF JONESBORO, ARKANSAS, BY TO REGULATE THE USE AND LOCATION OF COMMERCIAL ITINERANT STREET FOOD VENDING UNITS AND TO AND DECLARING AN EMERGENCY TO PROVIDE CLARITY IN THE EXISTING ORDINANCES FOR THE PURPOSE OF PROMOTING A HEALTHY ECONOMY AND TO ALLOW OPPORTUNITIES FOR SMALL BUSINESS START-UPS

Body

WHEREAS, the primary purpose of the public streets and sidewalks is the use by vehicular and pedestrian traffic, and

WHEREAS, vending in public areas and areas along the many street corridors can cause visual clutter and impede on both the vehicular and pedestrian environment, and

WHEREAS, reasonable regulation of mobile vending is necessary to protect the public health, safety and welfare, and

WHEREAS, the regulations contained in this ordinance do not prohibit free speech but merely regulate activities which are commercial in nature, and

WHEREAS, the granting of business licenses for the use of public streets and the making of charges therefore are authorized by Jonesboro Code of Ordinances, Title 4: Business Licenses and Regulations and are subject to such conditions as the Council may impose to protect the public interest, welfare and convenience.

WHEREAS, it shall be unlawful to vend on public sidewalks and public right of ways near venues that attract large pedestrian crowds on event days,

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF JONESBORO THAT:

SECTION 1: CHAPTER 117, SECTION 258 SHALL BE AMENDED TO READ AS FOLLOWS ADDING SUBSECTION (d.), KNOWN AS COMMERCIAL ITINERANT STREET FOOD VENDING UNITS:

**d. Itinerant Street Vendors Units**

- (1) *Definitions.* The following words, terms and phrases, when used in this section, shall have the following meanings ascribed to them, except where the context clearly indicates a different meaning:
  - i. *Administrator* means the Planning Director of the City of Jonesboro, Arkansas, or the designee;

- ii. *City* means the City of Jonesboro, Arkansas;
- iii. *Itinerant street vendor* means a person dispensing food, goods, materials or services from a unit or other contrivance operated on the streets and sidewalks. This term shall not include or apply to a "temporary open air enterprise" or a "mobile vending units" as those terms are defined in Section 117-258 (a.) -117-258 (c.) herein such as: Concession trailers, Walk-in concession stands, charcoal smoke creating pit/trailers, tables and tents vending accessory and non-food items of which are not permitted under these standards.

(2) *Itinerant Units: Operating permit required.*

- (1) No person shall operate as an itinerant street vendor in the city, except as expressly permitted under this article.
- (2) Each itinerant street vendor, in addition to a city business license, must obtain an annual operating permit from the city and business license renewal.
- (3) Prior to issuing an operating permit, the city and/or the Health Department will inspect each ice cream truck and itinerant street vendor unit to ensure each unit is in a mechanically safe condition, and that all such units meet the equipment specifications of subsection (d) herein. The inspection will be conducted by the administrator.

(3) *Equipment specifications.* All itinerant street vendor units shall be equipped with the following:

- (a.) Signs or decals on both the front and the rear of the unit identifying the unit as an itinerant street vendor and displaying the words "SLOW CHILDREN CROSSING" in distinctive lettering at least six inches in height which is visible at 300 feet to the front and rear in normal sunlight upon a straight level roadway or highway.
- (b.) A sign or decal that is visible at all times with the business address and telephone number of the business license holder printed on the side of the unit in letters of not less than two inches in height.
- (c.) A trash receptacle to dispose of all litter that is generated from products sold from the ice cream truck or itinerant street vendor unit.

(4) *Operational requirements/Operator permit required.*

- a. *Required.* No person shall operate an itinerant street vendor unit in the city, and no person who owns or controls an itinerant street vendor unit shall permit it to be so operated at any time, unless the operator of said itinerant street vendor unit shall have first obtained

and shall then have in force an itinerant street vendor unit driver's permit issued under the provisions of this chapter.

- b. *Qualifications.* No itinerant street vendor unit driver's permit shall be granted unless the applicant is at least 18 years of age, has a valid state issued driver's license, and the applicant has no active suspension on his or her driving privileges in any state. Further, no permit shall be issued if the applicant has been convicted of a felony in the past five years. Further, no permit shall be issued if the felony conviction was for a sexual offense, an offense involving drugs, or the use of a firearm in the commission of the offense, or if it was a violent felony, regardless of when the felony occurred (there is no five-year limitation for these types of felony crime).

