

ORDINANCE NO. 15 - 09 - 39

AN ORDINANCE RELATING TO THE BUSINESS AND LICENSURE OF
PEDDLERS AND HAWKERS.

WHEREAS, S. C. Code of Laws Section 40-41-10, *et seq.*, provides that no person shall as a hawker or peddler expose or sell any goods, wares and merchandise in any county in this State unless he has received and is ready to produce and exhibit a license of such county so to sell or expose for sale goods, wares and merchandise in such county.

WHEREAS, Berkeley County wishes to allow peddlers, hawkers and solicitors to operate only under prescribed conditions in accordance with the aforementioned statute.

NOW, THEREFORE, BE IT ORDAINED by Berkeley County Council, in a meeting duly assembled, as follows:

Section 1 - Definitions:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a) "Peddler" means any person who goes from house to house or from place to place soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, or services; except vendors of newspapers, magazines, vegetables, tobacco, provisions of any kind or agricultural products or to sales by sample by persons traveling for established commercial houses.
- b) "County" means the County of Berkeley.
- c) "License official" means a person designated to administer this ordinance.
- d) "Person" means any individual, firm, partnership, LLP, LLC, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company or other group or combination acting as unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principals.
- e) "Profession" means a calling, occupation, or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly.

Section 2 - License and fee: Every Person engaged in or intending to engage in the Profession of Peddler, in whole or in part, within Berkeley County, is required to pay an annual license fee to obtain a license.

- a) The required license fee shall be paid for each Peddler before commencing business and will be good in the County until the last day of December next after the date of issue.
- b) The license fee per Peddler shall be as follows for Persons with a principal place of business:

Certified True and Correct Copy of Original Record

 Clerk to Council
 County Council Berkeley County SC

- | | |
|--------------------------------------|--------------------------------|
| 1) In Berkeley County: | Twenty five dollars (\$25.00) |
| 2) In State, out of Berkeley County: | Fifty dollars (\$50.00) |
| 3) Out of State: | One hundred dollars (\$100.00) |

Changes to the license fee shall be determined by County Council resolution as recommended by the License Official.

Section 3 - Application for Peddler license: Any Person may apply for one or more Peddler licenses at the License Official office during regular office hours. The Peddler license shall be issued within twenty four business hours of the submission of a complete application, unless it is determined within that time that:

- a) The applicant has been convicted of a felony or misdemeanor involving moral turpitude within the past seven years,
- b) Any statement on the application is false.

Section 4 - Denial of license: The License Official shall deny a license, in writing, if the application is incomplete, contains a false or misleading statement, or when the activity for which a license is sought is unlawful or constitutes a public nuisance. A denial shall be subject to appeal to County Council as herein provided.

Section 5 - Suspension or revocation of license: If the License Official determines that:

- a) A license has been mistakenly or improperly issued or issued contrary to law;
- b) A Person or Peddler has breached any condition upon which a license was issued or has failed to comply with the provisions of this ordinance;
- c) A Person or Peddler has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application;
- d) A Person or Peddler has been convicted of an offense under a law or ordinance regulating business, a crime involving moral turpitude, or an unlawful sale of merchandise or prohibited goods; or,
- e) A Person or Peddler has engaged in an unlawful activity or nuisance related to the business;

the License Official shall give written notice to the Person or Peddler, by personal service or certified mail to the address set forth on the license application, that the license is suspended. The notice shall contain a brief statement of the reasons for suspension and proposed revocation and a copy of the applicable provisions of this article. The Person or Peddler shall cease and desist from conducting business pursuant to the license forthwith after service of the notice of suspension or revocation.

Section 6 - General prohibitions: No Peddler shall:

- a) enter upon a subdivision or private property where the property has clearly posted a visible sign indicating a prohibition against peddling, soliciting and/or canvassing.
- b) remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling indicating a prohibition against peddling, soliciting and/or canvassing.
- c) refuse to leave a subdivision or private property after having been notified by the owner or occupant thereof, or his agent, to leave the premises and not return.

