

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)
)
)

ORDINANCE NUMBER 21-29

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AN ORDINANCE TO REPEAL AND REPLACE DORCHESTER COUNTY BUSINESS LICENSE ORDINANCE NUMBER 20-16, TO COMPLY WITH THE PROVISIONS OF ACT 176 OF 2020 (THE PURPOSE OF THIS ORDINANCE IS TO REPEAL THE CURRENT BUSINESS LICENSE ORDINANCE, WHICH WAS PROACTIVELY REVISED PRIOR TO RECEIVING FORMAL GUIDANCE ON ACT 176 IN ORDER TO ADOPT THE MODEL ORDINANCE PROVIDED BY THE SC ASSOCIATION OF COUNTIES IN OCTOBER 2021)

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WHEREAS, in September 2020 the South Carolina General Assembly adopted the South Carolina Business License Tax Standardization Act (2020 Act No. 176), now codified at S.C. Code Sections 6-1-400 to 6-1-420 (the “Act”);

WHEREAS, the Act requires counties that impose a business license tax to adopt a standard business license year of May 1 through April 30;

WHEREAS, the Act requires counties that impose a business license tax to utilize the Act’s standardized business licensing requirements and class schedule;

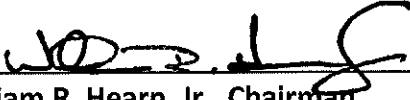
WHEREAS, the Act requires counties to update their business license class schedules every odd year based on the latest available IRS statistics; and

WHEREAS, in order to comply with the requirements of the Act, the County of Dorchester (the “County”) has prepared the attached Business License Ordinance, which is incorporated herein by reference;

NOW, THEREFORE, be it ordained by the Council of the County of Dorchester, South Carolina, that:

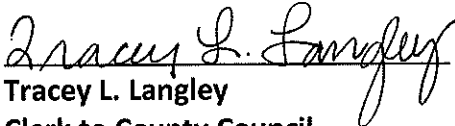
1. The attached Business License Ordinance is hereby adopted and shall become effective beginning with the business license period commencing on May 1, 2022.
2. All prior ordinances of the County related to business licensing which are in effect at the time of this enactment are hereby repealed and replaced in their entirety with the Business License Ordinance; provided that any prior ordinances of the County related to collections programs administered by the South Carolina Association of Counties except to the extent specifically amended by the Business License Ordinance.

DONE AND RATIFIED in Council assembled on this 13th day of December 2021.



William R. Hearn, Jr., Chairman
Dorchester County Council

ATTEST:



Tracey L. Langley
Clerk to County Council

(SEAL)



BUSINESS LICENSE ORDINANCE

Section 1. License Required. Every person engaged or intending to engage in any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, in whole or in part within the limits of the County of Dorchester, South Carolina, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided.

Section 2. Definitions. The following words, terms, and phrases, when used in this ordinance, shall have the meaning ascribed herein. Defined terms are not capitalized when used in this ordinance unless the context otherwise requires.

“*Business*” means any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, either directly or indirectly.

“*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).

“*Charitable Purpose*” means a benevolent, philanthropic, patriotic, or eleemosynary purpose that does not result in personal gain to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization.

“*Classification*” means that division of businesses by NAICS codes 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 the Council.

“*Council*” means the County Council of the County of Dorchester.

“*Domicile*” means a principal place from which the trade or business of a licensee is conducted, directed, or managed. For purposes of this ordinance, a licensee may be deemed to have more than one domicile.

“*Gross Income*” means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within the County. If the licensee has a domicile within the County, business done within the County shall include all gross receipts or revenue received or accrued by such licensee. If the licensee does not have a domicile within the County, business done within the County shall include only gross receipts or revenue received or accrued within the County. In all cases, if the licensee pays a business license tax to another municipality or County, then the licensee’s gross income for the purpose of computing the tax within the County must be reduced by the amount of revenues or receipts taxed in the other municipality or County and fully reported to the County. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds that are the property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross receipts or gross revenues for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Department of Insurance, or other government agencies. In calculating gross income for certain businesses, the following rules shall apply:

