

**AN ORDINANCE TO ADD A NEW SECTION 19 TO BEAUFORT COUNTY
ORDINANCE NO. 99/36 PERTAINING TO BUSINESS AND PROFESSIONAL
LICENSES SO TO ADD THE “BEAUFORT COUNTY, SOUTH CAROLINA,
LAWFUL EMPLOYMENT ORDINANCE,” TO PROVIDE AN EFFECTIVE
DATE, SEVERABILITY AND OTHER MATTERS RELATING THERETO**

SECTION 1. FINDINGS AND DECLARATION OF PURPOSE

- A. This Ordinance shall be known and may be cited as the “Beaufort County, South Carolina, Lawful Employment Ordinance.”
- B. The Beaufort County Council finds and declares:
1. Federal law forbids the knowing employment of unauthorized aliens;
 2. The employment of unauthorized aliens harms the health, safety and welfare of persons authorized to work in Beaufort County; and
 3. Providing Beaufort County business license applicants and licensees with information, education and assistance with respect to hiring only persons authorized to work in the United States and providing information with respect to employment eligibility, employment eligibility verification, and available automated systems which serve as employment eligibility verification checks will assist licensees in complying with State and Federal laws and will operate as a deterrent to the employment of unauthorized aliens in violation of Federal Law;
 4. It is in the best interests of, and will serve and benefit, the health, safety and welfare of the public and licensees to enact this ordinance to deter and prevent employment of unauthorized aliens; provided, however:
 5. The County shall not construe this ordinance to prohibit rendering of emergency medical care, emergency assistance or legal assistance to any person.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the County Council of Beaufort County, South Carolina, duly assembled and by the authority of the same as follows:

Section 2. DEFINITIONS

- A. When used in this Ordinance, the following words, terms and phrases shall have the meanings ascribed to them herein and shall be construed so as to be consistent with state and federal law, including federal immigration law;
1. “Business” and “business entity” shall have the same meaning as provided in Beaufort County Ordinance Section 18-47.
 2. “County” means the County of Beaufort, South Carolina.
 3. “Employee” shall have the same meaning as in 8 C.F.R. § 274a.1(f).

**This draft includes the revisions recommended by the
Community Services/Public Safety Committee on December 6, 2006.**

4. “Employment” shall have the same meaning as in 8 C.F.R. § 274a.1(h).
5. “Independent Contractor” shall have the same meaning as in 8 C.F.R. § 274a.1(j).
6. “Licensee” means both applicants for and current holders of Beaufort County business licenses.
7. “Unauthorized alien” shall have the same meaning as 8 U.S.C. § 1324(h)(3). The County shall not conclude that a person is an unauthorized alien unless and until an authorized representative of the County has verified with the federal government, pursuant to United States Code Title 8, subsection 1373(c), the person’s authorization to work.

SECTION 3. INFORMATION, EDUCATION AND ASSISTANCE

A. Employment of Unauthorized Aliens is Unlawful.

1. Pursuant to 8 U.S.C. § 1324a, it is unlawful for a person or other entity to recruit, hire, or continue to hire any person who is an unauthorized alien for employment in the United States.
2. Every business or person that applies for a business license to engage in any type of work in the County shall attest under penalty of perjury, on a form designated by the County, that the licensee does not knowingly utilize the services of, engage or hire any person who is an unauthorized alien.
3. Upon request, the County will provide a business license applicant or licensee with information pertaining to the requirements of Federal law regarding the unlawful employment of unauthorized aliens and unfair immigration-related employment practices.

B. Unlawful Discrimination.

1. The Federal Immigration and Nationality Act, as amended, and Title VII of the Civil Rights Act of 1964, as amended, the South Carolina Human Affairs Law, as amended, the South Carolina Unfair Trade Practices Act, as amended, among other Federal and State laws and regulations prohibit employment discrimination.
2. Employers must treat all employees uniformly when completing employment eligibility verification documents. Employers may not set different employment eligibility verification standards for different groups of employees.
3. An allegation of discrimination may be filed by an individual who believes he or she is the victim of employment discrimination by contacting the appropriate State and Federal agencies. The Beaufort County Business License Department provides a list of State and Federal agencies authorized to accept and investigate complaints alleging employment discrimination.

SECTION 4. ENFORCEMENT

- A. The County of Beaufort Business License Division shall enforce the requirements of this Section 19.

- B. Investigation.
 - 1. An investigation will commence if an investigation or audit performed pursuant to Beaufort County Ordinance Section 18-57 shows that the licensee does not meet the documentation requirements contained in 8 U.S.C. §1234a for persons employed within Beaufort County. However, pursuant to the notice requirements provided by federal law, licensees shall be allowed three (3) days to produce employment verification documents required under 8 U.S.C. § 1324a.
 - 2. If the licensee fails to produce the required documentation to the Business License Division, the Business Licensing Division will commence an enforcement action against the licensee.
 - 3. If upon production and review of the required documentation, the Business License Division obtains verification information pursuant to 8 U.S.C. § 1373 evidencing the licensee's employment of an unauthorized alien, the Business License Division will notify the licensee.

- C. Notice.
 - 1. Upon the commencement of an enforcement action, the Business License Division shall provide the licensee with written notice of the findings and notice of further action including, but not limited to possible suspension of the licensee's business license under Beaufort County Ordinance Section 18-62.
 - 2. Notice shall be sent to the licensee by United States mail.

- D. Additional Information.
 - 1. Upon receipt of notice of the enforcement action, the licensee may submit to the Business License Division any additional documentation to support that the alleged unauthorized alien is authorized to work in the United States.
 - 2. Licensee shall file all additional documentation with the Division within (15) business days from the date of notice, unless an extension up to forty-five (45) working days is requested and granted. During this period, the licensee's business license shall remain unaltered.

- E. Suspension of License.
 - 1. If upon the expiration of the period referred to in Section 4(D)(2), the licensee fails to provide additional documentation or if the license inspector finds the additional documentation does not meet the requirements of 8 U.S.C. § 1324a, the

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licensee shall be subject to license suspension as provided in Beaufort County Ordinance Section 18-62.

- 2. However, the licensee’s license shall not be subject to suspension or revocation if licensee produces evidence of compliance with the safe harbor provision under 8 U.S.C. § 1324a(a)(3).

F. Appeal: Appeal of the Business License Division’s findings and the suspension of a license is available as provided under Beaufort County Ordinance Section 18-63.

SECTION 5. APPLICABILITY AND EFFECTIVE DATE

This Ordinance shall become effective on January 1, 2008.

SECTION 6. SEVERABILITY

If any part of this Ordinance is held by a court of competent jurisdiction to be unconstitutional, illegal, or invalid for any reason, it shall be construed to have been the legislative intent of the County Council of Beaufort County, South Carolina, to pass this Ordinance without such unconstitutional, illegal or invalid provision, and the remainder of this Ordinance shall be deemed and held to be constitutional, lawful and valid as if such portion had not been included. If this Ordinance or any provision thereof is held by a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

APPROVED AND ADOPTED BY THE COUNTY COUNCIL OF BEAUFORT COUNTY,
SOUTH CAROLINA ON THIS ____ DAY OF _____, 2006.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM

Kelly J. Golden, Esquire
Beaufort County Staff Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council

First Reading, By Title Only: October 23, 2006
Second Reading:
Public Hearing:
Third and Final Reading: