

ORDINANCE NUMBER 2358

**AN ORDINANCE TO AMEND CHAPTER 62 (PEDDLERS AND SOLICITORS)
AND SECTION 22-50 (BUSINESSES) OF THE CITY OF SUMTER
CODE OF ORDINANCES**

**BY THE AUTHORITY VESTED IN THE CITY COUNCIL OF THE CITY OF SUMTER,
SOUTH CAROLINA:**

The Mayor and Members of City Council hereby approve and adopt as law the attached amendments and modifications to the City's Peddlers and Solicitors Ordinance, codified as Chapter 62 of the City of Sumter, South Carolina Code of Ordinances.

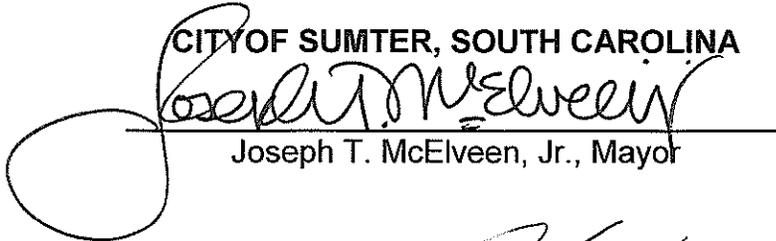
The Mayor and Members of City Council further approve and adopt as law the attached amendment to Section 22-50 (classification rate schedule) of the City of Sumter Business License Ordinance, codified as Chapter 23 of the Sumter City Code. Section 22-50 as amended assigns Classification Rate 8, Standard Industrial Classification Manual (SIC) Number 5963 to all peddlers as defined in Chapter 62 and establishes an annual business license fee of five hundred dollars (\$500.00) for the first \$10,000.00 (ten thousand dollars) of gross income and five dollars (\$5.00) for each one thousand dollars (\$1000.00) of gross income over \$10,000.00 (ten thousand dollars).

The Mayor and Members of City Council further approve an amendment to the City of Sumter Business License Ordinance to add "Miscellaneous" and "Special Events" as sub-classifications of Business License Class Rate 8. The Business License Department shall assign SIC Code numbers to these new sub-classifications and establish rates for the annual business license fees.

**NOW THEREFORE, AT ITS REGULAR MEETING DULY ASSEMBLED, THE CITY COUNCIL OF
THE CITY OF SUMTER SOUTH CAROLINA HEREBY ADOPTS THE AMENDMENTS SET
FORTH IN THIS ORDINANCE. THE ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON
ITS ADOPTION.**

ADOPTED THIS 20TH DAY OF OCTOBER, 2009.

CITY OF SUMTER, SOUTH CAROLINA



Joseph T. McElveen, Jr., Mayor

Hattie S. Scarborough, Mayor Pro Tem

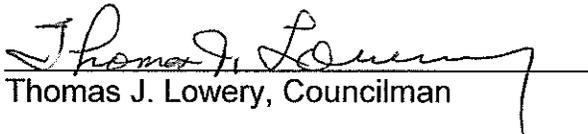


William T. Painter, Councilman

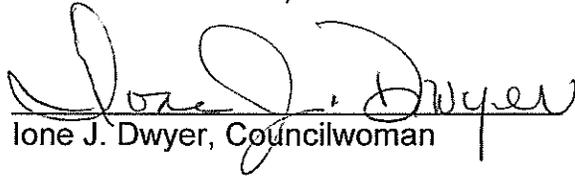
Robert A. Galiano, Councilman



Walter G. Newman, Councilman

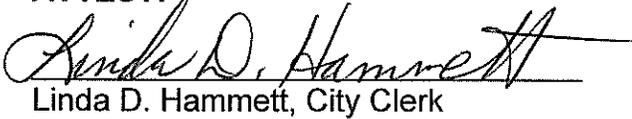


Thomas J. Lowery, Councilman



Ione J. Dwyer, Councilwoman

ATTEST:



Linda D. Hammett, City Clerk

First Reading: October 6, 2009

Final Reading: October 20, 2009

Chapter 62

PEDDLERS

Article I Purpose and Authorization

Section 62-1. Purpose

Whereas most business transactions begin with consumers initiating contact with merchants at the merchants' stores or other forums advertised by merchants, peddlers initiate business contacts through unsolicited visits to the homes or business of consumers. The purpose of this Chapter is to address the unique nature of such door to door sales so that a consumer who purchases from a peddler who comes to the consumer's home or business has information about the peddler similar to information available when a consumer initiates a business transaction.

