



DISCUSSION ITEMS FOR
NOVEMBER 1, 2021
CITY COUNCIL MEETING

The documentation provided herewith consists of advance draft materials for review by Mayor and City Council. Such documents may be revised prior to the actual Council meeting before any formal consideration of same by Mayor and City Council. Said documents may also be revised by way of a proper amendment made at the Council meeting. These documents are informational only and not intended to represent the final decision of the Council.



Interoffice Memorandum

TO: Mayor and City Council

FROM: Jim Clifford, City Administrator

DATE: October 29, 2021

SUBJECT: Regular City Council Meeting of November 1, 2021

REGULAR COUNCIL MEETING

ITEM 5. FINANCE: Ordinance No. 2021-17 – Adopting a Budget for Fiscal Year 2022 Containing Estimates of Proposed Revenues and Expenditures by the City of North Augusta, South Carolina, for the Budget Year Beginning January 1 2022, and Declaring that Same Shall Constitute the Budget of the City of North Augusta for Such Budget Year; Ordinance – Second Reading

An ordinance has been prepared for Council’s consideration on second reading adopting a budget for fiscal year 2022 containing estimates of proposed revenues and expenditures by the City of North Augusta for the budget year beginning January 1, 2022, and declaring that same shall constitute the budget of the City of North Augusta for such budget year.

Please see ATTACHMENT #5 for a copy of the proposed ordinance.

ITEM 6. FINANCE: Ordinance No. 2021-18 – Levying the Annual Tax on Property in the City of North Augusta, South Carolina for the Fiscal Year Beginning January 1, 2022, and Ending December 31, 2022; Ordinance – Second Reading

An ordinance has been prepared for Council’s consideration on second reading levying the annual tax on property in the City of North Augusta for the fiscal year beginning January 1, 2022 and ending December 31, 2022.

Please see ATTACHMENT #6 for a copy of the proposed ordinance.

ITEM 7. FINANCE: Ordinance No. 2021-19 – Amending Article IV, Section 14-123 Titled “Sanitation Services Fees” of the City Code of the City of North Augusta, South Carolina; Ordinance – Second Reading

An ordinance has been prepared for Council's consideration on second reading amending Article IV, Section 14-123 Titled "Sanitation Services Fees" of the City of North Augusta Code of Ordinances.

Please see ATTACHMENT #7 for a copy of the proposed ordinance.

ITEM 8. FINANCE: Ordinance No. 2021-20 – An Ordinance to Adopt a Revised Business License Ordinance in Accordance with the Business License Standardization Act (2020 Act No. 176); Ordinance – First Reading

An ordinance has been prepared for Council's consideration on first reading to adopt a revised business license ordinance in accordance with the Business License Standardization Act (2020 Act No. 176).

Please see ATTACHMENT #8 for a copy of the proposed ordinance.

ITEM 9. ADMINISTRATIVE REPORTS:

ITEM 10. PRESENTATIONS/COMMUNICATIONS/RECOGNITION OF VISITORS

ITEM 11. ADJOURNMENT

ITEM 12. LEGAL: Executive Session – Request of the Mayor

In compliance with Section 30-4-70 (a) (2) the Mayor requested an executive session for the purpose of:

(2) Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim

Discussion is related to the potential hiring of a consultant.

Upon returning to open session, Council will not take action on matters discussed in Executive Session.

ORDINANCE NO. 2021-17
ADOPTING A BUDGET FOR FISCAL YEAR 2022
CONTAINING ESTIMATES OF PROPOSED REVENUES AND EXPENDITURES
BY THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA,
FOR THE BUDGET YEAR BEGINNING JANUARY 1, 2022,
AND DECLARING THAT SAME SHALL CONSTITUTE THE BUDGET
OF THE CITY OF NORTH AUGUSTA FOR SUCH BUDGET YEAR

WHEREAS, in accordance with the Laws of South Carolina, and the Ordinance of the City of North Augusta, the City Administrator must prepare and submit to the City Council a Balanced Budget for the next budget year to begin on January 1, 2022, and end on December 31, 2022; and

WHEREAS, a public hearing has been held on said budget, as required by law.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF, THAT:

- Section I. The City Council hereby adopts the 2022 Fiscal Year Budget, incorporated by reference as though it were set out herein in its entirety, for the conduct of the business of the municipal government of North Augusta for the budget year, January 1, 2022, to December 31, 2022.
- Section II. The transfer of budgeted amounts between functional areas of expenditures or expenses shall be approved by City Council; however, transfers of budgeted line items within the functional areas of expenditures or expenses not to exceed \$5,000, may be approved by the City Administrator as long as total expenditures or expenses do not exceed appropriations in the functional area. Management can also over expend appropriations, with the City Administrator's approval, at the line item and department level, as long as the total expenditures or expenses do not exceed appropriations of the functional area. Functional areas are: General Government; Public Safety; Public Works; Parks, Recreation, and Tourism; Sanitation Services; Stormwater Utility; and Water and Wastewater.
- Section III. The Mayor or City Administrator may authorize the expenditure of an amount not to exceed \$500 at any one time from the Council Contingencies Account without prior approval of the City Council provided that any such expenditure is reported in the minutes of the next Council meeting.

