



# REQUEST FOR COUNCIL ACTION

## City of Greenville, South Carolina

Agenda Item No.

15d

**TO:** Honorable Mayor and Members of City Council  
**FROM:** John F. McDonough, City Manager

Ordinance/First Reading  Ordinance/Second & Final Reading  Resolution/First & Final Reading  Information Only

**AGENDA DATE REQUESTED:** August 23, 2021

**ORDINANCE/RESOLUTION CAPTION:**

ORDINANCE TO AMEND CHAPTER 36, ARTICLE V, OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE TO PROVIDE FOR THE ISSUANCE OF PICKETING PERMITS AND TO PROVIDE FOR A PROHIBITION OF THE OPEN CARRY OF FIREARMS DURING PICKETS AND OTHER PERMITTED EVENTS ON PUBLIC PROPERTY

**SUMMARY BACKGROUND:**

A recent change in South Carolina Law permits municipalities to restrict the open carry of firearms during permitted events on public property, including protests. This Ordinance amends Chapter 36, Article V, of the Code of Ordinances to provide for the issuance of a picketing permits on the same terms and conditions that the City current imposes for the required written notice of the intent to picket. The Ordinance also provides that the open carry of firearms is not allowed during permitted events on public property, including protests.

**IMPACT IF DENIED:**

The Code of Ordinances will not be amended.

**FINANCIAL IMPACT:**

None.

**REQUIRED SIGNATURES**

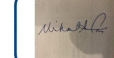
Department Director \_\_\_\_\_

OMB Director \_\_\_\_\_

City Attorney \_\_\_\_\_

City Manager \_\_\_\_\_

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John McDonough

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A N O R D I N A N C E

TO AMEND CHAPTER 36, ARTICLE V, OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE TO PROVIDE FOR THE ISSUANCE OF PICKETING PERMITS AND TO PROVIDE FOR A PROHIBITION OF THE OPEN CARRY OF FIREARMS DURING PICKETS AND OTHER PERMITTED EVENTS ON PUBLIC PROPERTY

WHEREAS, as part of the newly enacted South Carolina Open Carry with Training Act, local governments have the power to prohibit the open carry of firearms during permitted events taking place on public property, including during protests; and

WHEREAS, the city of Greenville (the “City”) has experienced a significant increase in protest activity recently; and

WHEREAS, while the City recognizes and appreciates the First and Second Amendment rights of its citizens and visitors, the presence of firearms at protests can serve to escalate tensions; and

WHEREAS, the City has heretofore not required a permit to picket, but has required the functional equivalent through a written notice of the intent to picket and the issuance of a written receipt for same; and

WHEREAS, the City desires to amend Section 36-142 of the Code of Ordinances of the City of Greenville (the “City Code”) to provide for the issuance of a permit for picketing activity within the scope of Section 36-142, and further, to provide for a prohibition on the open carry firearms during pickets as expressly allowed by Section 23-31-520 of the South Carolina Code of Laws; and

WHEREAS, Section 36-142 is being further amended to eliminate any potential ambiguity that a violation of that section is an offense; and

WHEREAS, despite the changes being made herein, the right to peacefully protest remains squarely preserved; and

WHEREAS, the City further desires to limit the open carry of firearms during all other permitted events on public property as also expressly allowed by the aforementioned State law; and

WHEREAS, the City believes this additional measure will serve to promote peace and good order during events and, further, recognizes the prohibition on open carry as described above is in keeping with City policy as it pertains to its own buildings and facilities as well as the policies of the major event venues located in the City like the Bon Secours Wellness Center, the Peace Center, and Fluor Field where weapons are prohibited and clear bag or no bag policies are in effect; and

WHEREAS, in order to accomplish the foregoing, City Council desires to amend Chapter 36, Article V of the City Code as reflected in Exhibit A attached hereto and incorporated herein;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, Chapter 36, Article V of the City Code is hereby amended as set forth in Exhibit A, attached hereto and incorporated herein by reference. This Ordinance shall be effective upon second and final reading.

