ORDINANCE NO. 08-05

AN ORDINANCE REGULATING TRANSIENT VENDORS

WHEREAS, Ordinance No. 86-19 presently regulates peddlers, hawkers, and solicitors;

WHEREAS, Ordinance No. 86-19 is outdated, based upon current federal and Ohio case law, and the same shall be repealed and replaced with this Ordinance;

WHEREAS, Council recognizes that transient vendors have certain rights of commercial speech. Council further recognizes the need to regulate transient vendors for the safety and well being of the residents of the Village of Jackson, Center, Ohio.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF JACKSON CENTER, THE STATE OF OHIO:

SECTION 1: DEFINITIONS

For the purposes of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. <u>Canvasser.</u> Any person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the primary purpose of (i) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause; or (ii) distributing a handbill or flyer advertising a non-commercial event or service.
- B. Village. The Village of Jackson Center, Ohio.
- C. <u>Goods.</u> Goods, wares, services, merchandise, periodicals, and other articles or publications.
- D. <u>Transient Vendor.</u> Any person who opens a temporary place of business for the sale of goods or who, on the streets or while traveling around the Village, sells, offers for sale, or solicits orders for future delivery of goods where payment is required prior to the delivery of the goods, or attempts to arrange an appointment for a future estimate or sales call. Transient vendor does not include any person who represents any entity exempted from taxation under Section 5709.04 of the Ohio Revised Code and that provides notice in accordance with Section 2 below.

SECTION 2: TAX EXEMPT ENTITY NOTICE

Any person who represents an entity exempted from taxation under Section 5709.04 of the Ohio Revised Code that notifies the Village Administrator that its representatives are present in the Village for the purpose of selling, offering for sale, or soliciting orders for future delivery of goods or attempting to arrange an appointment for a future estimate or sales call shall be exempt from the transient vendor regulations herein.

SECTION 3: EXCLUSIONS

Transient vendor does not include and these regulations do not apply to: (a) any person licensed under Chapter 4707 of the Ohio Revised Code; (b) any person invited by an owner or tenant to visit the owner's or tenant's premises to sell, offer for sale, or solicit orders for future delivery of goods; (c) any person who is only seeking donations and is not selling, offering or soliciting orders for goods; and (d) any person who is only collecting money for goods previously ordered or sold.

SECTION 4: REGISTRATION

All transient vendors shall register with the Village Administrator prior to conducting any business in the Village. Registration shall be made on a form provided by the Village Administrator. All information required shall be supplied by the vendor prior to acceptance of the registration. At the time of registration, each transient vendor shall provide a copy of a valid form of identification and a valid, current vendor license or tax ID certificate, and shall agree to submit to an electronic background check performed by the Jackson Center Police

Department. The registration shall be approved within three business days of submission. A registration which is denied may be appealed as outlined in Section 12 below.

SECTION 5: REGISTRATION WHEN MULTIPLE EMPLOYEES INVOLVED

In the event a sole proprietorship, partnership, limited liability company, corporation or other entity registers as a transient vendor, and such business entity has more than one employee who is soliciting the sale of goods in the Village, a separate permit shall be required for each employee of said business entity. Each employee shall carry identification that they are employed by the business entity and such identification specifically refers to the transient vendor registration number issued by the Village to the business entity and each individual employee.

SECTION 6: REGISTRATION FEE AND PERIOD

The administrative fee for each registration shall be \$100.00. Each registration shall be valid for a period of one year.

SECTION 7: MANNER OF SOLICITATION

No transient vendor shall conduct public solicitation in the Village in such a manner that their conduct is contrary to the public interest. No solicitation tactics shall be employed which are coercive, abusive or misleading. No effort may be made by any transient vendor to defraud any individual through the solicitation process. Except as otherwise approved by the Jackson Center Police Department, no sales or solicitation shall be conducted in the right of way of any public road.

SECTION 8: HOURS OF SOLICITATION

Door to door solicitation shall be made only between the hours of 9:00 a.m. and 6:00 p.m., November through April, and between the hours of 9:00 a.m. and 8:00 p.m., May through October.

SECTION 9: PROOF OF COMPLIANCE

Each transient vendor shall carry on his or her person a copy of the registration issued by the Village at all times while selling or traveling about the Village for the purposes of selling or soliciting orders. Individuals may not solicit as a team using another person's registration.

SECTION 10: REVOCATION OF REGISTRATION

A transient vendor registration may be revoked by the Chief of Police for any of the following causes:

- A. Fraud, misrepresentation, or false statements contained in the registration application or in the course of carrying on sales solicitations;
- B. Any violation of any provisions of this Ordinance;
- C. Conducting business in an unlawful manner, or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

A registration which is revoked may be appealed as outlined in Section 12 below.

SECTION 11: ENTRY UPON PREMISES UNLAWFUL

It shall be unlawful for any person, whether registered or unregistered, while conducting the business of a transient vendor, canvasser, or any other business solicitation, to enter upon any residential premises in the Village where the owner, occupant, or person legally in charge of the premises has posted, at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words "No Solicitors" or words of similar import.

SECTION 12: APPEAL PROCEDURE

The Jackson Center Police Department shall notify the transient vendor of denial of registration or revocation by certified United States Mail, return receipt requested, at the address supplied in the vendor registration application, or in writing by hand delivery to the

applicant/vendor. A transient vendor whose registration application is denied pursuant to Section 4 above or revoked pursuant to Section 10 above, may appeal the same to the Village council within 14 days of receipt of notice of said denial or revocation. Village council shall hold a hearing of the appeal within 30 days of receipt of the appeal notice and shall render a decision within 14 days of the hearing upholding or overturning the decision of the Police Department. Thereafter, a transient vendor may appeal the decision of Village council to the Shelby County Common Pleas Court within 14 days of receipt of notice of Village council's decision.

SECTION 13: PENALTY

- A. Any person who violates any provision of this Ordinance shall be deemed guilty of a minor misdemeanor subject to the maximum fine allowed by law.
- B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to a violation of any provision of this Ordinance, the offender shall be guilty of a misdemeanor of the fourth degree.

SECTION 14: REPEAL OF PRIOR ORDINANCE

Ordinance No. 86-19, regulating peddlers, hawkers and solicitors shall be and the same hereby is repealed and replaced with this Ordinance.

SECTION 15: EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after the earliest period allowed by law.

Adopted this <u>10th</u> day of <u>March</u>	, 2008.
	Feet Klopfenstern
	Mayor 'U
Attest: Bury hen	_
Village Fiscal Officer	

CERTIFICATE OF FISCAL OFFICER AS TO POSTING

I certify that the above Ordinance No. 08-05 has been posted as required by law. Posted in the Village Office, US Bank NA, Allenbaugh Insurance, Phil's Cardinal and the Jackson Center Library.

Date of Po	osting: <u>March II</u>	, 2008
Signed:	Beverly Qhl	en
	Fiscal Office	
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