

COUNTY OF DORCHESTER

**AN ORDINANCE TO AMEND DORCHESTER COUNTY BUSINESS LICENSE
ORDINANCE 90-13, AS PREVIOUSLY AMENDED**

ARTICLE I: WHEREAS, IT IS THE INTENT OF THE COUNTY COUNCIL OF THE COUNTY OF DORCHESTER to efficiently and fairly enforce the provisions of this Business License Ordinance, now therefore be it ordained that the following amendments are adopted in revision to the provision of the Business License Ordinance of Dorchester County Ordinance 90-13.

ARTICLE II: ACTION DIRECTED

Remove all pages of Ordinance 90-13, including Rate and Rate Class tables, and replace said pages with attachment, hereto.

ARTICLE III: VALIDITY

If any section of this Ordinance or part thereof be declared to be unconstitutional or invalid, such declaration shall not invalidate the remainder of the Ordinance or the requirements thereof.


ARTICLE IV: REPEAL OF CONFLICTING ORDINANCES

Any Ordinance or part thereof of the County of Dorchester which is inconsistent or in conflict with the provisions of this Ordinance shall be considered to be repealed to the extent of such inconsistency or conflict, only.

ARTICLE V: EFFECTIVE DATE

The provision of this Ordinance shall be made retroactive to June 5, 2017, and thereafter.




James Lex Byars III, Chairman
Dorchester County Council


Tracey L. Langley
Clerk to Council

1ST READING: May 15, 2017
2ND READING: May 22, 2017
PUBLIC HEARING: June 5, 2017
3RD READING: June 5, 2017

BUSINESS LICENSE ORDINANCE

Sec. 1. License Required.

Every person engaged or intending to engage in any calling, business, occupation or profession listed in the rate classification index portion of this Ordinance, in whole or in part, within the county outside the limits of any incorporated municipality which has a business license ordinance is required to pay an annual license fee and obtain a county business license as herein provided.

Sec. 2. Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed herein:

- A. *Business* means a calling, occupation, profession, or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly. A charitable organization shall be deemed a business unless the entire proceeds of its operation are devoted to charitable purposes.
- B. *Charitable Organization* means an organization that is determined by the Internal Revenue Service to be exempt from Federal income taxes under 26 U.S.C. section 501 (c) (3), (4), (6), (7), (8), (10) OR (19).
- C. *Classification* means that division of businesses by major groups subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by County Council.
- D. *Gross income* means the total revenue of a business received or acquired, for one calendar year collected or to be collected by a business located within the county, or from business done wholly outside of the county or within an incorporated municipality on which a license tax is paid to a municipality or to some other county and fully reported to the county. The gross income for business license purposes shall conform to the gross income reported to the Internal Revenue Service, the state tax commission for income tax purposes, or the state insurance commission. In the case of brokers or agents, gross income shall mean gross commissions retained.
- E. *License inspector* means the person designated to administer this Ordinance.
- F. *Person* means any individual, firm, partnership, cooperative nonprofit 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, and the agent or employee having charge or control of a business in the absence of the principals.

Sec. 3. Purpose and Duration.

The business license levied by this Ordinance is for the purpose of providing such regulation as may be required by the businesses subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. Each license shall be issued for one calendar year and shall expire on August 31. The provisions of this Ordinance and the rates herein shall remain in effect from year to year as established and amended by County Council.

Sec. 4. License Fee.

The required fee shall be paid for each business subject hereto according to the applicable rate classification on or before September 30th of each year. A separate license shall be required for each place of business and for each classification of business conducted at one place. If gross income cannot be separated for classifications at one location, the license fee shall be computed on the combined gross income for the classification requiring the highest rate. A license fee based on gross income shall be computed on the gross income for the preceding calendar or fiscal year, and on a 12-month projected income based on the monthly average for a business in operation for less than one year. The fee for a new business shall be computed on the estimated probable gross income stated in the license application for the balance of the calendar year.

Sec. 5. Registration Required.