DONE, RATIFIED AND PASSED THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

REVIEWED:

\_\_\_\_\_  
CITY MANAGER

## EXHIBIT A

**Sec. 36-134. - Permit required; exceptions.**

(a) No person shall engage or participate in, aid, form or start any parade, event, block party, performance or filming unless a permit is obtained from the city manager.

(b) This section shall not apply to the following:

(1) Funeral processions supervised by a licensed mortuary.

(2) Picketing as ~~permitted~~ allowed by city ordinance.

(c) Picketing permits are addressed in section 36-142.

~~(3) A parade, event or performance that is under the control of the city parks and recreation department and is conducted on city property.~~

(Code 1985, § 5-11-34; Code 1997, § 36-134; Ord. No. 96-3, § 1, 2-12-1996)

**Sec. 36-139. - Duties of permittee.**

(a) *Generally.* A permittee under this article shall comply with all permit directions and conditions.

(b) *Display or carrying of permit.* The applicant, individual, or any representative of the organization shall display the permit or carry it upon his person during the parade, event, performance or filming.

(c) *Special event vendor's permits.* No event which features businesses or organizations providing goods or services for compensation shall be issued an event permit, unless the permittee under this article shall obtain for each such business or organization a special event vendor's permit from the city in accord with such measures as the city manager shall prescribe. Each permittee must designate an individual who will be responsible for identifying all vendors and for collecting on behalf of the city all fees as provided in this section. The special event vendor's permit shall be valid for no longer than the duration of the permitted event, up to a maximum period of two months. The fee charged for the special event vendor's permit shall be in accord with any fee schedule which may be adopted and amended from time to time by council.

(d) *Display of signs.* Where the event takes place on public property, including on right-of-way, the permittee must post signs indicating the open carrying of firearms is prohibited at the event in accordance with S.C. Code Ann. § 23-31-250.

(Code 1985, § 5-11-39; Code 1997, § 36-139; Ord. No. 96-3, § 1, 2-12-1996; Ord. No. 98-20, 4-13-1998)

**Sec. 36-140. - Public conduct.**

- (a) *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any parade, event, performance or filming, or with any person, vehicle or animal participating or used in the event.
- (b) *Driving through parade or event.* No driver of any vehicle shall drive between the vehicles or persons comprising a parade when such vehicles are in motion and are conspicuously designated as a parade, nor shall any driver drive around or through any event or a properly designated or barricaded area.
- (c) *Parking on parade route or event location.* The city manager shall have the authority to prohibit or restrict the parking of vehicles along a street or area properly designated or posted for a parade, event, performance or filming, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.
- (d) *Glass containers.* No glass bottle, containers or cans may be sold or distributed on the public right-of-way, and no patron may carry a glass bottle, container or can on the public right-of-way during a parade, event, performance or filming. It shall be unlawful for any vendor to sell beverages in glass containers for off-premises consumption at parades or events.
- (e) *Open carry of firearms on public property during events.* The open carrying of a firearm on public property, including the right-of-way, is prohibited during any activity permitted under section 36-134 and in the area designated for that activity in accordance with S.C. Code Ann. § 23-31-250.

(Code 1985, § 5-11-40; Code 1997, § 36-140; Ord. No. 96-3, § 1, 2-12-1996)

**Sec. 36-142. Picketing.**

- (a) *Conduct of picketing; penalty.* For purposes of this section, *picketing* means an organized effort to express publicly a point of view at a given place with signs, oral statements, or the like in a systematic manner, which involves walking or standing in the same area for a prolonged period of time. Peaceful picketing in the furtherance of a lawful purpose shall be allowed in the city, provided the picketing is done under the following conditions:
- (1) Picketing may be conducted only on the sidewalks, on the grounds of a city-controlled park or plaza, or in other city-owned areas or rights-of-way normally used or reserved for pedestrian movement, and may not be conducted on the portion of a street used primarily for vehicular traffic.
  - (2) Such picketers must ~~provide notice~~ have applied for and been issued a permit as required under subsection 36-142(b).
  - (3) Such picketers may carry written or printed signs (which such term shall be interpreted to include flags), provided the signs do not interfere with the free use of the sidewalk or rights-of-way by other pedestrians. Such signs, with reasonable use, shall be deemed to comply if they are composed of paper, cardboard, poster board, cloth, vinyl, or similarly non-rigid material; do not exceed 1/32 inches in thickness; do not exceed 20 inches by 30 inches or 600 square inches in the case of signs composed of paper, cardboard, poster board, or similar material; and do not exceed four feet by six feet in

the case of signs composed of cloth, vinyl, or a similar material. Signs exceeding these dimensions are presumed threats to safety.