AN ORDINANCE ADOPTING A BUDGET
FOR THE CITY OF NORTH AUGUSTA

- Section IV. The City Council must approve expenditures from the following funds: Sales Tax I, Sales Tax II, Sales Tax III, Sales Tax IV, Accommodation Tax Fund, Street Improvement Fund, Riverfront Central Core Redevelopment Fund, Tax Increment Financing Fund, Transportation Improvement Fund, Capital Projects Fund, and the North Augusta Public Facilities Corporation Fund unless otherwise previously budgeted.
- Section V. The City Administrator may execute all necessary documents relating to the lease purchase financing of equipment specifically authorized and identified in the 2022 Budget. The financial institution selected for 2022 lease purchase financing shall be selected based upon competitive bidding in conformance with the City's purchasing procedures.
- Section VI. All Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.
- Section VII. This Ordinance shall become effective immediately upon its adoption on second reading.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF
THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS _____ DAY OF
_____, 2021.

First Reading _____

Second Reading _____

Briton S. Williams, Mayor

ATTEST:

Sharon Lamar, City Clerk

ORDINANCE NO. 2021-18
LEVYING THE ANNUAL TAX ON PROPERTY
IN THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA,
FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2022,
AND ENDING DECEMBER 31, 2022

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF, THAT:

- Section I. The annual tax for the fiscal year (budget year) 2022, beginning January 1, 2022, and ending December 31, 2022, is hereby imposed and levied for general corporate purposes upon all the taxable property of the City of North Augusta.

- Section II. The period for which the tax levy is due on all taxable property, except for motorized vehicles, shall be from January 1, 2021, to December 31, 2021.

- Section III. The period for which the tax levy is due for all motorized vehicles which are required to be licensed by Section 53-3-110, Code of Laws of South Carolina, shall be from January 1, 2022, to December 31, 2022.

- Section IV. The tax levy imposed upon all taxable property shall be 70.20 mills to the General Fund and 3.30 mills to the Capital Projects Fund for a total tax levy of 73.50 mills.

- Section V. All Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

- Section VI. This Ordinance shall become effective January 1, 2022.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS _____ DAY OF _____, 2021.

First Reading _____

Second Reading _____

Briton S. Williams, Mayor

ATTEST:

Sharon Lamar, City Clerk

ORDINANCE NO. 2021-19
AMENDING ARTICLE IV, SECTION 14-123
TITLED "SANITATION SERVICES FEES"
OF THE CITY CODE OF THE
CITY OF NORTH AUGUSTA, SOUTH CAROLINA

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF, THAT:

- I. Article IV, Section 14-123, titled "Sanitation Fees" is hereby amended and when amended shall read as follows:

ARTICLE IV. SANITATION SERVICE

Section 14-123. Sanitation Services fees.

A. Residential services:

There is hereby imposed upon each home, residence, apartment unit, or dwelling unit within the City, a charge for sanitation services to include garbage collection, trash collection, health services, and street sweeping. A sanitation services fee shall also be charged any residential customer located outside the City who receives sanitation services from the City.

For purposes of this section, each dwelling unit within a multi-family or apartment complex, duplex, etc. shall be considered a single customer and treated as a single-family dwelling without regard to the method of collection. The City reserves the right to determine the method of collection and type of containers to be used for residential customers.

(1) Fees - Residential Roll Carts:

Residential services where the principal use is for living, home, residence, apartment unit, dwelling unit and service is provided by roll carts:

Inside City limits, per month	\$19.67
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Outside City limits, per month	\$27.71
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For each additional roll cart provided by the City, there shall be a charge equal to 25% of the fee for a single cart.

(2) Fees - Removal of Roll Carts from Curb by City Personnel:

Notwithstanding any other provisions contained herein, if roll carts are left on the street in violation of this Code and City representatives remove the roll carts from the street to a location in compliance with City Code.

\$5.00 for each removal.