- A. Gross income for agents shall be calculated on gross commissions received or retained, unless otherwise specified. If commissions are divided with other brokers or agents, then only the amount retained by the broker or agent is considered gross income.
- B. Except as specifically required by S.C. Code § 38-7-20, gross income for insurance companies shall be calculated on gross premiums written.
- C. Gross income for manufacturers of goods or materials with a location in the County shall be calculated on the lesser of (i) gross revenues or receipts received or accrued from business done at the location, (ii) the amount of income allocated and apportioned to that location by the business for purposes of the business's state income tax return, or (iii) the amount of expenses attributable to the location as a cost center of the business. Licensees reporting gross income under this provision shall have the burden to establish the amount and method of calculation by satisfactory records and proof. Manufacturers include those taxpayers reporting a manufacturing principal business activity code on their federal income tax returns.

“*License Official*” means a person designated to administer this ordinance. Notwithstanding the designation of a primary license official, the County may designate one or more alternate license officials to administer particular types of business licenses.

“*Licensee*” means the business, the person applying for the license on behalf of the business, an agent or legal representative of the business, a person who receives any part of the net profit of the business, or a person who owns or exercises control of the business.

“*County*” means the County of Dorchester, South Carolina.

“*NAICS*” means the North American Industry Classification System for the United States published under the auspices of the Federal Office of Management and Budget.

“*Person*” means any individual, firm, partnership, limited liability partnership, limited liability company, 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, and the agent or employee having charge or control of a business in the absence of the principal.

Section 3. Purpose and Duration. The business license required by this ordinance is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. Except as set forth below for business licenses issued to contractors with respect to specific construction projects, each yearly license shall be issued for the twelve-month period of May 1 to April 30. A business license issued for a construction contract may, at the request of the licensee, be stated to expire at the completion of the construction project; *provided*, any such business license may require that the licensee file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by the Council.

Section 4. Business License Tax, Refund.

- A. The required business license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the due date of the 30th day of April in each year, except for those businesses in Rate Class 8 for which a different due date is specified. Late payments shall be subject to penalties as set forth in Section 12 hereof, except that admitted insurance companies may pay before June 1 without penalty.
- B. A separate license shall be required for each place of business and for each classification or business conducted at one place. If gross income cannot be separated for classifications at one location, the business license tax shall be computed on the combined gross income for the classification requiring the highest rate. The business license tax must be computed based on the licensee's gross income for the calendar year preceding the due date, for the licensee's twelve-month fiscal year preceding the due date, or on a twelve-month projected income based on the monthly average for a business in operation for less than one year. The business license tax for a new business must be computed on the estimated probable gross income for the balance of the license year. A business license related to construction contract projects may be issued on a per-project basis, at the option of the taxpayer. No refund shall be made for a business that is discontinued.
- C. A licensee that submits a payment greater than the amount owed may request a refund. To be considered, a refund request must be submitted in writing to the County before the June 1 immediately following the April 30 on which the payment was due and must be supported by adequate documentation supporting the refund request. The County shall approve or deny the refund request, and if approved shall issue the refund to the business, within thirty days after receipt of the request.

Section 5. Registration Required.

- A. 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; *provided*, a new business shall be required to have a business license prior to operation within the County, and an annexed business shall be required to have a business license within thirty (30) days of the annexation. A license for a bar (NAICS 722410) must be issued in the name of the individual who has been issued the corresponding state alcohol, beer, or wine permit or license and will have actual control and management of the business.
- B. Application shall be on the then-current standard business license application as established and provided by the Director of the South Carolina Revenue and Fiscal Affairs Office and shall be accompanied by all information about the applicant, the licensee, and the business deemed appropriate to carry out the purpose of this ordinance by the license official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross receipts and gross revenue figures.
- C. 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, personal property taxes on business property, and other monies due and payable to the County have been paid.

- D. The County shall allow application, reporting, calculation, and payment of business license taxes through the business license tax portal hosted and managed by the South Carolina Revenue and Fiscal Affairs Office, subject to the availability and capability thereof. Any limitations in portal availability or capability do not relieve the applicant or Licensee from existing business license or business license tax obligations.

Section 6. Deductions, Exemptions, and Charitable Organizations.

