

- CODE OF ORDINANCES  
Chapter 6 BUSINESSES AND BUSINESS REGULATIONS

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## Chapter 6 BUSINESSES AND BUSINESS REGULATIONS

### **ARTICLE I. IN GENERAL**

**Secs. 6-1—6-18. Reserved.**

### **ARTICLE II. BUSINESS LICENSES AND REGULATIONS<sup>1</sup>**

#### **DIVISION 1. – LOCAL BUSINESS LICENSES**

##### **Sec. 6-19. License required.**

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

##### **Sec. 6-20 Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed herein. Defined terms are not capitalized when used in this article 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.

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<sup>1</sup>Ord. No. 2021-09 , § 1(Exh. A), adopted August 10, 2021, repealed the former Art. II, §§ 6-19—6-45, and enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Ord. No. 2006-01, adopted Jan. 11, 2006; Ord. No. 2010-14 , adopted Aug. 10, 2010; Ord. No. 2013-10 , adopted Nov. 12, 2013; Ord. No. 2014-13 , adopted Aug. 12, 2014; Ord. No. 2015-07 , adopted March 10, 2015; Ord. No. 2017-01 , adopted Feb. 14, 2017; Ord. No. 2017-05 , adopted Aug. 8, 2017; and Ord. No. 2018-05 , adopted Aug. 14, 2018.

State law reference(s)—Business license tax authorized for municipalities, S.C. Code 1976, § 5-7-30; imposition or increase of business license tax, S.C. Code 1976, § 6-1-315.

*Council* means the Town Council of the Town of Bluffton.

*Domicile* means a principal place from which the trade or business of a licensee is conducted, directed, or managed. For purposes of this article, 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 Municipality. If the licensee has a domicile within the Municipality, business done within the Municipality shall include all gross receipts or revenue received or accrued by such licensee. If the licensee does not have a domicile within the Municipality, business done within the Municipality shall include only gross receipts or revenue received or accrued within the Municipality. In all cases, if the licensee pays a business license tax to another county or municipality, then the licensee's gross income for the purpose of computing the tax within the Municipality must be reduced by the amount of revenues or receipts taxed in the other county or municipality and fully reported to the Municipality. 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:

- (1) 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.
- (2) Except as specifically required by S.C. Code of 1976 § 38-7-20, gross income for insurance companies shall be calculated on gross premiums written.
- (3) Gross income for manufacturers of goods or materials with a location in the Municipality shall be calculated on the lesser of:
  - a. gross revenues or receipts received or accrued from business done at the location;
  - b. the amount of income allocated and apportioned to that location by the business for purposes of the business's state income tax return; or
  - c. 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 article. Notwithstanding the designation of a primary license official, the Municipality may designate one or more alternate license officials to administer particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code.

*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.

*Municipality* means the Town of Bluffton, 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.

**Sec. 6-21 Purpose and duration.**

The business license required by this article 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. The license year ending on April 30, 2022, shall commence on January 1, 2021 and shall run for a 16-month period. Thereafter, the license periods shall be established as follows. 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 12-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 article and the rates herein shall remain in effect from year to year as amended by the Council.

**Sec. 6-22. 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 6-30 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 12-month fiscal year preceding the due date, or on a 12-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 Municipality 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 Municipality shall approve or deny the refund request, and if approved shall issue the refund to the business, within 30 days after receipt of the request.

**Sec. 6-23. Registration required.**

- (a) The owner, agent, or legal representative of every business subject to this article, 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 Municipality, and an annexed business shall be required to have a business license within 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 article 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 Municipality have been paid.
- (d) The Municipality 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.

**Sec. 6-24. Deductions, exemptions, and charitable organizations.**

- (a) No deductions from gross income shall be made except income earned outside of the Municipality on which a license tax is paid by the business to some other municipality or county and fully reported to the Municipality, 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 article by reason of the lack of an established place of business within the Municipality, 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 article 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 article.
- (c) Wholesalers are exempt from business license taxes unless they maintain warehouses or distribution establishments within the Municipality. 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 article; 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 article.

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.

**Sec. 6-25. False application unlawful.**

It shall be unlawful for any person subject to the provisions of this article 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 article.

**Sec. 6-26. 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 Municipality.
- (b) A change of address must be reported to the license official 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 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.

**Sec. 6-27. Administration of article.**

The license official shall administer the provisions of this article, 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 Municipal attorney, assist in prosecution of violators, produce forms, undertake reasonable procedures relating to the administration of this article, and perform such other duties as may be duly assigned.