- d) engage in the business of peddling within the County between the hours of one-half hour before sunset and 9:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with or invitation from the prospective customer

Section 7 - Display and transfer of license: All Persons shall display the license in a conspicuous place in the business establishment at the address shown on the license, visible to customers at all times during the operation of the business. A transient or nonresident shall carry the license upon his person or in a vehicle used in the business readily available for inspection. A change of address must be reported to the License Official within two (2) days after removal of the business to a new location and the license will be valid at the new address upon written notification of the License Official. Failure to obtain the approval of the change of address shall invalidate the license and subject the Person to prosecution for doing business without a license. A license shall not be transferable and a transfer of ownership shall be considered a termination of the old business and the establishment of a new business requiring a new license.

Section 8 - Appeals; hearing:

- a) Any Person aggrieved by a denial or revocation of a license by the License Official may appeal the decision to the County Council by written request stating the reasons therefor within ten (10) business days after the notice of denial or revocation is received.
- b) An appeal or a hearing on revocation shall be held by the County Council or its designate within thirty (30) days after receipt of a request for appeal or service of notice of suspension. The County Council or its designate shall render a written decision which shall be final.

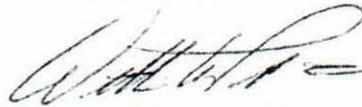
Section 9 - Exemptions: This Ordinance shall not apply to:

- a) vendors of perishable agricultural produce;
- b) solicitations, sales or distributions made by political, charitable, educational or religious organizations;
- c) vendors within an officially designated festival area accessible only by pedestrian traffic and managed and organized by a charitable or civic not-for-profit organization during festivals or occasions recognized by County Council.

Section 11 - Violations: Violation of any provision of this ordinance may be subject to a fine not exceeding \$500.00, imprisonment not exceeding 30 days, or both. Each day or portion thereof during which a violation of any ordinance of this provision is continued or committed is a separate offense.

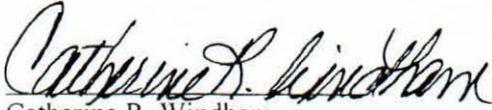
ENACTED this 28th day of September 2015.

BERKELEY COUNTY, SOUTH CAROLINA



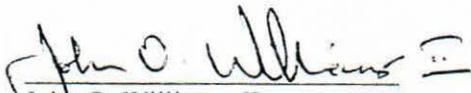
William Peagler, Chairman
Berkeley County Council

ATTEST:



Catherine R. Windham
Clerk to County Council

Approved as to form:



John O. Williams, II
County Attorney

First Reading:	July 27, 2015
Second Reading:	August 24, 2015
Public Hearing:	September 28, 2015
Third Reading:	September 28, 2015

MEMBERS OF COUNTY COUNCIL

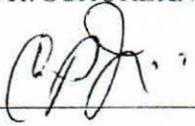

PHILLIP FARLEY Voting YES

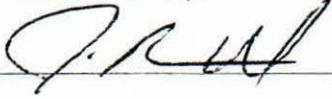

DENNIS L. FISH Voting YES

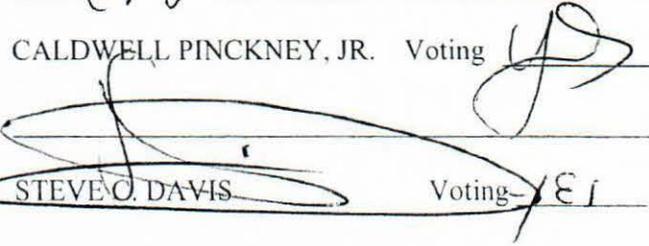

JOSHUA S. WHITLEY Voting YES

excused
JACK H. SCHURLKNIGHT Voting _____


KENNETH E. GUNN, JR. Voting YES


CALDWELL PINCKNEY, JR. Voting YES


JOE T. NEWELL Voting YES


~~STEVE O. DAVIS~~ Voting YES