- A. No deductions from gross income shall be made except income earned outside of the County on which a license tax is paid by the business to some other municipality or county and fully reported to the County, taxes collected for a governmental entity, or income which cannot be included for computation of the tax pursuant to state or federal law. Properly apportioned income from business in interstate commerce shall be included in the calculation of gross income and is not exempted. The applicant shall have the burden to establish the right to exempt income by satisfactory records and proof.
- 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. The license official shall determine the appropriate classification for each business in accordance with the latest issue of NAICS. 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 liability for payment of any other tax or fee by reason of application of this ordinance.
- C. Wholesalers are exempt from business license taxes unless they maintain warehouses or distribution establishments within the County. A wholesale transaction involves a sale to an individual who will resell the goods and includes delivery of the goods to the reseller. It does not include a sale of goods to a user or consumer.
- D. 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 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.
- E. A charitable organization shall be deemed a business subject to a business license tax on its total gross income if (1) any net proceeds of 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 operation, are used for a purpose other than a charitable purpose as defined in this 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.

Section 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 tax required by this ordinance.

Section 8. Display and Transfer.

- A. All persons shall display the license issued to them on the original form provided by the license official in a conspicuous place in the business establishment at the address shown on the license. A transient or non-resident 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.
- B. A change of address must be reported to the license official within ten (10) days after removal of the business to a new location and the license will be valid at the new address upon written notification by the license official and compliance with zoning and building codes. Failure to obtain the approval of the license official 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 controlling interest 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.

Section 9. Administration of Ordinance. The license official shall administer the provisions of this ordinance, collect business license taxes, issue licenses, make or initiate investigations and audits to ensure compliance, initiate denial or suspension and revocation procedures, report violations to the county attorney, assist in prosecution of violators, produce forms, undertake reasonable procedures relating to the administration of this ordinance, and perform such other duties as may be duly assigned.

Section 10. Inspection and Audits.

- A. For the purpose of enforcing the provisions of this ordinance, the license official or other authorized agent of the County is empowered to enter upon the premises of any person subject to this ordinance to make inspections and to examine and audit books and records. 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 the licensee has filed false information, the costs of the audit shall be added to the correct business license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of business license tax shall constitute a separate offense.
- B. The license official shall have the authority to make inspections and conduct audits of businesses to ensure compliance with the ordinance. Financial information obtained by inspections and audits shall not be deemed public records, and the license official shall not release the amount of business license taxes paid or the reported gross income of any person by name without written permission of the licensee, except as authorized by this ordinance, state or federal law, or proper judicial order. Statistics compiled by classifications are public records.

Section 11. Assessments, Payment under Protest, Appeal.

- A. Assessments, payments under protest, and appeals of assessment shall be allowed and conducted by the County pursuant to the provisions of S.C. Code § 6-1-410, as amended. In preparing an assessment, the license official may examine such records of the business or any other available records as may be appropriate and conduct such investigations and statistical surveys as the license official may deem appropriate to assess a business license tax and penalties as provided herein.

- B. The license official shall establish a uniform local procedure consistent with S.C. Code § 6-1-410 for hearing an application for adjustment of assessment and issuing a notice of final assessment.

Section 12. Delinquent License Taxes, Partial Payment.

- A. For non-payment of all or any part of the correct business license tax, the license official shall impose and collect a late penalty of five (5%) percent of the unpaid tax for each month or portion thereof after the due date until paid. Penalties shall not be waived. If any business license tax remains unpaid for sixty (60) days after its due date, the license official shall report it to the county attorney for appropriate legal action.
- B. Partial payment may be accepted by the license official to toll imposition of penalties on the portion paid; *provided*, however, no business license shall be issued or renewed until the full amount of the tax due, with penalties, has been paid.

Section 13. Notices. The license official may, but shall not be required to, mail written notices that business license taxes are due. If notices are not mailed, there shall be published a notice of the due date in a newspaper of general circulation within the County three (3) times prior to the due date in each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or grounds for waiver of penalties.

Section 14. Denial of License.