The owner, agent or legal representative of every business subject to this Ordinance, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year, except that a new business shall be required to have a business license prior to operation within the county. Application shall be on a form provided by the license inspector which shall contain the Social Security Number and/or the Federal Employer's Identification Number, the business name as reported on the state income tax return, and all information about the applicant and the business deemed necessary to carry out the purposes of this Ordinance by the license inspector. The applicant shall certify under oath that the information given in the application is true, that the gross income is accurately reported, or estimated for a new business, without any unauthorized deductions, and that all assessments and personal property taxes due and payable to the county have been paid.

Sec. 6. Deductions, Exemptions, and Charitable Organizations.

No deductions from gross income shall be made except as specifically provided in subsections 7.A through 7.C;

- A. Income from business done wholly outside of the county or within an incorporated municipality on which a license tax is paid to a municipality or to some other county shall be excluded from taxation under this Ordinance.
- B. No person shall be exempt from the requirements of the ordinance by reason of the lack of an established place of business within the County, unless exempted by State or Federal Law.

C. A Charitable Organization shall be exempt from the business license tax on its gross income unless it is deemed a business subject to a business license tax on all or part of its gross income as provided in this section. A Charitable Organization or any for-profit affiliate of a Charitable Organization, that reports income from for-profit activities, or unrelated business income, for Federal income tax purposes to the Internal Revenue Service shall be deemed a business subject to a business license tax on the part of its gross income from such for-profit activities or unrelated business income.

A Charitable Organization shall be deemed a business subject to a business license tax on its total gross income if (1) any net proceeds or operation, after necessary expenses of operation, inure to the benefit of any individual or any entity that is not itself a Charitable Organization as defined in this ordinance or (2) any net proceeds of operation, after necessary expenses of operations, are used for a purpose other than a Charitable Purpose as defined in the ordinance. Excess benefits or compensation in any form beyond fair market value to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

The applicant shall have the burden to establish the right to deduction by satisfactory records and proof. No person shall be exempt from the requirements of this Ordinance by reason of the lack of established place of business within the county, unless exempted by state or federal law; provided, however, that no business license fee shall be collected from any business conducted for a length of time not to exceed three days under the auspices of a qualified nonprofit entity. The license inspector shall determine the appropriate classification for each business in accordance with the latest issue of the U.S. Office of Management and Budget North American Industry Classification System Manual. No person shall be exempt from this Ordinance by reason of the payment of any other tax, unless exempted by state law, and no person shall be relieved of the liability for the payment of any other tax by reason of the application of this Ordinance.

Sec. 7. False Application Unlawful.

It shall be unlawful for any person subject to the provisions of this Ordinance to make a false application for a business license, or to give or file, or direct the giving or filing of any false information with respect to the license or fee required by this Ordinance.

Sec. 8. Display and Transfer.

All persons shall display the license issued to them on the original form provided by the license inspector in a conspicuous place in the business establishment at the address shown on the license. A transient or nonresident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the county. A change of address must be reported to the license inspector within ten days after removal of the business to a new location and the license will be valid at the new address upon written notification of the license inspector and compliance with zoning and building codes. Failure to obtain the approval of the license inspector for a change of address shall invalidate the license and subject the

licensee to prosecution for doing business without a license. A business license shall not be transferable and a transfer of ownership shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on old business income.

Sec. 9. Administration of Ordinance.

The license inspector shall administer the provisions of this Ordinance, collect license fees, issue licenses, make or initiate investigations and audits to ensure compliance, initiate denial or revocation procedures, report violations to the county administrator and assist in prosecution of violators, produce forms, make reasonable regulations relating to the administration of this Ordinance, and perform such other duties as may be duly assigned.

Sec. 10. Inspection and Audits.