Comment: The South Carolina Supreme Court has ruled that door to door sales by peddlers, when properly conducted, is a lawful profession which can be regulated but not prohibited. The City of Sumter welcomes peddlers who comply with the law and use good business practices during interaction with our citizens.

Section 62-2. Authorization to Promulgate Rules and Regulations

(a) In addition to the specific requirements of this Chapter, the City of Sumter Business License Department is authorized to establish additional administrative and procedural rules, regulations, and practices as necessary to enforce and carry out the intent of this Chapter.

(b) Prior to implementation of any rules, regulations, or practices promulgated by the Business License Department, said rules and regulations shall be reviewed by a business license supervisor and submitted to the City Manager for approval.

(c) Upon request during regular business hours, this ordinance, along with all approved rules and regulations must be available to the public for inspection.

Comment: It is recommended that the Business License Department create a check-list which summarizes all laws, rules, and regulations applicable to peddlers and the duties of a peddler who desires to do business in the City of Sumter.

Section 62-3. Police, Codes Officers, and Others Authorized to Enforce the City Code Shall Regulate this Chapter

Police officers, Codes Officers, Business License Department Employees, and Other City employees designated by the City Manager are invested with authority to enforce the provisions of this Chapter.

Section 62-4 - Section 62-30. Reserved

Article II Definitions

Section 62-31. Peddler

For purposes of this article, a peddler is a solicitor, a salesperson, canvasser, vendor or any other person who makes unsolicited attempts to sell goods or services by going door to door in a business district or residential area.

Comment: If a door to door salesperson limits his or her route to businesses, locations or places where the salesperson has an ongoing, established relationship, the salesperson is not a peddler for purposes of this Article.

Section 62-32. Unsolicited Attempt to Sell

For purposes of this article, an unsolicited attempt to sell is (a) entry by a peddler into a place of business without the prior invitation of the owner or (b) knocking on the front door of a residence for the purpose of selling goods or services.

Section 62-33. Attempt to Sell Goods or Services

For purposes of this article, an attempt to sell goods or services is an offer by a peddler intended to persuade the owner or occupant of a home or business to purchase goods or services from the peddler or provide the peddler with money, information, or other thing of value.

Section 62-34. Goods or Services

For purposes of this article, merchandise, physical labor, or anything a peddler offers to sell the owner(s) or occupant(s) of a home or business. This includes goods or services for immediate delivery; goods and services for immediate payment and future delivery; taking orders for future delivery of goods or services.

Section 62-35. Peddler Badge

A peddler badge is a non-transferable identification card issued by the City of Sumter which provides consumers with information sufficient to determine if they wish to interact with a peddler. In addition to any other information required by the Business License Department, the badge must include the name of the peddler, a photograph of the peddler, the thumb print of the peddler, and contact information for the peddler including, where applicable, the peddler's employer. The badge must also identify the goods or services the peddler is authorized to sell, and the date the badge expires.

Section 62-36 Business District Peddler

A business district peddler is one who goes door to door in an area zoned for commerce or business.

Section 62-37 Residential Area Peddler

(a) A residential area peddler is one who goes door to door in areas zoned for single family dwellings, apartments, and other places of residence.

(b) A residential peddler is also one who goes door to door in areas approved for both residences and businesses.

Section 62-38 - Section 62-50. Reserved

Article III Peddler Badges

Section 62-51. Classes of Peddlers

(a) Each classification set forth herein shall be divided into Business District Peddlers and Residential Area Peddlers:

(1) Class 1 Peddler

(i) A self-employed peddler with established ties to the community. To demonstrate established ties to the community, the self-employed peddler must reside in the County of Sumter, must be in compliance with all applicable Federal, State, and local laws and regulations, and possess a valid, current City of Sumter business license to the extent required by the City of Sumter Business License Ordinance. .

(ii) A peddler who works for an individual, business, organization, or group with established ties to the community. To demonstrate established ties to the community, the individual, business, organization, or group represented by a peddler must have an agent, representative, place of business, or an equivalent established business presence in the City of Sumter, must be in compliance with all applicable Federal, State, and local laws and regulations, and possess a valid, current City of Sumter business license

(iii) Prior to any door to door sales or solicitations, a Class 1 Peddler must apply, be approved for, purchase, and be issued a Peddler Badge.

(2) Class 2 Peddler

(i) A self-employed peddler who does not reside in the County of Sumter or does not possess a current, valid City of Sumter Business License.