The License Official shall deny a license to an applicant when the License Official determines:

- A. The application is incomplete, contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact; or
- B. The activity for which a license is sought is unlawful or constitutes a public nuisance per se or per accidens. This definition includes “the doing of or the failure to do something that injuriously affects the safety, health, or morals of the public, or the works some substantial annoyance, inconvenience, or injury to the public” or “behavior which unreasonably interferes with the health, safety, peace, comfort, or convenience of the general community.” or
- C. Within the previous five years from the date of the application, the Applicant, Licensee or prior licensee or the person in control of the business has been convicted of or pled guilty or nolo contendere any crime(s) or offense(s) under South Carolina Code of Laws, Title 16, Crimes and Offenses, Chapter 13, Forgery, Larceny, Embezzlement, False Pretenses and Cheats; Chapter 14, the Financial Transaction Card Crime Act; or South Carolina Code of Laws, § 39-15-1190, Sale of Goods or Services with a Counterfeit Mark; or the same crime or offense in other jurisdiction.
- D. The Applicant, Licensee or prior Licensee or the person in control of the business has engaged in an unlawful activity or nuisance related to the business or to a similar business in the County or in another jurisdiction; or
- E. The Applicant, Licensee or prior Licensee or the person in control of the business is delinquent in the payment to the County of any tax or fee; or

- F. The license for the business or for a similar business of the Licensee in the County or another jurisdiction has been denied, suspended or revoked in the previous License Year.
- G. The license tax shall be paid within 60 days of the application or it will be voided, and the application process will have to be reissued.
- H. The applicant has given a bad check or tendered illegal consideration for any license tax;
- I. The premises and parcel of real property to be used for the business activity for which a license is sought is not in compliance with state and/or local health, fire, zoning, and/or building codes and regulations.

A decision of the License Official shall be subject to appeal to the Committee as herein provided. Denial shall be written with reasons stated.

Section 15. Suspension or Revocation of License.

When the License Official determines:

- A. A license has been mistakenly or improperly issued or issued contrary to law; or
- B. A Licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance; or
- 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; or
- D. A Licensee has been convicted, within the previous five years, of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, 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; or
- F. A Licensee is delinquent in the payment to the County of any tax or fee,

the License Official shall give written notice to the Licensee by personal service, certified mail to the Licensee at the address provided by the Licensee in the Application, or by posting the notice in a conspicuous place of the business such as on the door of the business, that the license is suspended pending a hearing before the Committee for the purpose of determining whether the license should be revoked (hereinafter "Notice").

The Notice shall state the time and place at which the hearing is to be held, which shall be at a regular or special Committee meeting within thirty (30) days from the date of service of the Notice, unless continued by agreement or by leave of the Committee. 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.

Section 16. Appeals to the Public Safety, Health and Human Services Committee.

- A. Any person aggrieved by a decision, final assessment, proposed revocation, suspension, or a denial of a business license by the License Official may appeal the decision to the Committee by written request stating the reasons therefore, filed with the Clerk to County Council within ten (10) days after service of the notice of decision, final assessment, proposed revocation, suspension or denial. The following requirements for submission of an appeal must be strictly complied with:
- The appeals must be in writing and state the reasons for the appeal.
 - The appeal shall be filed with the Clerk to County Council within ten (10) calendar days after the payment of all applicable fees and penalties, or within ten (10) calendar days of notification of an assessment, charge-back of an audit, or notice of denial or revocation is received.
- B. An appeal or a hearing on proposed revocation shall be held by the Committee within thirty (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, unless continued by agreement or by leave of the Committee. At the hearing, all parties shall have the right to be represented by counsel and to present testimony and evidence. There shall be no cross examination of witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The Committee shall by majority vote of members present render a decision based on findings of fact and application of the standards herein which shall be served up on all parties or their representatives in the same manner as notices in Section 15. The decision of the Committee shall be the **final decision of the County**.
- C. The Committee may require additional information as deemed necessary to decide an appeal. Failure to submit adequate information upon request may be grounds for dismissal of an appeal.

Hearing Procedure

Appearances

The person submitting the written appeal for a business shall appear for the appeal. The business license applicant or any party in interest may also appear in person or by agent or attorney. The Committee may treat the failure to appear by the appellant as a withdrawal, or it may postpone any matter before it in the absence of such an appearance for a period other than that prescribed for a withdrawal.

Witnesses

Parties in interest may present testimony under oath. The Committee may call its own witnesses when deemed appropriate. Each witness shall state his or her name, employer, and relation to the business for the record.

No party shall have the right to cross-examine witnesses.

Witness exchanges with the audience or staff members are not permitted except by leave of the Committee.

Misrepresentation of an agent's authority to act on behalf of an applicant by the agent or any other person may be grounds for voiding an administrative decision or any other relief granted by the Committee, in addition to any other civil or criminal consequences that may accompany such misrepresentation.