**Sec. 6-28. Inspection and audits.**

- (a) For the purpose of enforcing the provisions of this article, the license official or other authorized agent of the Municipality is empowered to enter upon the premises of any person subject to this article 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 article. 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 article, State or Federal law, or proper judicial order. Statistics compiled by classifications are public records.

**Sec. 6-29. Assessments, payment under protest, appeal.**

- (a) Assessments, payments under protest, and appeals of assessment shall be allowed and conducted by the Municipality pursuant to the provisions of S.C. Code of 1976 § 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 of 1976 § 6-1-410 for hearing an application for adjustment of assessment and issuing a notice of final assessment; provided that for particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the Municipality, by separate article, may establish a different procedure and may delegate one or more rights, duties, and functions hereunder to the Municipal Association of South Carolina.

**Sec. 6-30. 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 percent of the unpaid tax for each month or portion thereof after the due date until paid. If any business license tax remains unpaid for 60 days after its due date, the license official may report it to the Municipal 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.
- (c) For good cause shown, but not otherwise, a business may petition the Town Manager, or designee for a reduction of the penalties otherwise due when the failure to pay is not willful and is more than mere oversight and inadvertence.

**Sec. 6-31. 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 Municipality three 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. ~~and~~

**Sec. 6-32. Denial of license.**

The license official may deny a license to an applicant when the license official determines:

- (1) The application is incomplete or contains a misrepresentation, false or misleading statement, or evasion or suppression of a material fact;
- (2) The activity for which a license is sought is unlawful or constitutes a public nuisance per se or per accidens;
- (3) The applicant, licensee, prior licensee, or the person in control of the business has been convicted within the previous ten years of an offense under a law or article 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;

- (4) The applicant, licensee, 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 Municipality or in another jurisdiction;
- (5) The applicant, licensee, prior licensee, or the person in control of the business is delinquent in the payment to the Municipality of any tax or fee;
- (6) A licensee has actual knowledge or notice, or based on the circumstances reasonably should have knowledge or notice, that any person or employee of the licensee has committed a crime of moral turpitude on the business premises, or has permitted any person or employee of the licensee to engage in the unlawful sale of merchandise or prohibited goods on the business premises and has not taken remedial measures necessary to correct such activity; or
- (7) The license for the business or for a similar business of the licensee in the Municipality or another jurisdiction has been denied, suspended, or revoked in the previous license year. A decision of the license official shall be subject to appeal as herein provided. Denial shall be written with reasons stated.

#### **Sec. 6-33. Suspension or revocation of license.**

When the license official determines:

- (1) A license has been mistakenly or improperly issued or issued contrary to law;
- (2) A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this article;
- (3) A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in the license application;
- (4) A licensee has been convicted within the previous ten years of an offense under a law or article 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;
- (5) A licensee has engaged in an unlawful activity or nuisance related to the business; or
- (6) A licensee is delinquent in the payment to the Municipality of any tax or fee;

The license official may give written notice to the licensee or the person in control of the business within the Municipality by personal service or mail that the license is suspended pending a single hearing before Council or its designee for the purpose of determining whether the suspension should be upheld and the license should be revoked.

The written notice of suspension and proposed revocation shall state the time and place at which the hearing is to be held, and shall contain a brief statement of the reasons for the suspension and proposed revocation and a copy of the applicable provisions of this article.

#### **Sec. 6-34. Appeals to Council or its designee.**

- (a) Except with respect to appeals of assessments under Section 6-29 hereof, which are governed by S.C. Code of 1976 § 6-1-410, any person aggrieved by a determination, denial, or suspension and proposed revocation of a business license by the license official may appeal the decision to the Council or its designee by written request stating the reasons for appeal, filed with the license official within ten days after service by mail or personal service of the notice of determination, denial, or suspension and proposed revocation.
- (b) A hearing on an appeal from a license denial or other determination of the license official and a hearing on a suspension and proposed revocation shall be held by the Council or its designee within ten business days

after receipt of a request for appeal or service of a notice of suspension and proposed revocation. The hearing shall be held upon written notice at a regular or special meeting of the Council, or, if by designee of the Council, at a hearing to be scheduled by the designee. The hearing may be continued to another date by agreement of all parties. At the 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 Council or its designee shall govern the hearing. Following the hearing, the Council by majority vote of its members present, or the designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the standards herein. The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the Municipality.

- (c) Timely appeal of a decision of Council or its designee does not effectuate a stay of that decision. The decision of the Council or its designee shall be binding and enforceable unless overturned by an applicable appellate court after a due and timely appeal.
- (d) For business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the Municipality may establish a different procedure by article.