For the purpose of enforcing the provisions of this Ordinance, the license inspector or other authorized agent of the county is empowered to enter upon the premises of any person subject to this Ordinance to make inspections, examine and audit books and records, and it shall be unlawful for any such person to fail or refuse to make available the necessary books and records. In the event an audit or inspection reveals that false information has been filed by the licensee, the costs of the audit shall be added to the correct license fee and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of license fee shall make systematic inspections of all businesses within the county to ensure compliance with this Ordinance. Records of inspection and audits shall not be deemed public records, and the license inspector shall not release the reported gross income of any person by name without permission of the licensee, provided that statistics compiled by classifications may be made public.

Sec. 11. Assessments.

When any person shall have failed to obtain a business license or to furnish the information required by this Ordinance or the license inspector, the license inspector shall proceed to examine such records of the business or any other available records as may be appropriate and to conduct such investigations and statistical surveys as he may deem appropriate to assess a license tax and penalties as provided herein. A notice of assessment shall be served by certified mail and an application for adjustment of the assessment may be made to the license inspector within five days after the notice is mailed or the assessment will become final. The license inspector shall establish by regulation the procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment. A final assessment may be appealed to County Council only by payment in full of the assessment under protest within five days and the filing of written notice of appeal within ten days after payment pursuant to the provisions of this Ordinance relating to appeals to County Council.

Sec. 12. Delinquent License Fees.

For nonpayment of all or any part of the correct license fee, the license inspector shall levy and collect a late penalty of five percent of the unpaid fee for each month or portion thereof after the due date until paid. If any license fee shall remain unpaid for 60 days after its due date, the license inspector shall proceed to collect any amount due, including penalties together with any cost of collection and including a reasonable attorney's fee.

Sec. 13. Notices.

The license inspector may, but shall not be required to, mail written notices that license fees are due, but if notices are not mailed there shall be published a notice of the due date in a newspaper of general circulation within the county two times prior to the due date in each year.

Sec. 14. Denial of License.

The license inspector shall deny a license to an applicant when the application is incomplete, contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact, or when the activity for which a license is sought is unlawful or constitutes a public nuisance. A decision of the license inspector shall be subject to appeal to County Council as provided herein. Denial shall be written with reasons stated.

Sec. 15. Suspension or Revocation of License.

When the license inspector determines that:

- A. A license has been mistakenly or improperly issued or issued contrary to law;
- B. A license has breached any condition upon which this license was issued or has failed to comply with the provisions of this Ordinance;
- C. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application;
- D. A licensee has been convicted of an offense under a law or ordinance regulating business, a crime involving moral turpitude, or an unlawful sale of merchandise or prohibited goods; or
- E. A licensee has engaged in an unlawful activity or nuisance related to the business; the license inspector shall give written notice to the licensee or the person in control of the business within the county by personal service or certified mail that the license is suspended pending a hearing before the County Council for the purpose of determining whether the license should be revoked. The notice shall state the time and place at which the hearing is to be held, which shall be at a regular or special council meeting within 30 days from the date of service of the notice. The notice shall contain a brief statement of the reasons for suspension and proposed revocation and a copy of the applicable provisions of this Ordinance.

Sec. 16. Appeals to County Council.

- A. Any person aggrieved by a final assessment or denial of a business license by the license inspector may appeal the decision to the County Council by written request stating the reasons therefor filed with the license inspector within ten days after the payment of the assessment under protest or notice of denial is received.
- B. An appeal or a hearing on revocation shall be held by the County Council within 30 days after receipt of a request for appeal or service of notice of suspension at a regular or special meeting of which the applicant or licensee has been given written notice. At such hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence and to cross examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by County Council shall govern the hearing. The County Council shall by majority vote of members present render a written decision based on findings of fact and the application of the standards herein which shall be served upon all parties or their representatives and shall be final unless appealed to a court of competent jurisdiction within ten days after service.
- C. No person shall be subject to a prosecution for doing business without a license until the expiration of ten days after notice of denial or revocation which is not appealed or until after final judgment of a circuit court upholding denial or revocation.

Sec. 17. Confidentiality.

Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any official or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this Ordinance. Nothing in this section shall be construed to prohibit the publication of mailing lists or statistics so classified as to prevent the identification of particular reports or returns.