Oath

All witnesses shall be sworn by the Chairperson or the acting chairperson or an official authorized to administer oaths on behalf of the Committee prior to presenting testimony, except that unsworn testimony may be allowed as provided for in Section 3.03, below.

Evidence

- A. At least fifteen (15) calendar days before the date of the appeals meeting, the appellant and the Business License Official shall file with the Committee three (3) copies of documents to be presented and a brief description of other evidence to be presented. A single copy of the documents and lists must be mailed or delivered to the Business License Official and to the appellant at the same time.
- B. At least seven (7) calendar days before the appeals meeting, the appellant and the Business License Official may file with the Committee any response each may have to the information filed by the other. This material must be mailed or delivered to the other party at the same time.
- C. Original documents, photographs, or other supporting documentation, or legible copies thereof, may be received in the record without authentication.
- D. The Chairperson or the acting chairperson shall rule on all evidentiary matters. Testimony that is irrelevant, immaterial, conjectural, embarrassing, degrading, hearsay, that assumes facts not in evidence, misquotes a witness or misstates a witness' testimony, violates a privilege, is cumulative or repetitive, or is prejudicial beyond its probative value may be disallowed. Evidence may be placed in the record with any objections noted.
- E. Petitions and unsworn statements may be accepted but will be given lesser weight than affidavits or testimony given under oath.

Conduct of Hearing

The order of hearing, subject to modification by the Chairperson or acting chairperson, shall be:

- A. Statement of the matter to be heard made by the Business License Official or his/her designee;
- B. Presentation by appellant, including any witnesses the appellant may call or who wish to testify in support of the applicant, limited to fifteen (15) minutes;
- C. Presentation by the County, including any witnesses the County may call or who wish to testify in support of the County, limited to fifteen (15) minutes;
- D. Rebuttal by appellant, limited to five (5) minutes.

The Committee may question a witness at any point in the hearing. The Committee may extend the above time periods as deemed appropriate.

No witnesses may yield or cede time to any other witness. Spokespersons are welcome and encouraged, especially when it appears that testimony is likely to be cumulative.

Disposition

- A. The Committee shall make a decision on a matter by majority vote of members present and qualified (i.e., not subject to recusal or challenge by an interested party based on a conflict of interest or other good cause shown) to vote, provided not less than a quorum is qualified to vote.
- B. Tie Vote: any motion that receives a tie vote is considered to have failed for lack of a majority.
- C. Impasse: Tie vote on a motion and no alternative motion offered:

In cases where there is a motion to approve or deny an appeal and such motion results in a tie vote (and thus, is deemed to have failed for lack of a majority) AND there is no alternative motion offered in the same case, the Chairperson or the acting chairperson may declare the appeal to have been denied for lack of a majority on the motion and no further motion having been offered. Nothing in this rule prohibits the Committee from continuing a case for any purpose authorized by law or by these rules or the Committee's rules.
- D. Disposition may be taken at the conclusion of the case unless another time is selected by the Committee. A member may not vote on a matter that he or she has not heard. Deliberating and voting shall be done in public - except as provided by the Freedom of Information Act in Section 30-4-40(a)(2) AND/OR as provided in Section 6-1-120, which prohibits disclosure to the public of financial information provided by a taxpayer.

Notice of Decision

The Committee may dispose of a matter by granting, denying, modifying, or dismissing the matter for lack of jurisdiction, lack of prosecution, lack of appellant's appearance, or other reason, with any conditions that may be considered necessary, or by affirming, modifying, or reversing the administrative decision.

The Clerk to County Council shall give written notice of the decision to the appellant as soon as practical after the matter has been decided, not to exceed fifteen (15) calendar days. The notice shall include reference to the appeal procedure as provided in the business license ordinance.

Reconsideration; Rehearing

No request for reconsideration shall be considered. No request for a rehearing shall be considered.

Finality of Decision

A decision of the Committee is final upon notice to the Appellant.

Appeal

Appeals from the Committee may be made to the Dorchester County Court of Common Pleas, 1st Judicial Circuit.

Resubmission

No appeal that has been denied shall be considered again by the County.

