

**LAMAR COUNTY BOARD OF COMMISSIONERS
ORDINANCE NO. 2019- 15**

AN ORDINANCE TO AMEND CHAPTER 2-12 OF THE LAMAR COUNTY CODE OF ORDINANCES ENTITLED “LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS”; TO AMEND ARTICLE III ENTITLED “PEDDLERS TRANSIENT SELLING”; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF
LAMAR COUNTY, GEORGIA**

SECTION 1. Code Chapter Amended. Chapter 2-12, Article III of the Code of Ordinances of Lamar County, Georgia, entitled “Peddlers Transient Selling” is hereby amended by deleting said Article and sections thereunder in their entirety and substituting in lieu thereof a new Article III to be entitled “Peddlers and Transient Selling” which shall read as follows:

ARTICLE III. - PEDDLERS AND TRANSIENT SELLING

Sec. 2-12-51 Purpose; Exemptions; and Definitions

To provide regulations to those who conduct business, whether for profit or non-profit, outside of an established and permanent building and surrounding grounds, in order to continue to protect the health, safety, and welfare of the citizens and visitors of Lamar County. Specifically exempted from these regulations are political organizations and political candidates; religious organizations providing information only, but not wares for sale; fundraising events for public entities such as fire departments and schools unless contracted to a third party; merchants who are contacted directly by homeowners to conduct business in their home (examples are Avon, Tupperware, Rainbow Vacuums, etc.), however, these merchants are required to obtain an Occupational Tax Permit if their base of operations is located in unincorporated Lamar County.

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:

Peddler means any person who travels from place to place by any type of conveyance carrying his wares with him, offering and exposing the same for sale, or making sales and delivering articles to purchasers; or any person who, without traveling from place to place, sells or offers the same for sale from any type of vehicle or conveyance. A peddler generally offers for sale, consummates the sale, and delivers the goods at one and the same time to the ultimate consumer. Any person who solicits orders and, as a separate transaction, makes deliveries to purchasers as part of a scheme or design to evade the provisions of this definition shall be deemed peddling and shall be subject to the provisions of this article.

Transient merchant: Any person who sets up or displays merchandise for sale outside of a building on any lot where the person or entity setting up or displaying such merchandise does not also lawfully conduct business regularly in a building located on that lot.

Sec. 2-12-52. Prohibitions

No peddler or transient merchant shall:

1. Carry on his business upon any street, alley, sidewalk, park, or any other public place.

2. Carry on his business upon any private property without the permission of the property owner.
3. Possess any pornographic or obscene material as defined under the laws of the State of Georgia.
4. Refuse to leave premises upon being notified by the owner, occupant, or agent to leave.
5. Misrepresent or make false statements concerning the quality of goods, ware, merchandise, or services.
6. Carry on his business without first obtaining the proper license to do so.

Sec. 2-12-57. - Application.

Applicants for a license under this article shall file with the county administrator or their designee, at least one day prior to the date upon which the applicant desires to begin his business, a sworn application, in writing, on a form to be furnished by the county, which shall give the following information:

- (1) Name, physical description, age, social security number, driver's license number of the applicant.
- (2) The permanent home address and full local address of the applicant.
- (3) A brief description of the nature of the business and goods shown for sale or for future delivery, including manufacturer, producer, and supplier of such goods.
- (4) The length of time for which the right to do business is desired.
- (5) The exact location in which the applicant intends to do business (if the location is to change during the license period, the applicant must so state on the application).
- (6) If vehicles are to be used, a description of the same, together with license number and other means of identification for each vehicle.
- (7) The particular manner and means by which he intends to sell his goods or take his orders.
- (8) At the time of filing his application for a permit required by this article, the applicant shall present the driver's license of each person working with him or any other identification that may be requested.
- (9) a criminal history conducted by the Lamar County Sheriff's Office is required for all Peddlers Permits

The application may be denied based on any of the following causes:

1. Fraud, misrepresentation, or false statement contained in the application.
2. Conviction of or a plea of guilty or nolo contendere to any felony or to a misdemeanor involving moral turpitude
3. Known and proven history of conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace, or to constitute a menace to the public health, safety or general welfare of the public.

Sec. 2-12-58. - Fee.

The fee for a license issued under this article shall be as provided in the schedule of fees and charges on file in the office of the County Administrator or their designee. O.C.G.A. § 43-12-1 provides exemptions of payments for peddlers permits and transient permits to certain veterans of the armed forces and to blind persons. An applicant who wishes to use this fee exemption must provide a sworn oath certified by the Probate Judge of Lamar County.

Sec. 2-12-59. - Records required.

The county clerk or their designee shall maintain a record of all licenses issued pursuant to the Records Retention Schedule as adopted by Lamar County Board of Commissioners

Sec. 2-12-60. - License non-transferrable.

Licenses issued under this article shall not be transferred or assigned.

Sec. 2-12-61. - Durations.

(a) Licenses issued for Peddling Permits under this article shall be issued for a period of 14 consecutive calendar days.

(b) Licenses issued for Transient selling under this article shall be issued for a yearly basis but must not exceed more than 1 day per quarter.

Sec. 2-12-62. - Revocation—Grounds and Procedure

A license issued under this article may be revoked by the Board of Commissioners after notice to the licensee and a hearing at which the licensee may be heard for any of the following causes:

- (1) Fraud, misrepresentation, or false statement contained in the application of the license.
- (2) Fraud, misrepresentation, or false statement made in the course of carrying on his business as a transient dealer.
- (3) Any violation of this article.
- (4) Conviction of or a plea of guilty or nolo contendere to any felony or to a misdemeanor involving moral turpitude.
- (5) Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace, or to constitute a menace to the public health, safety or general welfare of the public.

Notice of a hearing for revocation of a license issued under this article shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be personally served, or may be mailed, postage prepaid, to the licensee at his local address as set forth on the application, at least three (3) days prior to the date set for the hearing.

SECTION 2.

This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

SECTION 3.

A. It is hereby declared to be the intention of the Board of Commissioners that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.

B. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other Section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other Section, paragraph, sentence, clause or phrase of this Ordinance.

C. In the event that any section, paragraph, sentence, clause or phrase of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the Ordinance and that, to the greatest extent allowed by law, all remaining Sections, paragraphs, sentences, clauses, or phrases of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION 4. Repeal of Conflicting Provisions. Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon its adoption by the Board of Commissioners of Lamar County, Georgia.

SO ORDAINED, this _____ day of _____, 2019.

CHARLES GLASS, Chairman

ROBERT HEINEY

BENNIE HORTON

NANCY THRASH

RYRAN TRAYLOR

ATTEST:

Carlette Davidson, County Clerk

(SEAL)

First Reading: _____

Second Reading/
Adoption: _____