(ii) A peddler who works for an individual, business, organization, or group that does not have an agent, representative, place of business, or an equivalent established business presence in the City of Sumter or does not possess a valid, current City of Sumter business license to the extent required by the City of Sumter Business License Ordinance. .

(iii) Prior to any door to door sales or solicitations, Class 2 Peddlers must apply, be approved for, purchase, and be issued Peddler Badges.

(iv) No Class 2 Peddler shall be issued a Peddler badge until the peddler has applied for, been approved, purchased, and been issued a City of Sumter Business License under the peddler classification. The Class 2 Peddler must also be in compliance with all applicable Federal, State, and local laws and regulations.

Section 62-52 Peddler Badge Requirements

(a) A peddler badge is a non-transferable identification card issued on an annual basis by the City of Sumter on an annual basis. The badge is the property of the City of Sumter and may be revoked for cause.

(b) In addition to any other information required by the Business License Department, Peddler Badges shall include a current photograph of the peddler, the name of the peddler, the name of the peddler's employer, if applicable, the thumb print of the peddler, the goods or services the peddler is authorized to sell, and the date and year the badge expires.

(c) Peddler Badges are issued for the current calendar year only, and expire on the last day of that year.

Section 62-53 Business License Department to Determine Fee for Peddler Badges

The Business License Department shall set the annual fee to be charged each calendar year. The annual fee shall not be prorated, and no refunds shall be issued.

Section 62-54 Denial and Revocation of Peddler Badges

(a) The City of Sumter Business License Department may refuse to issue or revoke a Peddler Badge to any person who does not possess a current, valid City of Sumter business license to the extent required by the City of Sumter Business License Ordinance or anyone who refuses to purchase a peddler classification business license as required by this ordinance.

(b) The City of Sumter Business License Department may refuse to issue or revoke a Peddler Badge to any person who is indebted to the City for previously due business licenses, or who is indebted to the City for other taxes, fines, or services received.

(c) Because a Peddler Badge issued by the City of Sumter authorizes the bearer (subject to the conditions herein) to enter onto the property of others and knock on the front doors of the homes of Sumter citizens, the City of Sumter Business License Department may refuse to issue a Peddler Badge or revoke a Peddler Badge based on a person's criminal record, work history, or reputation for truth and veracity.

(d) When an application for a Peddler Badge is denied, the Business License Department may advise the applicant in person or in writing, providing reasons for the denial upon request of the applicant.

(e) When a Peddler Badge is revoked, the Business License Department shall advise the peddler and, where applicable, the peddler's employer of the revocation in writing, providing reasons for the denial.

Section 62-55 Alteration, Forgery, or Unlawful Duplication of Peddler Badge

(a) It shall be unlawful for anyone other than an authorized representative of the City of Sumter Business License Department who is carrying out his or her assigned and lawful duties to reproduce, duplicate, or alter any City of Sumter Peddler Badge or any portion or part of said badge.

(b) It shall be unlawful for any person to forge or attempt to forge a Peddler Badge or any portion or part thereof.

(c) It shall be unlawful for any person to possess, distribute, wear, display, or attempt to display a fake or forged City of Sumter Peddler Badge.

(d) It shall be unlawful for any person to possess, distribute, wear, display or attempt to display a City of Sumter Peddler Badge that, in whole or part, an unauthorized reproduction, duplicate, or alteration of said badge.

Section 62-56 - Section 62-105. Reserved

Article IV Duties of Peddlers

Section 62-106. All Peddlers Must First Contact the Business License Department

- (a) Prior to conducting any business or soliciting door to door in the City of Sumter, all peddlers must contact the City of Sumter Business License Department to determine their Section 62-51 classification.
- (b) Upon determination of the appropriate classification, a peddler will be advised of documentation required and information necessary to purchase a City of Sumter identification badge. The peddler will also be advised as to whether the peddler must purchase a City of Sumter Business License in addition to the badge.

Section 62-107. Identification Badge Must Be Issued Prior to Peddler Sales

- (a) Reporting to the Business License Department does not authorize a peddler to conduct sales in the City of Sumter.
- (b) Filing an application for an identification badge or business license with or providing information to the Business License Department does not authorize a peddler to conduct sales in the City of Sumter.
- (c) A peddler's application must be approved and a authorized identification badge must be issued to a peddler before the peddler can solicit business door to door in the City of Sumter,

Section 62-108. All Required Information Must Be Approved Prior to Peddler Sales

Prior to conducting any business or soliciting door to door in the City of Sumter, a peddler shall provide the Business License Department with a completed application for an identification badge and, where applicable, a completed business license application; a certified copy of the peddler's criminal record; a photograph, thumbprints, social security number, date of birth, a copy of his or her driver's license or other photograph identification; with any documentation or information required to be approved for and purchase a Business License, where applicable; and any other documentation or information required by the Business License Department to comply with this Chapter.