Notice

Businesses requesting an appeal shall be given at least fifteen (15) calendar days' notice in advance of their scheduled appeal. The owner of the business and/or the person making the appeal on behalf of the business shall be notified by mail, directed to that owner or appellant to the address provided in the appeal application.

Minutes

The Clerk to County Council or his or her designee shall record all meetings and hearings of the Committee. Minutes shall be maintained for one month and then shall be scanned to the record of the business. Minutes shall be maintained as public records.

Public Notice

All meetings shall be noticed and conducted in accordance with the South Carolina Freedom of Information Act.

Quorum

- A. A majority of those members appointed to the Committee shall constitute a quorum. If all three members have been appointed, the quorum is two.
- B. A quorum shall be present before any business is conducted other than to 1) note the time to adjourn, 2) adjourn, 3) recess, or 4) take measures to obtain a quorum, such as contacting absent members.

Agendas

- A. A written agenda shall be prepared by the Clerk to County Council, who receives all appeal requests. The agenda shall be distributed to all Committee members at least five (5) business days prior to any meeting of the Board.
- B. Any matter before the Committee may be removed from the agenda or postponed or continued at a meeting by majority vote of the Committee. The Committee may reorder a meeting agenda to accommodate any exigency or circumstance shown upon good cause.

Executive Session

- A. The Committee may go into Executive Session for any purpose prescribed by the

Freedom of Information Act. The Committee must first, however, convene its meeting, then vote to enter into closed session and must state the specific reason for the closed session.

- B. No minutes shall be taken or recorded in Executive Session. If minutes are kept, the minutes or recordings of the Executive Session becomes public information and subject to FOIA.

Rules of Order

- A. Robert's Rules of Order Newly Revised, latest edition, shall be used to govern the conduct of meetings except as otherwise provided by rules of procedure adopted by the Committee.

Ex Parte Communications

- A. In view of the quasi-judicial nature of service on the Committee, Committee members shall not discuss any appeal pending before the Committee with parties of record or other interested persons, except as part of a hearing concerning that appeal. If a member is contacted by a party of record or other interested person, the member shall decline to discuss the appeal.
- B. If contact or a relationship between an interested party and a member is such that it compromises, or appears to compromise, the ability of the member or the Committee to render a fair and unbiased decision in a case, it shall be the duty of the member to disclose the contact on the record at the start of the meeting where the appeal is to be heard, and to recuse him- or herself from participation in the discussion and any vote concerning the case wherein the contact or relationship exists.

Section 17. Consent, franchise, or license required for use of streets.

- A. It shall be unlawful for any person to construct, install, maintain, or operate in, on, above, or under any street or public place under control of the County any line, pipe, cable, pole, structure, or facility for utilities, communications, cablevision, or other purposes without a consent agreement or franchise agreement issued by the Council by ordinance that prescribes the term, fees, and conditions for use.
- B. The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be consistent with limits set by state law. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of or be credited against business license taxes unless specifically provided by the franchise or consent agreement.

Section 18. Confidentiality. Except in accordance with proper judicial order or as otherwise provided by law, no official or employee of the County may divulge or make known in any manner the amount of income or any financial 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 statistics so classified as to prevent the identification of particular reports or returns. Any license data may be shared with other public officials or employees in the performance of their duties, whether or not those duties relate to enforcement of this ordinance.

Section 19. Violations. Any person violating any provision of this ordinance shall be deemed guilty of an offense and shall be subject to a fine of up to \$500.00 or imprisonment for not more than thirty (30) days or both, 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 in this ordinance.

Section 20. Severability. A determination that any portion of this ordinance is invalid or unenforceable shall not affect the remaining portions. To the extent of any conflict between the provisions of this ordinance and the provisions of the South Carolina Business License Tax Standardization Act, as codified at S.C. Code §§ 6-1-400 *et seq.*, the standardization act shall control.

Section 21. Classification and Rates.