(3) Fees – Electronics Disposal Fee:

Fees for disposing of electronic waste shall be \$25 per item disposed.

B. Commercial services:

There is hereby imposed upon each place of business, industry, or other commercial premises within the City, a charge for sanitation services to include garbage collection, trash collection, animal control, health services, and street sweeping. A sanitation services fee shall also be charged any commercial customer located outside the City who receives sanitation services from the City.

For purposes of this section, a commercial customer is a business or industry having a separate business license and occupying separate spaces.

(1) Fees - Commercial service with residential roll carts.

Pickups under this subsection shall not exceed six (6) 100 gallon (or equivalent) residential roll carts per pickup and shall not exceed one (1) pickup per week.

	Per 100 Gal. <u>Roll Cart</u>
Inside City limits, per month	\$19.67
Outside City limits, per month	\$27.71

- (2) Fees - Commercial service with City supplied front-end loading bulk containers containing non-compacted waste.

Pickups under this subsection may be scheduled for Monday through Saturday. The size of container, frequency, and schedule of pickups shall be subject to the approval of the City. Fees shall be based upon the size of containers and frequency of pickups as follows:

CONTAINER SIZE	BASE FEE	+	INSIDE CITY	or	OUTSIDE CITY
2 cu. yd.	\$51.64	+	2.71/cu. yd.	or	3.89/cu. yd.
3 cu. yd.	\$54.05	+	2.71/cu. yd.	or	3.89/cu. yd.
4 cu. yd.	\$56.44	+	2.71/cu. yd.	or	3.89/cu. yd.
6 cu. yd.	\$61.73	+	2.71/cu. yd.	or	3.89/cu. yd.
8 cu. yd.	\$67.54	+	2.71/cu. yd.	or	3.89/cu. yd.

- (3) Fees – Electronics Disposal Fee:

Fees for disposing of electronic waste shall be \$25 per item disposed.

- C. Special service for residential or commercial customers:

When special bulk or compacted wastes are collected by the City through a procedure or method not provided for above and out of the ordinary collection procedures, the City may charge rates commensurate with the work and equipment involved.

- D. Special landfill charges:

Fees for disposing of automobile, truck, or tractor tires and special handling/packaging waste shall be equal to the fees charged by Aiken County plus 15% for handling.

- II. This Ordinance shall become effective immediately upon its adoption on second reading for all bills rendered on or after January 1, 2022.
- III. All Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS _____ DAY OF _____, 2021.

First Reading _____

Briton S. Williams, Mayor

Second Reading _____

ATTEST:

Sharon Lamar, City Clerk

ORDINANCE NO. 2021-20
AN ORDINANCE TO ADOPT A REVISED BUSINESS LICENSE ORDINANCE IN
ACCORDANCE WITH THE BUSINESS LICENSE STANDARDIZATION ACT
(2020 ACT NO.176)

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"); and

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

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

WHEREAS, the Act requires all municipalities and 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 City of North Augusta (the "Municipality") has prepared the attached 2022 Business License Ordinance, which is incorporated herein by reference.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF, THAT:

- I. The attached 2022 Business License Ordinance is hereby adopted and shall become effective beginning with the business license period commencing on May 1, 2022.
- II. All prior ordinance of the Municipality related to business licensing which are in effect at the time of this enactment are hereby repealed and replaced in their entirety with the 2022 Business License Ordinance; provided that any prior ordinances of the Municipality related to collections programs administered by the Municipal Association of South Carolina, including without limitation the Insurance Tax Collection Program (ITCP), the Brokers Tax Collection Program (BTCP), the Telecommunications Tax Collection Program (TTCP), and Setoff Debt Collection Program, shall remain in full force and effect in accordance with their terms except to the extent specifically amended by the 2022 Business License Ordinance.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS _____ DAY OF NOVEMBER, 2021.

First Reading _____

Briton S. Williams, Mayor

Second Reading _____

ATTEST:

Sharon Lamar, City Clerk

2022 MODEL 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 City of North Augusta, 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 City Council of the City of North Augusta.

“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 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:

- 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 Municipality 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 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 City of North Augusta, 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 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 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 Municipality, 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 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.

Section 6. 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 ordinance 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 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 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 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 Municipality.
- 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 municipal 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 Municipality 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 Municipality 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; 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 ordinance, may establish a different procedure and may delegate one or more rights, duties, and functions hereunder to the Municipal Association of South Carolina.

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 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.

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

- A. The application is incomplete or contains a misrepresentation, false or misleading statement, or evasion or suppression of a material fact;
- B. The activity for which a license is sought is unlawful or constitutes a public nuisance *per se* or *per accidens*;
- C. 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 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;
- D. 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;
- E. 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;
- F. 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
- G. 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.