#### **Sec. 6-35. 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 Municipality 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 article 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 article 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.

#### **Sec. 6-36. Confidentiality.**

Except in accordance with proper judicial order or as otherwise provided by law, no official or employee of the Municipality 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 article. 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 article.

#### **Sec. 6-37. Violations.**

Any person violating any provision of this article 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 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 article.



**Sec. 6-38. Severability.**

A determination that any portion of this article is invalid or unenforceable shall not affect the remaining portions. To the extent of any conflict between the provisions of this article 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.

**Sec. 6-39. Classification and rates.**

- (a) The business license tax for each class of businesses subject to this article shall be computed in accordance with the current business license rate schedule, designated as Appendix A to this article, 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 Municipality shall adopt, by article, 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 Municipality, the revised business license class schedule shall then be appended to this article as a replacement Appendix B.
- (c) The classifications included in each rate class are listed with NAICS codes, by sector, subsector, 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 Municipal Clerk.

**Sec. 6-40. Business license incentive program.**

- (a) When any new business taxable hereunder is begun on or after May 1, but before October 1, the full amount of the tax shall be due. New businesses beginning on or after October 1 shall be required to pay one-half of the license tax otherwise prescribed.
- (b) A cap of \$25,000,000.00 is extended to all businesses such that the annual gross receipts of any one business exceeding this cap are exempt from the business license rates outlined herein. This does not apply to any other fees paid to other agencies for the Town.
- (c) When a business owner(s) maintains two or more resident business locations under the same NAICS code as deemed proper by the license official, each location may deduct ten percent from its annual gross income in its annual license tax calculation. This does not apply to any other fees paid to other agencies for the Town.
- (d) The tax for a new resident business during the first year of operation or portion thereof shall be the base tax for the classification for that business as determined by the license official using the classification rate schedules and details below, and thereafter, the tax for a new resident business shall be as follows:

Year of Operation	Gross Income Reduction
First renewal	40 percent
Second renewal	20 percent
Third renewal	10 percent
Fourth renewal and beyond	0 percent

## **DIVISION 2. – BUSINESS LICENSES FOR INSURERS, BROKERS, AND TELECOMMUNICATION PROVIDERS**

**Sec. 6-41. Business License Taxes Applicable to Insurance Companies.** Notwithstanding anything in the Current Business License Ordinance to the contrary, the following provisions shall apply to insurance companies subject to Title 38, Chapter 7 of the S.C. Code.

- a) Except as set forth below, “gross premiums” for insurance companies means gross premiums written for policies for property or a risk located within the municipality. In addition, “gross premiums” shall include premiums written for policies that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by (1) the insurance company’s office located in the municipality, (2) the insurance company’s employee conducting business within the municipality, or (3) the office of the insurance company’s licensed or appointed producer (agent) conducting business within the municipality, regardless of where the property or risk is located, provided no tax has been paid to another municipality in which the property or risk is located based on the same premium.
- b) As to fire insurance, “gross premiums” means gross premiums (1) collected in the municipality, and/or (2) realized from risks located within the limits of the municipality.
- c) As to bail bonds, “gross premiums” shall exclude any amounts retained by a licensed bail bondsman as defined in Title 38, Chapter 53 of the S.C. Code for authorized commissions, fees, and expenses.
- d) Gross premiums shall include all business conducted in the prior calendar year. Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums, or deposit.
- e) Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute conducting business within the municipality, regardless of whether or not an office is maintained in the municipality.
- f) The business license tax for insurance companies under Title 38, Chapter 7 of the S.C. Code shall be established at the rates set forth below. Declining rates shall not apply.

### **NAICS Code**

524113      **Life, Health, and Accident.** 0.75% of Gross Premiums.

524126      **Fire and Casualty.** 2% of Gross Premiums.

524127      **Title Insurance.** 2% of Gross Premiums.

- g) License taxes for insurance companies shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be 5% of the tax due per month, or portion thereof, after the due date until paid.

**Sec. 6-42. Business License Tax Applicable to Brokers.** Title 38, Chapter 45 of the S.C. Code (the “Brokers Act”) establishes a blended premium tax rate applicable to brokers of 6 percent, comprising a 4 percent State premium tax and a 2 percent municipal premium tax, each to be collected by the South Carolina Department of Insurance. Pursuant to §§ 38-45-10 and 38-45-60 of the Brokers Act, the Municipal Association of South Carolina is designated the municipal agent for purposes of administration of the municipal broker’s premium tax.

