

ORDINANCE

ORDINANCE AMENDING SECTION 7-1006 OF BUSINESS LICENSE CITY CODE PROVISIONS TO IMPOSE BUSINESS LICENSE TAX ON CHARITABLE ORGANIZATIONS THAT COMPETE WITH FOR-PROFIT BUSINESSES

WHEREAS, the City Business License Ordinance, as contained in Chapter 1 (“Business Licenses”) of Part 7 of the City Code, now provides for an exemption, with certain exceptions, from the business license tax for certain organizations with a charitable purpose as defined in the Ordinance; and

WHEREAS, the Council believes that it is unfair and inequitable for such organizations to receive revenue from merchandise or services or revenue from the sale or rental of property when comparable and competing for-profit businesses are subject to business license taxes for their income from such merchandise, services, sales or rentals; and

WHEREAS, the Council has determined that it would be fair and equitable and in the interest of the citizens and the business license taxpayers to amend the Business License Ordinance to further limit the exemption from license tax to those organizations that do not receive income from merchandise or services or from sales or rentals of property,

NOW, THEREFORE, BE IT ORDAINED by the City Council of Beaufort, in council duly assembled and by authority of the same, that Subsection (3) of Section 7-1006 (“Deductions, exemptions, and charitable organizations.”) is amended to read as follows:

(3) A charitable organization shall be exempt from the business license tax on its gross income unless it is deemed a business subject to a business license tax on all or part of its gross income as provided in this section. A charitable organization, or any for-profit affiliate of a charitable organization, that (1) reports income from for-profit activities, or unrelated business income, for Federal income tax purposes to the Internal Revenue Service, (2) has a fixed physical location in the city and receives income from the sale within the city of merchandise or services, or (3) receives income from the sale or rental of property within the city, 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, from its income from the sale within the city of merchandise or services, or from its income from the sale or rental of property within the city. A sale of merchandise or services as described in this section shall not include:

(1) donations without return consideration;

(2) member or sponsor dues or attendance fees for members at meetings or conventions of the organization;

(3) the wholesale sale of blood or blood products;

(4) the sale of religious books or the proceeds from day care services or catering services provided by a religious organization to its members; or

(5) the occasional sale of merchandise by the organization as a special fundraising event of limited short-term duration.

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 exempt under 26 U.S.C. section 501(c), 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. Payment of necessary costs of operation and wages to non-management employees will not disqualify a charitable organization from exemption. 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 cost or expense of operation.

This Ordinance shall become effective upon adoption and shall apply beginning with the 2016 business license tax year.

BILLY KEYSERLING, MAYOR
(SEAL) Attest:

IVETTE BURGESS, CITY CLERK

1st Reading _____

2nd Reading & Adoption _____

Reviewed by:



WILLIAM B. HARVEY, III, CITY ATTORNEY