Sec. 18. Violations.

Any person violating any provisions of this Ordinance shall be deemed guilty of an offense and shall be subject to a fine of up to \$200.00 or imprisonment for not more than 30 days, upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties and costs provided for herein.

Sec. 19. Bonds Required for Detective Agencies and Security Services.

Each applicant for a detective agency must supply a copy of a current state license when applying for county business license and a security service to provide proof of a current \$10,000.00 surety bond. No bond shall be accepted unless it is with a bonding company authorized to do business in this state and conditioned that the principal named therein shall not do any act meriting suspension or revocation of his license under the provisions of this

Ordinance. Cancellation of a bond shall be grounds for revocation of license issued to security services.

Sec. 20. Night Clubs, Cabarets, Taverns, or Other Similar Establishments.

- A. No license to operate a nightclub, cabaret, tavern or other similar establishment under NAICS Sector 72 -- Drinking Places (Alcoholic Beverages) shall be issued to a corporation or association for a trade name as such. Any application for a corporation, association or in a trade name shall be made by an officer for its use, and such officer in making such application shall be held to assume all responsibility thereunder as individuals and shall be subject to all the provisions and penalties set forth herein or in any other ordinance of the county.
- B. No person shall be eligible for such license if he or the person who will have actual control and management of the business proposed to be operated:
 - (1) Is a minor;
 - (2) Is not a citizen of the state;
 - (3) Has not been a bona fide resident of and maintained his principal place of abode in the county for at least one year prior to date of application;
 - (4) Is not of good repute; or
 - (5) Has had a license under suspension under the provisions of this Ordinance revoked within a five-year period next preceding the filing of the application.

Sec. 21. Separability.

A determination that any portion of this Ordinance is invalid or unenforceable shall not affect the remaining portion.

Sec. 22. Rate & Classification.

The license fee for each class of business shall be computed in accordance with the rates provided in the county rate tables on file with the county clerk and attached herein. Major groups of businesses included in each class are listed with the major group number according to the North American Industry Classification System (NAICS), as attached, with definition as provided under section 8-67. The license inspector shall determine the proper class for a business according to NAICS.

Dorchester County Business License Rate Classification

In-County Rates		
Class	Income 0-\$2,000 minimum base fee	Rate for gross receipts over \$2,000
1	\$30.00	\$1.10 per thousand
2	\$35.00	\$1.45 per thousand
3	\$40.00	\$1.80 per thousand
4	\$45.00	\$2.15 per thousand
5	\$50.00	\$2.50 per thousand
6	\$55.00	\$2.85 per thousand
7	\$60.00	\$3.10 per thousand
8	See individual Business in Class 8 (Contractors use Class 3 Rate)	

Out-of-County Rates		
Class	Income 0-\$2,000 minimum base fee	Rate for gross receipts over \$2,000
1	\$60.00	\$2.20 per thousand
2	\$70.00	\$2.90 per thousand
3	\$80.00	\$3.60 per thousand
4	\$90.00	\$4.30 per thousand
5	\$100.00	\$5.00 per thousand
6	\$110.00	\$5.70 per thousand
7	\$120.00	\$6.20 per thousand
8	See individual Business in Class 8 (Contractors use Class 3 Rate)	

Declining Rates

Declining Rates apply in all Classes for gross income in excess of \$1,000,000.

