

BARTOW COUNTY PEDDLER ORDINANCE

AN ORDINANCE OF THE COUNTY COMMISSIONER OF BARTOW COUNTY SITTING FOR COUNTY PURPOSES FOR THE PURPOSE OF **ADOPTING A PEDDLER ORDINANCE; PROVIDING FOR LICENSES FOR PEDDLING; CONTROLLING LOCATION AND REQUIREMENTS FOR PEDDLERS; PROVIDING FOR ENFORCEMENT AND PENALTIES;** AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE COMMISSIONER OF BARTOW COUNTY HELD ON THE 7th DAY OF MAY, 2004.

WHEREAS, under the general powers vested by law in the Commissioner, Bartow County has the authority to regulate peddlers, itinerant traders and traveling salesmen of all types in the County; and

WHEREAS, unlicensed peddling by unregistered peddlers exposes the citizens of Bartow County to fraudulent peddlers, and harms legitimate businesses; and

WHEREAS, the Commissioner deems it to be in the best interests of the citizens of the County that a Peddler Ordinance be enacted in accordance with law;

NOW THEREFORE, BE IT ORDAINED, and IT HEREBY IS ORDAINED, pursuant to Georgia law and the powers vested in the Commissioner, that the Bartow County Peddler Ordinance is adopted as follows:

BARTOW PEDDLER ORDINANCE

**ARTICLE I
GENERAL PROVISIONS**

SECTION 101 PURPOSE

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, and general welfare by regulating peddling, itinerant traders, traveling salesmen, and other door-to-door salesmen, generally known as peddlers. Such persons typically market magazines, appliances, house wares, and other goods and services by going door to door in neighborhoods and business districts. The citizens of Bartow County are subject to unregulated peddling by sometimes questionable organizations or individuals, with illegitimate products, or no intent to deliver. It is the purpose of this Ordinance to regulate peddling in the County, to protect the public health, safety and welfare. To achieve this end, this Ordinance requires peddlers seek licenses, have background checks, and peddle under certain limitations. However, it is not the intent of this Ordinance to require legitimate sales representatives, visiting business or persons they have already made appointments

with, or already have a legitimate business relationship with, to need licensing. Neither is it the intent of this Ordinance to infringe free speech rights or require licensing for persons going door-to-door for political campaigns, religious proselytizing, or other free speech reasons.

SECTION 102 DEFINITIONS

A. Definitions. The following words as used in this Ordinance shall have the following meanings:

1. *Applicant* shall mean the person seeking a license.
2. *Goods* shall mean any sort of personal property, wares or merchandise that can be sold, including, but not limited to, brushes, vacuums, magazines, newspapers, luggage, house wares, electronics, computers, furniture, food, agricultural products, flowers, tools, clothing, decorative accessories, rugs, paintings, sculpture, dishes, and so forth.
3. *License* shall mean a permit to peddle.
4. *Official photo identification* shall mean a driver's license or identification card issued by Georgia, another U.S. State, or the U.S. Military; or a U.S. Passport.
5. *Peddling* or *to Peddle* shall mean traveling from place to place or door to door on foot or in a vehicle and exhibiting, offering to sell, or selling goods or services, to households, businesses or passers-by. It shall also mean traveling from place to place or door to door taking orders for the sale of goods or services for delivery at another time or place. The solicitation of orders combined with a separate transaction to make delivery to the purchaser as a part of a scheme or design to evade the provisions of this Ordinance shall be deemed peddling. Visits by sales representatives pursuant to previously-arranged appointments with a specific business or person, or as a part of an on-going business relationship, shall not be deemed peddling.
6. *Peddler* means any person who engages in peddling.
7. *Person* shall mean any natural person, organization, corporate entity or other business entity.

8. *Services* means the provision of any sort of professional or trade service to another, including for example, general maintenance, construction, painting, lawn service, house cleaning, mending, sharpening, motor repair, appliance repair, and so forth.
9. *Sheriff* means Sheriff of Bartow County or his or her designee.

SECTION 103 RESTRICTIONS

- A. License Required. It shall be unlawful for any person to engage in peddling in Bartow County without first obtaining a license. Licenses shall be for a period of six months, and may be renewed. Each employee of a business or corporation engaging in peddling shall have a separate license.
- B. State Law Requirement. In addition to this Ordinance, peddlers as defined by state law must obtain a license from the Probate Court of Bartow County, under the requirements of O.C.G.A. § 43-32-1 et seq. The requirements of that statute are separate from this Ordinance, and obtaining only that license shall not satisfy the requirements of this Ordinance.