- (4) Such picketers on sidewalks or on right-of-way normally used or reserved for pedestrian movement must march or stand single file and not congregate so as to block any sidewalk, driveway, or business entrance. All laws pertaining to the orderly flow of pedestrians must be obeyed.
- (5) For public safety reasons, the following are prohibited in the immediate proximity of pickets, and due notice shall be included in every ~~receipt of notice of intent to picket~~ picketing permit that these restrictions apply:
  - (i) Open flames and combustible solids;
  - (ii) Sticks, poles, selfie sticks, or other similar elongated solid objects capable of inflicting bodily harm as a striking or stabbing object, excluding commercially available corrugated cardboard tubing as the supporting article for signs, flags, and the like;
  - (iii) Backpacks, satchels, bags, coolers, or similar personally carried containers exceeding six inches by eight inches by three inches, except when said container is completely clear and see through;
  - (iv) Pursuant to S.C. Code Ann. § 23-31-520, t~~The open carry of A~~any firearm or ammunition except as permitted by the South Carolina Code of Laws;
  - (v) Any mechanical or handmade contrivance that launches any projectile of solid, liquid, or gaseous composition, including aerosols/pressurized canisters;
  - (vi) Any stabbing, cutting, slicing, or striking blade, whether of metal or other solid composition;
  - (vii) Any striking object, such as a bat, stick, brass knuckles, martial arts weapons, implement handles and the like, which would inflict bodily injury;
  - (viii) Any facial mask, headgear, or cloth worn over any portion of the face which prevents facial identification of a person 14 years of age or older;
  - (ix) Any carried object that resembles or serves the purpose of a shield;
  - (x) Any armor or defensive covering that resembles or serves the purpose of defensive body armor;
  - (xi) Carried signage exceeding the size restrictions set forth in subsection 36-142(a)(3); and
  - (xii) Bicycles, automobiles, and mopeds.

This subsection shall not apply to law enforcement officers while in the discharge of their duties.

- ~~(6) Picketing done contrary to this section shall be unlawful, and each individual in violation shall be subject to a fine of up to \$50.00 for the first offense, and a fine of up to \$100.00 for the second and subsequent offenses within a period of two years.~~

- (6) The organizer of a picket, or the person designated in the permit as the one who will carry the permit shall be responsible for posting conspicuous signage at the picketing location informing participants that the open carry of firearms is prohibited for the duration of the picket.
- (7) Picketing done contrary to this section shall be unlawful. Police or city personnel may confiscate any of the items listed in subsection 36-142(a)(5) if a picket participant refuses to remove the prohibited item from the picketing site, with the exception of firearms in accordance with S.C. Code Ann. § 23-31-520. A firearm or ammunition may be seized or confiscated pursuant to a lawful arrest.
- (b) Notice Picketing permit.
- (1) ~~No notice of intent permit to picket~~ is required for picketing by a group of less than ten or fewer individuals on a sidewalk, or by a group of less than 25 individuals on the grounds of a city-controlled park or plaza, or in other city-owned areas or rights-of-way normally used or reserved for pedestrian movement.
- (2) A ~~notice of intent to picket permit application~~ must be submitted to the city manager or his designee in a form approved by the city manager and in accordance with the time limits and guidelines established in Table 36-142.1. The city manager shall make the ~~notice of intent to picket~~ picketing permit application form available online, and at multiple locations throughout the city, including city hall and the law enforcement center. The ~~notice permit application~~ shall include the following information:
- (i) The name, address, and contact telephone number of the organizer of the picket;
  - (ii) The name, address, and contact telephone number of the person who will carry ~~the receipt of notice permit~~ if different from the organizer;
  - (iii) The specific location where the picket is to take place;
  - (iv) The date and time the picket will begin and end; and
  - (v) The anticipated number of participants and the basis on which this estimate is made.
- (3) Upon ~~notice of intent to picket given application~~ in accordance with subsection 36-142(b), the city manager or his designee shall immediately issue a permit at no charge of notice. If ~~notice an application~~ is submitted for the same date, time, and location as an ~~notice application~~ for which a ~~receipt permit~~ has already been issued, ~~the a permit receipt~~ shall be issued for a location as close as reasonably possible to the location set forth in the application; permits issued are subject to amendment in order to conform with this provision. Notwithstanding the foregoing, a picketing permit shall not be issued for the two hours preceding or the two hours following the time period for which a picketing permit has been issued for the same date and location; permits issued are subject to amendment in order to conform with this provision. The ~~permit receipt~~ shall contain all information stated in the ~~notice application~~. The organizer of a picket, or the person designated in the ~~notice application~~ as the one who will carry the ~~permit receipt of notice~~, shall be responsible for maintaining the permit receipt and shall present it when so requested by a law enforcement officer or other city official. A person or entity hosting a picket under this section must post signs at the picket indicating that open carrying of firearms is not allowed at the picket. The City reserves