- A. The business license tax for each class of businesses subject to this ordinance shall be computed in accordance with the current business license rate schedule, designated as Appendix A to this ordinance, which may be amended from time to time by the Council.
- B. The current business license class schedule is attached hereto as Appendix B. Hereafter, no later than December 31 of each odd year, the County shall adopt, by ordinance, the latest standardized business license class schedule as recommended by the Municipal Association of South Carolina and adopted by the Director of the South Carolina Revenue and Fiscal Affairs Office. Upon adoption by the County, the revised business license class schedule shall then be appended to this ordinance as a replacement Appendix B.
- C. The classifications included in each rate class are listed with NAICS codes, by sector, sub-sector, group, or industry. The business license class schedule (Appendix B) is a tool for classification and not a limitation on businesses subject to a business license tax. The classification in the most recent version of the business license class schedule adopted by the Council that most specifically identifies the subject business shall be applied to the business. The license official shall have the authority to make the determination of the classification most specifically applicable to a subject business.
- D. A copy of the class schedule and rate schedule shall be filed in the office of the county clerk.

Section 22. 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.

APPENDIX A: BUSINESS LICENSE RATE SCHEDULE

In-County Rates		
Class	Income 0-\$2,000 minimum base fee	Rate for gross receipts over \$2,000
1	\$30.00	\$.75 per thousand
2	\$35.00	\$.88 per thousand
3	\$40.00	\$1.01 per thousand
4	\$45.00	\$1.14 per thousand
5	\$50.00	\$1.27 per thousand
6	\$55.00	\$1.40 per thousand
7	\$60.00	\$1.53 per thousand
8	See individual Business in Class 8	
9	See individual Business in Class 9	

Out-of-County Rates		
Class	Income 0-\$2,000 minimum base fee	Rate for gross receipts over \$2,000
1	\$60.00	\$1.50 per thousand
2	\$70.00	\$1.76 per thousand
3	\$80.00	\$2.02 per thousand
4	\$90.00	\$2.28 per thousand
5	\$100.00	\$2.54 per thousand
6	\$110.00	\$2.80 per thousand
7	\$120.00	\$3.06 per thousand
8	See individual Business in Class 8	
9	See individual Business in Class 9	

NON-RESIDENT RATES

Unless otherwise specifically provided, all taxes and rates shall be doubled for nonresidents and itinerants having no fixed principal place of business within the County.

DECLINING RATES

Declining Rates apply in all Classes for gross income in excess of \$1,000,000, unless otherwise specifically provided for in this ordinance.

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%
4 - 5	60%
5 - 10	50%
10 - 25	40%
25 - 50	15%
50 - 75	10%
Over 75	5%

CLASS 8 RATES

Each NAICS number designates a separate subclassification. The businesses in this section are treated as separate and individual subclasses due to provisions of state law, regulatory requirements, service burdens, tax equalization considerations, and other factors that are deemed sufficient to require individually determined rates. In accordance with state law, the County also may provide for reasonable subclassifications for rates, described by an NAICS sector, subsector, or industry, that are based on particularized considerations as needed for economic stimulus or for the enhanced or disproportionate demands on county services or infrastructure.

Non-resident rates do not apply except where indicated.

8.1 NAICS 230000 – Contractors, Construction, All Types [Non-resident rates apply].

Resident rates, for contractors having a permanent place of business within the County:

Minimum on first \$2,000.....	\$40.00 PLUS
Each additional 1,000	\$1.10

Non-resident rates apply to contractors that do not have a permanent place of business within the County. A trailer at the construction site or structure in which the contractor temporarily resides is not a permanent place of business under this ordinance.

No contractor shall be issued a business license until all state and county qualification examination and trade license requirements have been met. Each contractor shall post a sign in plain view on each job identifying the contractor with the job.

Sub-contractors shall be licensed on the same basis as general or prime contractors for the same job. No deductions shall be made by a general or prime contractor for value of work performed by a sub-contractor.

No contractor shall be issued a business license until all performance and indemnity bonds required by the Building Code have been filed and approved. Zoning permits must be obtained when required by the Zoning Ordinance.

Each prime contractor shall file with the License Official a list of sub-contractors furnishing labor or materials for each project.

For licenses issued on a per-job basis, the total tax for the full amount of the contract shall be paid prior to commencement of work and shall entitle the contractor to complete the job without regard to the normal license expiration date. An amended report shall be filed for each new job and the appropriate additional license fee per \$1,000 of the contract amount shall be paid prior to commencement of new work. Only one base tax shall be paid in a license year. Licensees holding a per-job license shall file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount.