Gross Income in \$Millions	Percent of Class Rate for each additional \$1,000
0 - 1	100%
1 - 2	90%
2 - 3	80%
3 - 4	70%
Over 4	60%

BUSINESS LICENSE CLASS SCHEDULE BY NAICS CODE

NAICS	Industry	Class
11	Agriculture, forestry, hunting and fishing	2
113	Forestry and logging (including forest nurseries, timber tracts)	1
115	Support activities for agriculture and forestry	1
21	Mining	3
2211	Electric Power Generation, Transmission and Distribution	Franchis
2212	Natural Gas Distribution	Franchis
22	Utilities	1
23	Construction	8.1
31-33	Manufacturing	1
311	Food manufacturing	1
313	Textile and textile product mills	1
315	Apparel	1
316	Leather and allied products	1
321	Wood products	1
322	Paper products	2
323	Printing and related support activities	1
324	Petroleum and coal products	1
325	Chemical manufacturing	2
327	Nonmetallic mineral products	1
331	Primary metal industries	1
332	Fabricated metal products	1
333	Machinery	2
334	Computer and electronic products	2
335	Electrical equipment, appliances, and components	2
336	Transportation equipment	1
337	Furniture and related products	1
339	Other miscellaneous manufacturing	2
42	Wholesale trade	1
423930	Recyclable Material Merchant Wholesalers (Junk)	8.4A
44-45	Retail trade	1
441	Motor vehicle and parts dealers	1
4411	Automobile Dealers	8.5
4412	Other Motor Vehicle Dealers	8.5
442	Furniture and home furnishing stores	1
443	Electronic and appliance stores	1
444	Building material and garden equipment and supplies dealers	1
445	Food and beverage stores	1
446	Health and personal care stores	1

BUSINESS LICENSE CLASS SCHEDULE BY NAICS CODE

NAICS	Industry	Class
447	Gasoline stations	1
448	Clothing and accessories stores	1
451	Sporting goods, hobby, book, and music stores	1
452	General merchandise stores	1
453	Miscellaneous store retailers	1
454	Nonstore retailers	1
45439	Other Direct Selling Establishments (Peddlers)	8.6
48-49	Transportation and warehousing	1
482	Rail Transportation	8.2
484	Truck Transportation	1
486	Pipeline transportation	1
493	Warehousing and storage facilities	2
51	Information	2
511	Publishing industries (except internet)	2
512	Motion picture and sound recording	2
515	Broadcasting (except internet) and telecommunications	2
517	Telecommunications	2
5171	Wired Telecommunications Carriers	8.3
5172	Wireless Telecommunications Carriers (except Satellite)	8.3
518	Internet service providers, web search portals, and data processing	2
519	Other Information Services	2
52	Finance and insurance	4
522	Credit intermediation and related activities	4
522298	Pawnshops	8.4B
523	Securities, commodity contracts, and other financial investments	7
524	Insurance agents, brokers, and related activities	1
5241	Insurance Carriers	8.7
52421	Insurance Brokers for non-admitted Insurance Carriers	8.7
525	Funds, trusts and other financial vehicles	7
53	Real estate and rental and leasing	5
531	Real estate	6
5311	Lessors of real estate (including miniwarehouses and self storage)	7
532	Rental and leasing services	2
533	Lessors of nonfinancial assets	7
54	Professional, scientific, and technical services	3
5411	Legal Services	5
5413	Architectural, engineering and related services	3
5416-9	Other professional, scientific, and technical services	3

BUSINESS LICENSE CLASS SCHEDULE BY NAICS CODE

NAICS	Industry	Class
55	Management of companies	4
56	Administrative and support and waste management and remediation services	2
561	Administrative and support services	2
562	Waste management and remediation services	1
61	Educational services	2
62	Health care and social assistance	2
623	Nursing and Residential Care Facility	1
71	Arts, entertainment, and recreation	2
71119	Other Performing Arts Companies (Carnivals and Circuses)	8.9B
712	Museums, Historical Sites and similar institutions	1
7131	Amusement Parks and Arcades	8.8
7132	Nonpayout Amusement Machines	8.8
713290	Bingo Halls	8.9A
713990	All Other Amusement and Recreational Industries (pool tables)	8.10
721	Accommodation	1
722	Food services and drinking places	1
72241	Drinking Places (Alcoholic Beverages)	8.9C
81	Other services	2
811	Repair and maintenance	1
8111	Auto repair and maintenance	1
812	Personal and laundry services	3
813	Religious, grantmaking, civic, professional, and similar organizations	3