the right to post additional signs indicating the open carrying of firearms is prohibited at the picket.

- (4) Spontaneous pickets which are occasioned by news or affairs coming into public knowledge less than 48 hours prior to such picket may be conducted in the plaza in front of city hall ~~and without the organizer(s) first having to provide notice~~ will be deemed to have applied for picketing permit under this subsection, and a permit shall be issued at no charge as soon as possible. In the event the plaza area cannot safely accommodate the number of persons assembled, a shift commander or supervisor of the police department of the city shall direct the picketers to a suitable alternate location. For the avoidance of doubt, the requirement to post signs as set forth in subsection 36-142(b)(3) applies to spontaneous pickets.
- (c) *Interference with pickets.* It shall be unlawful for any person to interfere physically with such pickets in the use of the sidewalk or address profane, indecent, abusive or threatening language to or at such pickets or others to breach the peace.
- (d) *Crowd dispersal.* A shift commander or supervisor of the police department of the city may, in the event of the assemblage of persons in such numbers as to tend to intimidate picketers pursuing their lawful objective through numbers alone or through use of inflammatory words or threatening gestures that are ordinarily used to intimidate people, direct the dispersal of persons so assembled, and any police officer may arrest any person who fails to leave the place of assemblage when so directed by the police.
- (e) *Restrictions.* Persons engaging in picketing activity cannot do so inside an area designated as an event area for which a permit has been granted to another individual or group under this article, if the picketing behavior has the effect of interfering with, hampering, hindering, or getting in the way of those participating in the permitted event in accordance with its purposes or with the general public making use of the space for its ordinary and customary purposes. Whenever any police officer or municipal employee charged with monitoring or supervising event activity determines the picketing behavior is interfering with, hampering, hindering, or getting the way of others as provided in this section, then the officer or employee may direct the picketers to relocate to other public space in reasonable proximity where such conduct can continue, if lawful, so long as the picketing does not interfere with, hamper, hinder, or get in the way of persons participating in the event for its intended purposes or of members of the general public making use of the public space for its ordinary and customary purposes.

**Table 36-142.1. - Picketing Table.**

An organizer of a picket that the organizer knows or should reasonably know will be by a group of a size set forth in this table shall give at least the corresponding minimum advance notice of intent to picket set forth in this table to the city manager or his designee in order for a permit to be issued.

<b>Group Size</b>	<b>Place for Picket</b>	<b>Minimum Advance Notice Required</b>
11-50	Sidewalk	3 hours
25-50	Any public place allowed under subsection 36-142(a) except sidewalks	3 hours



51-100	Any public place allowed under subsection 36-142(a)	48 hours
101-200	Any public place allowed under subsection 36-142(a)	72 hours
201-400	Any public place allowed under subsection 36-142(a)	5 calendar days
Greater than 400	Any public place allowed under subsection 36-142(a)	7 calendar days

(Code 1985, § 5-11-42; Code 1997, § 36-142; Ord. No. 96-3, § 1, 2-12-1996; Ord. No. 2008-19, 2-25-2008; Ord. No. 2017-106 , 11-27-2017)