

ORDINANCE NO. 719

First Reading (By Title Only): **February 25, 2019**
Second Reading:
Public Hearing:
Third and Final Reading:

AN ORDINANCE AUTHORIZING FAIRFIELD COUNTY TO ESTABLISH A COUNTY BUSINESS REGISTRATION PROGRAM TO APPLY TO REGULATE BUSINESSES LOCATED IN THE UNINCORPORATED AREA OF THE COUNTY OF FAIRFIELD PURSUANT TO SECTION 12-37-135 OF THE SOUTH CAROLINA CODE OF LAWS.

WHEREAS, Section 12-37-135 of the South Carolina Code of Laws allows a county to implement a business registration program and impose an administrative fee not to exceed fifteen (\$15.00) dollars; and,

WHEREAS, the business registration program must be administered and enforced in the same manner as the business license tax, but cannot be converted into a business license tax program; and,

WHEREAS, the business registration program will allow better tracking of businesses by location and will greatly assist in the areas of public safety, code enforcement, and tax collection; now therefore,

NOW, THEREFORE, BE IT ORDAINED BY FAIRFIELD COUNTY COUNCIL:

Section 1 – Purpose

No person shall conduct business, in whole or in part, by maintaining an office in the unincorporated part of the County of Fairfield, or by soliciting orders through such office, or in any other manner whatsoever, without having first registered such business as provided in this ordinance.

Section 2 – Definitions

A. **Business.** Any person, who, within the unincorporated areas of the County of Fairfield, engages in, causes to be engaged in, and/or represents himself to be engaged in, any occupation or activity with the object of gain, benefit, or advantage, either directly or indirectly. This shall include any person advertising by any means, including, but not limited to signs, cards, circulars, newspapers, etc., that he/she is engaged in a business of any kind.

B. **Engaged in Business or Carrying on Business.** The doing or performing of any act of selling any goods or services, or soliciting business, or offering any goods or services for sale primarily in an attempt to make a profit, including selling or performing services of the character of a wholesaler or retailer, or being involved in any of the functions performed as a manufacturer; all of the foregoing performed either as an owner, operator, or agent of any businesses, trade, profession, or occupation within the County of Fairfield.

C. Person. Any individual, firm, partnership, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural.

Section 3 – Classification of Business

For the purpose of this ordinance, businesses are classified as any business located within the unincorporated area of the County of Fairfield that has a Licenses, Permits, and/or Registrations (LPRs) from any State of South Carolina department or agency in order to do business in South Carolina (i.e., S.C. Department of Labor, Licensing, and Registration, S.C. Department of Revenue, S.C. Department of Health and Environmental Control, etc.).

Section 4 – Business Registration

Any person doing business in the unincorporated area of the County of Fairfield must register annually with the County. No person shall be engaged in or carry on any business as described in Section 3 of this Ordinance unless the business is properly registered with the County. If business is conducted at more than one location or place, each such location or place shall be considered a separate business upon which a separate business registration will be required. One registration is required for each separate business location. Persons working for a registered business are not required to maintain a separate registration with the County identification number and/or social security number, the South Carolina SID or retainer license number if applicable, and the business name and address as reported on the South Carolina income tax return.

Every business or person who registers with the County must sign an affidavit, on a form designated by the County or prescribed by the South Carolina Illegal Immigration Reform Act, attesting under penalty of perjury that the business and/or person is in compliance with the S.C. Illegal Immigration Reform Act and does not knowingly or intentionally employ any person who is an unauthorized alien.

Upon the receipt of credible, specific information concerning a potential violation of the South Carolina Illegal Immigration Reform Act, the Finance Department shall forward such information to the South Carolina Department of Labor, Licensing and Regulation for further investigation pursuant to state law.

Section 5 – Business in Good Standing

All applicants applying for or renewing a business registration must be current with all Fairfield County taxes/fees and in compliance with all County ordinances.

Section 6 – Change of Ownership of Address

A. Business registrations are not transferable under any conditions. Businesses that change ownership during the year will be allowed forty-five (45) days to register with the County.

B. A person must notify the County in writing within forty-five (45) days of any change of address for their business.

Section 7 – Administration of Ordinances

The Finance Department shall administer the provisions of this ordinance through the registration, initiation of denial and revocation procedures, reporting of violations to the Sheriff's Office or Code Enforcement Office, and provide assistance as needed in prosecution of violators.

Section 8 – Denial and Revocation

The Finance Department shall have authority to deny or revoke any business registration under the provisions set forth in this section.