Section 62-109. Peddlers Shall Not Enter Posted Property, Violate Notice against Trespass or Solicitation, or Refuse to Leave Upon Request

- (a) Possession of a Peddler Badge does not authorize a peddler to enter a business, residential yard, residence, or other private property against the direction or wishes of an owner or occupant.
- (b) A peddler shall not enter posted property or violate any notice against trespass or solicitation.
- (c) A peddler shall not enter any business, residential yard, residence, or other property

with a fence, closed gate or other indications that the owners or residents do not welcome uninvited guests.

(d) A peddler shall not refuse to leave a business, residential yard, residence, or other private property upon request of an owner or occupant.

Section 62-110. Peddlers Shall Not Attempt to Solicit Business at Property of Others

(a) A peddler shall not attempt to sell any goods or services at, on, or in the business, home, or property of another without first obtaining the specific permission of the business owner, business manager, a resident of the home, or person with legal care, custody, and control of the location.

(b) Peddler sales at the business of another shall comply with local zoning ordinances and all applicable health and safety laws.

Section 62-111. Peddlers Shall Display Current and Valid Peddler Badge

(a) A peddler shall wear and prominently display his or her City of Sumter Peddler Badge at all times while working. Requests by citizens to inspect the badge shall be honored.

(b) A peddler shall not share, loan, or transfer an identification badge issued to the peddler.

(c) A peddler shall make the Badge available for inspection by consumers, law enforcement, and representatives of the City upon request.

Section 62-112. Peddler Access Limited to Front Entrance or Front Door

(a) Absent specific invitation from a person authorized to grant further access, peddler access to a business is limited to the designated front entrance during regular business hours.

(b) Absent specific invitation from a person authorized to grant further access, a peddler shall not access a business through any entrance other than the front entrance, enter any entrance marked private or employees only, enter after regular business hours, enter any area not open to customers of the business, or enter any area marked private or employees only.

(c) Absent specific invitation from a person authorized to grant further access, peddler access to any place of residence is limited to knocking on the front door or ringing the front doorbell. A peddler shall not access any other door of a residence.

(d) Absent specific invitation from a person authorized to grant further access, a peddler shall not enter a residence or its outhouses through an open door or open the door of a residence or the outhouses of said residence.

Section 62-113. Hours of Operation for Business District Peddlers

Peddlers in the Business Districts of Sumter shall conduct business as follows:

(a) Monday through Saturday, Eastern Standard Time: 9:00 AM to 6:00 PM
Sunday, Eastern Standard Time: 1:30 PM to 6:00 PM

(b) Monday through Saturday, Daylight Savings Time 9:00 AM to 7:00 PM
Sunday, Daylight Savings Time: 1:30 PM to 6:00 PM

Section 62-114. Hours of Operation for Residential and Mixed District Peddlers

Peddlers in the Residential Areas and Mixed Districts of Sumter shall conduct business as follows:

- (a) Monday through Saturday, Eastern Standard Time: 10:00 AM to 6:00 PM
Sunday, Eastern Standard Time: 1:30 PM to 6:00 PM
- (b) Monday through Saturday, Daylight Savings Time: 10:00 AM to 8:00 PM
Sunday, Daylight Savings Time: 1:30 PM to 10:00 AM to 6:00 PM
- (c) Peddlers shall not operate on major holidays
- (d) Regardless of the times set forth at 62-114 (a) – (d), residential peddlers shall not operate before sunrise (dawn) or after sunset (dusk).

Section 62-115. Duty of Peddlers to Maintain Accurate Information

It shall be the duty and obligation of every peddler to provide the City of Sumter Business License Department with complete, current, and accurate information. It shall further be the duty and obligation of every Peddler to provide the City of Sumter Business License Department with updates and changes so that the Department can maintain complete, current, and accurate information.

Article VI Appellate Process

Section 62-210 Application for Appeal

a) Any person directly affected by a decision of the City of Sumter Business License Department pursuant to this Chapter may file an appeal with the Sumter City Council by delivering written notice of appeal to the City of Sumter Clerk no later than ten (10) consecutive days after receiving notice pursuant to this Article. The notice of appeal must fully identify subject of the appeal, state appellant's full name, full address, and, if available, a telephone number and e-mail address. The appeal must describe the action or decision which appellant opposes or wants modified. It must also state and give reasons why the action or decision is objectionable to the appellant.