8.2 NAICS 482 – Railroad Companies (See S.C. Code § 12-23-210).

8.51 NAICS 713120 – Amusement Machines, coin operated (except gambling). Music machines, juke boxes, kiddy rides, video games, pin tables with levers, and other amusement machines with or without free play feature licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(1) and (A)(2) [**Type I and Type II**].

For operation of all machines (not on gross income), pursuant to S.C. Code §12-21-2746:

Per Machine	\$12.50 PLUS
Business license	\$12.50

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.51.

8.52 NAICS 713290 – Amusement Machines, coin operated, non-payout. Amusement machines of the non-payout type or in-line pin game licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(3) [**Type III**].

For operation of all machines (not on gross income), pursuant to S.C. Code §12-21-2720(B):

Per Machine	\$180.00 PLUS
Business license	\$12.50

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.52.

8.6 NAICS 713990 – Billiard or Pool Rooms, all types. (A) Pursuant to SC Code § 12-21-2746, license tax of \$5.00 per table measuring less than 3½ feet wide and 7 feet long, and \$12.50 per table longer than that; PLUS, (B) with respect to gross income from the entire business in addition to the tax authorized by state law for each table:

Minimum on first \$2,000	\$40.00 PLUS
Per \$1,000, or fraction, over \$2,000	\$.95

CLASS 9 RATES

Each NAICS number designates a separate subclassification. The businesses in this section are treated as separate and individual subclasses due to provisions of state law, regulatory requirements, service burdens, tax equalization considerations, and other factors that are deemed sufficient to require individually determined rates. In accordance with state law, the County also may provide for reasonable subclassifications for rates, described by an NAICS sector, subsector, or industry, that are based on particularized considerations as needed for economic stimulus or for the enhanced or disproportionate demands on county services or infrastructure.

9.8 NAICS 310000-330000 – Manufacturing, all types. [Non-resident rates apply].
Minimum on first \$2,000..... \$30.00 PLUS
Per \$1,000, or fraction, over \$2,000.....\$.80

9.91 NAICS 562212 – Solid Waste Landfill. [Non-resident rates apply].
Minimum on first \$2,000..... \$30.00 PLUS
Per \$1,000, or fraction, over \$2,000.....\$.80

9.92 NAICS 532412 – Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing. [Non-resident rates apply].
Minimum on first \$2,000..... \$35.00 PLUS
Per \$1,000, or fraction, over \$2,000.....\$.95

9.93 NAICS 562111 – Solid Waste Collection. [Non-resident rates apply].
Minimum on first \$2,000..... \$30.00 PLUS
Per \$1,000, or fraction, over \$2,000.....\$.80

9.94 NAICS 532289 – All Other Consumer Goods Rental. [Non-resident rates apply].
Minimum on first \$2,000..... \$35.00 PLUS
Per \$1,000, or fraction, over \$2,000.....\$.95

Business License Class Schedule by NAICS Code

Appendix B

NAICS Sector/Subsector	Industry Sector	Class
11	Agriculture, forestry, hunting and fishing	2.00
21	Mining	4.00
31	Manufacturing	2.00
32	Manufacturing	2.00
33	Manufacturing	2.00
42	Wholesale trade	1.00
44	Retail trade	1.00
45	Retail trade	1.00
48	Transportation and warehousing	2.00
49	Transportation and warehousing	2.00
51	Information	4.00
52	Finance and insurance	7.00
53	Real estate and rental and leasing	7.00
54	Professional, scientific, and technical services	5.00
55	Management of companies	7.00
56	Administrative and support and waste management and remediation services	4.00
61	Educational services	4.00
62	Health care and social assistance	4.00
71	Arts, entertainment, and recreation	3.00
721	Accommodation	3.00
722	Food services and drinking places	1.00
81	Other services	5.00
Class 8	Mandatory or Recommended Subclasses	
23	Construction	8.10
482	Rail Transportation	8.20
713120	Amusement Parks and Arcades (per machine)	8.51
713290	Nonpayout Amusement Machines (per machine)	8.52
713990	All Other Amusement and Recreational Industries (pool tables)	8.60
Class 9	Optional Subclasses	
31	Manufacturing	9.80
32	Manufacturing	9.80
33	Manufacturing	9.80
562212	Solid waste landfill	9.91
532412	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing	9.92
562111	Solid Waste Collection	9.93
532289	All Other Consumer Goods Rental	9.94