A registration application may be denied, or an issued registration may be suspended or revoked, upon any of the following grounds:

(1) The registrant's operation of the business constitutes a public nuisance, provided the determination of the public nuisance arises from one or more of the following activities on the premises or in the immediate vicinity thereof and the registrant has actual or constructive knowledge of the activities:

a. Frequent arrests of persons for crimes of violence, possession or sale of controlled substances, possession or sale of deadly weapons, the discharge of firearms, excessive noise, disorderly conduct, prostitution, disturbance of the peace, and the illegal acts correspond with or relate to the hours of operation of the business operations of this registrant;

b. Law enforcement agencies make an unusually high number of response calls, regardless of arrests, to the business premises, or to the immediate vicinity, and the high number of response calls corresponds with or relates to the hours of business operations of the registrant;

c. There are ongoing and significant deposits of litter and debris in the immediate vicinity, whether the persons making the deposits can be identified or not, when the litter and debris relate to the business operations of the registrant; and

d. Material violations of property maintenance codes, environmental codes, fire code, and/or building codes where violations are applicable to the business premises.

(2) Failure to provide sufficient security measures to protect people and property located on the premises, and to protect people and property located in the immediate vicinity when the immediate vicinity is affected by the business operations of the registrant;

(3) The provision of materially false and inaccurate statements in the business registration application or to a County official at the time of application;

(4) Failure to pay taxes or fees applicable to the premises or business operations when due, including but not limited to personal and real property taxes, hospitality taxes, accommodation fees and accommodation taxes, property assessments, sewer fees, and false alarm fees;

(5) Failure of an applicant or registrant to show current compliance with applicable state laws related to the operation of business activities.

(6) Failure to provide full payment to the County within ten (10) days of notice of a check returned to the County for insufficient funds. Full payment means the full amount due of the original check plus costs and fees assessed to the County by its bank for the return of the check presented, as well as any return check fee otherwise assessed by the County.

(7) Failure to provide substantiation, when asked by the County, that the actual business use of the location for which a business registration has been applied for or granted, complies with what is allowed at the location under the County's zoning ordinance. Nothing in this provision shall be interpreted to abrogate or limit any variances, special exceptions, or lawful nonconforming uses, previously established under the County's zoning ordinance. In the case of amortization of signs, structures, and uses, the business owner must demonstrate that the amortization period has not expired. In instances requiring an interpretation of the zoning administrator, such interpretations may be rendered in accordance with the duties assigned to the zoning administrator under the zoning ordinance.

(8) An applicant or registrant whose employer's license is suspended or revoked for violating the South Carolina Illegal Immigration Reform Act shall have his business registration suspended or revoked by the County. Such suspension or revocation by the County shall run concurrently with the penalty imposed by the South Carolina Department of Labor, Licensing and Registration.

Section 9 – Notice, Appeals and Reapplications.

Where grounds exist to deny or revoke a registration under the provisions of this ordinance, the Finance Department shall provide written notice to the applicant or registrant setting forth the grounds revoking the license effective ten (10) days from the date of the notice, and advising of the appeals process.

Any person aggrieved by a denial or revocation of a business registration may appeal the decision to the County Administrator (or his designee) within ten (10) days after notice of the denial or revocation. A written notice of appeal must be accompanied with a \$25.00 fee that will be used to partially defray the costs incurred in connection with the administration of appeals. The fee will be refunded in the event of final resolution of the appeal in favor of the appellant. An appeal shall stay the revocation until the administrator or his designee renders a final decision.

The administrator or his designee shall hold a hearing within fifteen (15) days of the request and render a written decision based upon the findings of fact and the application of standards herein. The decision of the administrator or his designee shall be final unless appealed to a court of competent jurisdiction within ten (10) days after notice of the decision. An appeal from the final decision shall not stay revocation of the registration.

For a period of one (1) year after the revocation or denial of a business registration, no new registration shall be granted to the same registrant or to the registrant's agent of any person who can be shown to acting on the registrant's behalf in attempting to register the business with the County.

Section 10 – Confidentiality of Information

All information furnished or secured under the authority of this Ordinance by the Finance Department shall be used for public safety purposes. Social Security and/or federal employer identification numbers shall not be released to the general public; however, address and contact information supplied by a business is subject to the Freedom of Information Act and may be open to public inspection.

Section 11 – Penalties

Any person, firm, corporation or agent who shall violate the provisions of this Ordinance shall be guilty of a misdemeanor punishable by a fine not to exceed \$200.00 for a first offense violation. Any person, firm, corporation or agent committing a second or subsequent violation shall be guilty of a misdemeanor punishable within the financial jurisdictional limits of the Magistrate’s Court. Each such person, firm, corporation or agent shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this article is committed or continued. In addition, the County may take action as allowed by law to prevent the business from operating until such time that the business registers with the County.

Section 12 – Severability

Severability is intended throughout and within the provisions of this Ordinance. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

Section 13. Effective Date:

This ordinance shall take effect _____, 2019.

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**ADOPTED THIS _____ DAY OF _____, 2019, BY ORDER OF THE
FAIRFIELD COUNTY COUNCIL.**

Cornelius Robinson, Chairman

Bertha Goins, Vice-Chair

Moses Bell, Member

Jimmy Ray Douglas, Member

Mikel Trapp, Member

Douglas Pauley, Member

Clarence Gilbert, Member

ATTEST:

Patti L. Davis, Clerk to Council