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;
- B. A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance;
- C. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in the license application;
- D. A licensee has been convicted within the previous ten 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;

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 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 ordinance.

Section 16. Appeals to Council or its Designee.

A. Except with respect to appeals of assessments under Section 11 hereof, which are governed by S.C. Code § 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 (10) 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 (10) 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 ordinance.

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 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 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 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 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 Municipality 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 Municipality, 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 municipal clerk.

APPENDIX A: BUSINESS LICENSE RATE SCHEDULE

RATE CLASS	INCOME: \$0 - \$2,000	INCOME OVER \$2,000
	BASE RATE	RATE PER \$1,000 OR FRACTION THEREOF
1	\$20.00	\$1.00
2	\$25.00	\$1.05
3	\$30.00	\$1.10
4	\$35.00	\$1.15
5	\$40.00	\$1.20
6	\$45.00	\$1.25
7	\$50.00	\$1.30
8.1	\$25.00	\$1.10
8.2	Set by state statute	
8.3	MASC Telecommunications	
8.4	MASC Insurance	
8.51	\$12.50 + \$12.50 per machine	
8.52	\$12.50 + \$180.00 per machine	
8.6	\$20 plus \$5.00 or \$12.50 per table	\$1.00
9.91	\$80.00	
9.92	See Class 9 Rates Section	
9.93	See Class 9 Rates Section	
9.94	\$40.00	
9.95	See Class 9 Rates Section	
9.96	See Class 9 Rates Section	

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 Municipality.

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 Municipality 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 municipal 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 Municipality:

Minimum on first \$2,000	\$ 25.00 PLUS
Each additional 1,000.....	\$ 1.10

Non-resident rates apply to contractors that do not have a permanent place of business within the Municipality. 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 municipal 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).

8.3 NAICS 517311, 517312 – Telephone Companies.

With respect to “retail telecommunications services” as defined in S. C. Code § 58-9-2200, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program by separate ordinance (the “Telecommunications Collections Ordinance”). The rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to retail telecommunications services are set forth in the Telecommunications Collections Ordinance.

8.4 NAICS 5241 and 5242 – Insurance Companies and Brokers:

Independent agents, brokers, and their employees are subject to a business license tax based on their natural class. With respect to insurers subject to license fees and taxes under Chapter 7 of Title 38 and to brokers under Chapter 45 of Title 38, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program by separate ordinance (the “Insurers and Brokers Collections Ordinance”). The rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to insurers and brokers are set forth in the Insurers and Brokers Collections Ordinance.

8.51 NAICS 713120 – Amusement Machines, coin operated (except gambling). Music machines, juke boxes, kiddie 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	\$20 PLUS
Per \$1,000, or fraction, over \$2,000.....	\$1.00

CLASS 9 RATES

Class 9, in accordance with S.C. Code section 6-1-400(G)(2), consists of additional subclassifications for which the Council has determined a rational basis exists for individually designated rates other than those derived from IRS Statistics. This determination is based on particularized considerations for economic stimulus or for enhanced or disproportionate demands for municipal services and infrastructure.

Non-resident rates do not apply except where indicated.

9.9x NAICS 711310 and 711320 – Special Events Promoter

9.91 Two Day-On gross income up to \$2,000.....	\$ 80.00
9.92 Two Day-On gross between \$2,001 and \$5,000.....	\$ 140.00
9.93 Two Day-On gross over \$5,001.....	\$ 200.00
9.94 One Day-On gross income up to \$2,000.....	\$ 40.00
9.95 One Day-On gross between \$2,001 and \$5,000.....	\$ 70.00
9.96 One Day-On gross over \$5,001	\$ 100.00

The exhibitors or participants in an event with a special event promoter will not be required to obtain a business license if the promoter has obtained one.

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
23	Construction	8.10
31-33	Manufacturing	2.00
42	Wholesale trade	1.00
44-45	Retail trade	1.00
48-49	Transportation and warehousing	2.00
482	Rail Transportation	8.20
51	Information	4.00
517311	Wired Telecommunications Carriers	8.30
517312	Wireless Telecommunications Carriers (except Satellite)	8.30
52	Finance and insurance	7.00
5241	Insurance Carriers	8.40
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

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
721	Accommodation	3.00
722	Food services and drinking places	1.00
81	Other services	5.00

Note: Class Schedule is based on 2017 IRS data.

This appendix will be updated every odd year based on the latest available IRS statistics.