**Sec. 6-43. Business License Taxes Applicable to Telecommunication Companies.**

- a) Notwithstanding any other provisions of the Current Business License Ordinance, the business license tax for “retail telecommunications services,” as defined in S. C. Code Section 58-9-2200, shall be at the maximum rate authorized by S. C. Code Section 58-9-2220, as it now provides or as provided by its amendment. Declining rates shall not apply.
- b) The business license tax year for retail telecommunications services shall begin on January 1 of each year. The business license tax for retail telecommunications services shall be due on January 1 of each year and payable by January 31 of that year, without penalty. The delinquent penalty shall be five percent (5%) of the tax due for each month, or portion thereof, after the due date until paid.
- c) In conformity with S.C. Code Section 58-9-2220, the business license tax for “retail telecommunications services” shall apply to the gross income derived from the sale of retail telecommunications services for the preceding calendar or fiscal year which either originate or terminate in the municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another municipality. The measurement of the amounts derived from the retail sale of mobile telecommunications services shall include only revenues from the fixed monthly recurring charge of customers whose service address is within the boundaries of the municipality. For a business in operation for less than one year, the amount of business license tax shall be computed on a twelve-month projected income.
- d) Nothing in this Ordinance shall be interpreted to interfere with continuing obligations of any franchise agreement or contractual agreement. All fees collected under such a franchise or contractual agreement shall be in lieu of fees or taxes which might otherwise be authorized by this Ordinance.

**Sec. 6-44. No Exemption for Interstate Commerce.** Properly apportioned gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

**Sec. 6-45. LRS to Appoint Business License Official and to Designate Appeals Board.** Pursuant to the Agreement, LRS is hereby authorized to appoint one or more individuals (each, an “LRS Business License Official”) to act as the Municipality’s business license official for purposes of administering Statewide Business License Taxes. In addition, LRS is hereby authorized pursuant to the Agreement to designate an appeals board (the “Appeals Board”) for purposes of appeals arising with respect to such taxes. The LRS Business License Official so appointed and the Appeals Board so designated shall have all of the powers granted to the Municipality’s business license official and appeals board under the Current Business License Ordinance, except as may be modified by this ordinance.

**Sec. 6-46. Appeals Process.** With respect to the calculation, assessment, and collection of Statewide Business License Taxes, in lieu of the appeals process described in the Current Business License Ordinance, the following appeals process required by S.C. Code Section 6-1-410 shall apply:

- a) If a taxpayer fails or refuses to pay a Statewide Business License Tax by the date on which it is due, the LRS Business License Official may serve notice of assessment of the Statewide Business License Tax due on the taxpayer by mail or personal service. Within thirty days after the date of postmark or personal service, a taxpayer may request, in writing with reasons stated, an adjustment of the assessment. An informal conference between the LRS Business License Official and the taxpayer must be held within fifteen days of the receipt of the request, at which time the taxpayer may present any information or documents in support of the requested adjustment. Within five days after the conference, the LRS Business License Official shall issue a notice of final assessment and serve the taxpayer by mail or personal service with the notice and provide a form for any further appeal of the assessment by the taxpayer.
- b) Within thirty days after the date of postmark or personal service, the taxpayer may appeal the notice of final assessment by filing a completed appeal form with the LRS Business License Official, by mail or personal service, and by paying to LRS in protest at least eighty percent of the business license tax based on the final

assessment. The appeal must be heard and determined by the Appeals Board. The Appeals Board shall provide the taxpayer with written notice of the hearing and with any rules of evidence or procedure prescribed by the Appeals Board. The hearing must be held within thirty days after receipt of the appeal form unless continued to another date by agreement of the parties. A hearing by the Appeals Board must be held at a regular or specially called meeting of the Appeals Board. At the appeals hearing, the taxpayer and LRS have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The hearing must be recorded and must be transcribed at the expense of the party so requesting. The Appeals Board shall decide the assessment by majority vote. The Appeals Board shall issue a written decision explaining the basis for the decision with findings of fact and conclusions and shall inform the taxpayer of the right to request a contested case hearing before the Administrative Law Court. The written decision must be filed with the LRS Business License Official and served on the taxpayer by mail or personal service. The decision is the final decision of LRS on the assessment.

- c) Within thirty days after the date of postmark or personal service of LRS's written decision on the assessment, a taxpayer may appeal the decision to the Administrative Law Court in accordance with the rules of the Administrative Law Court.

**Secs. ~~6-41~~ 6-47—6-73. Reserved.**