(b) Upon receipt of an appeal, the City Clerk may, when feasible, inquire as to whether appellant would like to resolve the matter by speaking with the City Manager or his designee. If appellant responds in the affirmative, the City Clerk will obtain in writing appellant's consent to extend the hearing date beyond thirty (30) days. The City Clerk will also obtain appellant's contact information in writing and forward the appeal and the contact information to the City Manager (or his designee) who will review the appellant's objection(s) and notify the Clerk to either proceed with the appeal process or stay the appeal for a period not to exceed ten (10) days so that contact can be made with the appellant. During the ten (10) day stay, the following action may occur:

(1) If the objection(s) of appellant are found to be fair and reasonable, the action taken may be reversed and a Peddler Badge issued or restored to appellant in accordance with this Chapter.

(2) If the matter can be resolved without a formal hearing, the supervisor will contact the

appellant to determine if there is a mutually agreeable resolution. If an agreement is reached, the appeal is dismissed without further hearing. Otherwise, the appeal will proceed.

(3) If, at the end of the ten (10) day stay, the City Clerk has not received notice of resolution, the City Clerk should restore the appeal and set a hearing date as set forth in this Article.

62-211. Notice of Hearing

City Council will hear the appeal within thirty (30) days of the receipt of the appeal. Upon notice to appellant of a date and time for the hearing, the appeal may be heard at a regular meeting of City Council or at a specially scheduled meeting. Notice of the hearing shall be posted to the public in the usual form for council meetings and delivered to appellant by regular mail to the address on the notice of appeal.

62-212. Hearing Procedures

All hearings shall be open to the public. Procedures for the hearing shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received. Upon personal appearance at the hearing, the appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. If, the majority of Council members believes other person(s) may provide relevant information, Council has discretion and authority to allow said persons to testify. All persons testifying shall do so under oath.

62-213. Postponed Hearing

When a quorum is not present to hear an appeal, either Council, the City, the appellant or representatives of same shall have the right to request a postponement of the hearing.

62-214. Decision of Council

The decision of council shall be by a majority of the total number of members present, and the decision shall be recorded. Copies shall be furnished to the appellant and to the Business License Department. The Department shall take immediate action in accordance with the decision of Council.

62-215. Court Review

The appellant and Business License Department or legal representatives of same may appeal the decision of City Council to the South Carolina Circuit Court as provided by South Carolina law. As any such appeal will concern real property situate in Sumter County, such appeals shall have the venue of Sumter County.

Article VII. Criminal Misdemeanor to Violate Any Provision of this Chapter

62-300. Criminal Misdemeanor to Violate Provisions of this Article

It shall be unlawful to violate any provision of this Chapter. Noncompliance with any portion

of this Article constitutes a misdemeanor triable or punishable in the City of Sumter Municipal Court.

62-301. Persons Subject to Prosecution

(a) Any person who violates any provision of this Chapter is subject to criminal prosecution in the City of Sumter Municipal Court.

(b) When a peddler who is the agent of another violates any provision of this Chapter, both the peddler and the individual, business, group, or organization represented by the group are subject to criminal prosecution in the City of Sumter Municipal Court

62-303. Penalty for Violation of this Chapter.

A misdemeanor conviction is punishable as provided in Section 1-7 of the City of Sumter Code of Ordinances. Each day of violation or noncompliance constitutes a separate offense. However, when the action in question is unlawful sales or solicitations in violation of this Chapter, each occasion of a sale or an attempt to sell shall constitute a separate offense, including sales or attempts to sell on the same day.

CHAPTER 22

BUSINESSES

Section 22-50. Classification Rate Schedules.

The license fee for each Class of business shall be computed in accordance with the following rates. The major groups of businesses included in each Class are listed with the major group number according to the Standard Industrial Classification Manual (SIC). The License Inspector shall determine the proper class for a business according to the SIC.....

CLASS 8 RATES

(Each SIC Number designates a separate sub-classification. The businesses in this section are treated as separate and individual subclasses due to provisions of State law, regulatory requirements, service burdens, tax equalization considerations, etc., which are deemed to be sufficient to require individually determined rates. Non-resident rates do not apply except where indicated.) ...

5963 - Peddlers, as defined in Chapter 62 of the City Code: First \$10,000 ... \$500.00
each one thousand dollars (\$1000.00) of gross income over \$10,000.00 (ten thousand dollars)