SECTION 104 LICENSE REQUIREMENTS

- A. License Application. All requests for a license must be provided to the Sheriff. The Sheriff shall issue a decision within five business days of the application being filed.
- B. Individual Licenses Required. Each individual person seeking to peddle must obtain a license. If the applicant is working for another individual or corporation or other business entity, that information must be disclosed on the application and the license, if granted.
- C. Required Information. All applications for licenses must include at a minimum the following information, and shall be signed by the applicant:
 1. Name and address of the applicant, including a local address where the applicant will be staying while peddling. If the applicant is working for an entity other than himself, such as a corporation or another individual, provide the name of the employer, provide the headquarters address and address of the Bartow County office, or the address of the closest branch office if there is no Bartow County office;
 2. Applicant's height, weight, age, sex, race, and social security number for background check purposes;

3. Photocopy of driver's license or other official photo identification of the applicant;
 4. Proposed peddling activity including identification of the type of business, and the goods or services to be sold;
 5. If a vehicle is to be used, a description of the vehicle together with the license plate;
 6. The desired duration of the license (maximum six months);
 7. The application shall contain a statement that the submission of the application shall be considered to be consent that a background check may be run by the Sheriff at his discretion on the applicant, and a statement that all information contained therein is true and correct; and
 8. Any additional information the Sheriff may find reasonably necessary for a fair determination as to whether the proposed event will endanger public health, safety or welfare.
- D. Fingerprints. The fingerprints of the applicant shall be taken by the Sheriff's department, for identification and background check purposes.
- E. License and Identification Carried. The signed license is to be kept on-site in the possession of a peddler at all times that peddling is underway. Licenses shall be displayed at the request of any citizen or law enforcement personnel. Official photo identification shall also be kept on the person of a peddler at all times he or she is peddling, and shall be presented upon request of any citizen or law enforcement personnel. It shall be a violation of this Ordinance to fail or refuse to display a license or official photo identification when requested.
- F. Duration, Renewal. A peddler license shall be valid for the period specified thereon, up to a maximum of six months. A peddler license may be renewed upon submission of an application for renewal, accompanied by a \$25 investigation fee and a \$25 license fee. Upon application for renewal, the Sheriff shall check to insure no complaints or criminal charges have been made against the peddler, and shall apply the same criteria as applies to the grant of a license to renew the license.

- F. Fees. An application shall be accompanied by an application fee of \$50 to cover the cost of investigation and an additional \$50 license fee (\$100 total). If the license application is denied, the \$50 license fee shall be refunded. These fees may be raised from time to time by the Commissioner of Bartow County. The Sheriff shall have the authority to waive or reduce the fees on a case-by-case basis, for charitable organizations, schools, and churches.

SECTION 105 INVESTIGATION AND ISSUANCE

- A. Investigation. The Sheriff shall review the application for completeness and compliance with the terms of this Ordinance. The Sheriff shall determine whether there are any records of complaints against the applicant in the records of the Sheriff's Department or the GCIC/NCIC crime database system. The Sheriff may, at his discretion, conduct a background check of the applicant. The Sheriff may, at his discretion, make any other inquiries he deems necessary for the investigation of the applicant.
- B. Decision. The Sheriff may grant or deny a license. The Sheriff shall issue a license as provided in this Ordinance from a consideration of the application and from such information as may otherwise be obtained, unless he finds that any or all of the following apply:
1. The applicant or the employer of the applicant has any criminal complaints pending against them, or has a criminal record involving crimes of theft, fraud, or other moral turpitude;
 2. The background check has revealed the applicant is not of good character, or the proposed good or service is not legitimate or legal;
 3. The grant of the license is contrary to the public's health, safety or general welfare; or
 4. The application was not complete, or the application or license requested are not fully in compliance with the requirements of this Ordinance.

The Sheriff shall indicate on the application review form all reasons for rejection of the application.

SECTION 106 APPEALS

- A. Appeals. Any person aggrieved by the denial or restriction of a license shall have the right to appeal the denial or restriction to the Magistrate Court of Bartow County. A written appeal shall be filed with the Court.