(5) *Application for Permits.* Any person desiring an itinerant street vendor unit driver's permit shall apply in writing to the administrator. The form of such application shall be developed by the administrator and shall include, but not be limited to, the age, name and address of the applicant. The police department shall also have the authority to require additional documentation, as needed, to process the application.

- a. When the application is approved, the itinerant street vendor unit driver's permit shall be issued in card form designed by the administrator. The photograph of the driver shall be attached to the card. Each driver will be given an itinerant street vendor unit driver's permit which will be on such permit. This card shall be posted in a prominent place in the itinerant street vendor unit and shall be shown to any customer, police officer, or code enforcement officer upon request. Only one permit shall be posted in an itinerant street vendor unit at any time.
- b. *Acknowledgment of application.* The applicant shall acknowledge with any application that he or she understands that the itinerant street vendor unit permit, if granted, will be for a specific period of time not to exceed one year, and an annual review and approval will then be required for renewal of the permit.
- c. Permit Issuance & Renewal Procedure:
  - 1. Itinerant Street Vending shall only be available for permit approval at the following approved locations within the C-1 Downtown District:

2. Permit locations shall be restricted to the approved and adopted Locations V-1 thru V-14. Mapped locations shall be maintained in both the Planning Department and City Collector's Office at all times. Permits shall be issued for period durations of 12 months. Upon expiration, the itinerant vendor shall apply for permit renewal with the Office of the Planning Director. Once all 14 approved locations are committed and reserved as permitted sites, the Director shall generate a waiting list of applicants hoping to locate at one of the adopted 14 approved locations. Once slots become available, the waiting list shall continue to rotate. If at time of expiration, no vendor is awaiting unit location assignment, a vending renewal may be approved and renewed at same said location or any available selected slot.
3. Special location exceptions: Temporary Itinerant Street Vending shall be permitted at large retail establishments having adequate parking to satisfy Zoning Code compliance and where approval has been granted by the commercial management by letter. Such vending approval may be situated on the subject commercial property only in areas no closer than 25 ft. from the street right of way.

(6) *Cleanliness required.*

- (a.) The interior and exterior of each itinerant street vendor unit, and all equipment therein, shall be kept clean and sanitary and maintained in good repair at all times.
- (b.) The interior and exterior of each vending unit shall comply with all local, state, and federal codes and regulations governing the sale and distribution of food products.
- (c.) Trash canisters shall be visibly available and all associated trash and waste collection within the perimeter of the vending unit shall be the responsibility of the vendor.

(7) *Vending Location Restrictions.*

- a. No itinerant street vendor shall vend within 500 feet of any property used as a school from one hour before the regular school day to one hour after the regular school day; provided, this subsection shall not apply on days when school is not attended by children.

- b. No itinerant street vendor may vend before the ice cream truck or itinerant street vendor unit is lawfully parked or stopped.
  - c. Itinerant street vendors may only vend from the side of the unit, which shall be away from moving traffic and as near as possible to the curb or edge of the roadway or street.
  - d. No itinerant street vendor may vend to a person standing in the roadway.
    - 1. No itinerant street vendor may vend in areas that will cause non-compliance with the City of Jonesboro Code of Ordinance Sections: Sec. 66-188 - Obstructing traffic and Sec. 117-327 - Corner visibility.
  - e. Only individually pre-packaged products or items may be sold from itinerant street vendor units, unless the itinerant street vendor unit has been issued a health department permit from the State of Arkansas Department of Health.
  - f. A copy of a current, valid health department permit from the State of Arkansas or a letter from the State of Arkansas Department of Health stating that no permit is required, must be on file in the city collector's office and must be carried within the itinerant street vendor unit.
  - g. A current city operating permit issued to the individual itinerant street vendor unit must be visibly displayed on the itinerant street vendor unit.
- (8.) *Penalty for violations.* Any person violating any of the provisions of this article shall be subject to a fine as provided by the Code of Ordinances of the City of Jonesboro, Arkansas. In the event of a continuing violation, each and every day the violation continues is considered a separate and punishable violation. Each sales transaction completed in violation of the terms of this subchapter shall be considered a separate violation.

SECTION 2: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: It is further found that due to the immediate need to provide clarity to the existing ordinances, an emergency is declared to exist and this ordinance being necessary for the preservation of the public peace, health and safety, shall take effect from and after its passage and approval.