- B. Procedure. The Sheriff shall appear and present his case and evidence as to why the application was denied. The applicant shall have the opportunity to present its case and evidence in support of the application. The hearing shall be conducted as a magistrate court proceeding.

- C. Standard of Review. The Magistrate Court judge, keeping in mind the purpose of this Ordinance, the substantive provisions, and giving deference to the judgment of the Sheriff, shall make a determination as to whether the denial or restriction was lawful and in the interests of the public health, safety and welfare, or whether the license should be issued or modified. If the latter, the Court shall enter an order providing guidance as to the location, time, persons, and other criteria of this Ordinance.

SECTION 107 PEDDLING REGULATIONS; PROHIBITED LOCATIONS AND TIMES

- A. Prohibited Times. No peddling shall be allowed during the following times:
 - 1. Before 9:30 a.m. or after 6:00 p.m. Monday through Friday;
 - 2. Between the hours of 11:30 a.m. and 1:30 p.m. Monday through Friday;
 - 3. Before 10:00 a.m. or after 5:00 p.m. on Saturday or Sunday; and
 - 4. At any time after sunset or before sunrise.

- B. Prohibited Locations. No peddling shall be allowed at the following locations:
 - 1. On any street or highway right-of-way;
 - 4. On any bridges and sidewalks;
 - 5. On any public property or governmentally-owned property; and
 - 5. On any private property without the permission of the property owner.

- C. Solicitation. Solicitation, as defined in the *Bartow County Solicitation Ordinance*, shall not be allowed under a peddler's license. A separate solicitation license is required. See the *Bartow County Solicitation Ordinance* for additional requirements.
- D. Peddlers Under 18. Applications for peddlers under age 18 must be signed by an adult, and the adult must provide their address and relationship to the applicant.
- E. Exemptions. Stationary road-side stands for the sale of agricultural products, and the persons operating such stands, shall not require a license under this Ordinance. Such stands must comply with the *Bartow County Zoning Ordinance* and other applicable regulations, and shall not be located on public rights-of-way.

SECTION 108 VIOLATIONS, ENFORCEMENT

- A. Persons peddling without a license or in violation of the license shall be cited with a citation for prosecution in the Magistrate Court, in accordance with the requirements of law for such citations. Any sheriff's deputy shall be authorized to issue such citations.
- B. Any person, organization, business or entity violation the provisions of this Ordinance is subject to a fine of up to one thousand dollars (\$1,000.00) per day per violation per individual participant. The minimum fine shall be \$100.00 per day per violation per individual participant.
- C. Any violation of this Ordinance shall immediately revoke the license. The Sheriff shall also have the discretion to revoke the license upon charge of violation being made, or upon awareness of illegal or unauthorized activity, if revocation is required in the best interests of public health, safety and welfare.
- D. Any person, organization, business or entity found guilty of violating this Ordinance may not be issued a license for a two-year period from the date of the violation. Upon second offense, the person, organization, business or entity found guilty of violating this Ordinance shall be banned from further peddling in Bartow County.
- E. The County Attorney shall be authorized to seek injunctive relief and other relief in Superior Court if necessary to effectuate the intent of this Ordinance.

The County shall be entitled to seek civil fines in the amounts specified above, and shall be entitled to its attorney's fees for any successful action.

SECTION 109 SEVERABILITY

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, or if any provision of any part of this Ordinance as applied to any particular situation or set of circumstances be declared invalid, or unconstitutional, such invalidity shall not be construed to affect the remaining portions of this Ordinance not so held to be invalid, or the application of this Ordinance or other circumstances not so held to be invalid. It is hereby declared to be the intent of the Commissioner to provide for separable and devisable parts and he does hereby readopt any and all parts hereof as may not be held invalid for any reason.

SECTION 110 REPEALER

This Ordinance repeals any prior ordinance or resolution in conflict herewith, except to the extent that said ordinance or resolution is more restrictive than this Ordinance, in which case that ordinance or resolution shall control.

SO ADOPTED this 7th day of May, 2004, to be effective immediately, the public health, safety, and general welfare demanding.

ATTEST:

BARTOW COUNTY, GEORGIA

Kathy Gill, Deputy County Clerk

Clarence Brown, Commissioner