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Sec. 7-1001. - License required.

- (a) Every person engaged, or intending to engage in any calling, business, service, activity, occupation or profession listed in the rate classification index portion of this chapter, in whole or in part, within the limits of the City of Beaufort, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided.
- (b) Any licensed business allowing the operation of vending or entertainment machines required to be licensed shall be responsible for ensuring that all machines are properly licensed with the required Type I coin-operated device, gaming machine, and machine permit sticker which shall be posted in a conspicuous place on the machine before the machine can be operated.
- (c) Any licensed business contracting live entertainment shall ensure that their business is properly

licensed with the city for such entertainment before allowing the entertainer to perform.

(d) In addition to the above-described activities constituting doing business, an individual shall be deemed to be in business if that individual owns and rents two or more residential rental units (or partial interest therein) within the limits of the city. This applies to long-term rentals greater than 30 days. All short-term rentals require a business license.

(Ord. of 1-9-79, § 1; Ord. No. O-18-80, § 1, 12-9-80; Ord. No. O-01-84, § 1, 1-10-84; Ord. No. O-34-93, 11-23-93; Ord. No. O-18-96, Ord. No. 4-9-96, Ord. No. 4-9-13)

Sec. 7-1002. - Definitions.

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

- (1) *Business* means a calling, occupation, profession or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly.
- (2) *“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).
- (3) *“Charitable Purpose”* means a benevolent, philanthropic, patriotic, or eleemosynary purpose which does not result in personal gain to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization.
- (4) *City* means the City of Beaufort.
- (5) *Contractor* means a person who agrees to furnish materials or perform services at a specified price, especially for construction.
- (6) *Classification* means that division of businesses by major groups subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services or other basis deemed appropriate by City Council.
- (7) *Classification rate schedule(s) or rate classification schedules* means the classification rate schedule or schedules set forth in this chapter.
- (8) *Gross income* means the total income of a business, received or accrued, for one calendar year collected or to be collected from business done within the City, excepting therefrom income from income earned outside of the City on which a license tax is paid to some other municipality or a county and fully reported to the City. Gross income for brokers or agents means gross commissions received or retained, unless otherwise specified. Gross income for insurance companies means gross premiums collected. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds

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which are property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross income for business license tax purposes also includes income realized in any form, whether in money, property or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock or other property, as well as cash. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross income 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 Insurance Commission, or other government agency.

- (9) *Interstate commerce*, as used herein, an interstate commerce sale shall be defined as:
- a. The sale of any item manufactured or wholesaled within the city and which is sold and shipped outside of South Carolina.
 - b. The sale of any item sold by a salesman who does not have a retail business within the city and the item being sold is not in the State of South Carolina at the time of sale.
- (10) *License Inspector* means a person designated to administer this ordinance.
- (11) *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 profits of the business, or a person who owns or exercises control of the business.
- (12) *Merchant* means a person whose business is buying and selling goods for profit or whose occupation is the wholesale purchase and retail sale of goods for profit.
- (13) *New Resident business* means a business that has not operated within the city limits for a period of at least two (2) consecutive years prior to its application for a business license under the existing or a previous owner, or a business that has been annexed into the city immediately prior to its application for a business license.
- (14) *Peddlers* means a person or persons not having a permanent place of business within the city limits and where delivery is made at the time of sale.
- (15) *Person* means any individual, firm, partnership, LLP, LLC, cooperative nonprofit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principals.
- (16) *Price gouging* means increasing prices for essential goods and services during or after an impending or actual emergency such as a hurricane, earthquake, or other natural or man-made disaster.
- (17) *Itinerant business* means a business with no established and fixed place of business within the city on which city real property taxes are paid.

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- (18) *Electronic gaming device* means any machine of the nonpayout type, in-line pin game, or video game with free play feature operated by a slot wherein is deposited any coin or thing of value except machines of the nonpayout pin table type with levers or "flippers" operated by the player by which the course of the balls can be altered or changed.
- (19) *Vendor* means a person who vends or sells.
- (20) *Construction* includes new work, additions, alterations, reconstruction, installations and repairs of structures.
- (21) *General contractor* means builders engaged in construction of structures, working under contract directly for the property owner for a specified price.
- (22) *Operative builder* means builders engaged in construction of structures for sale on their own account rather than as contractors.
- (23) *Specialty trade contractor* means contractors, also known as subcontractors, who undertake activities of a type that are specialized to building construction, working directly for the property owner, general contractor, or operative builder, under contract for a specified price.
- (24) *Real estate developer* means an individual or company which buys property to develop for resale. As used herein, "develop" includes, but is not limited to, subdividing real property into lots for resale, and/or purchasing property for the purpose of making improvements, additions and/or construction of buildings thereon.
- (25) *Temporary license (pay-per-job)* can only be issued to an itinerant business and is valid only for the job or event specified on the license. The base tax and the established rate is charged on each and every job. This license must be issued prior to beginning any work on the specified job. No permits will be issued to any business without the license for that job having been issued.
- (26) *Annual license* may be issued to a resident or itinerant business and is valid for the calendar year (January 1 through December 31). A base tax and established rate is charged based on the previous year's accrued gross revenue with itinerant businesses using only their in-city gross revenue. The license must be renewed on or before April 15 of each year.

(Ord. of 1-9-79, § 2; Ord. No. O-02-86, § 1, 1-28-86; Ord. No. O-04-88, § 1, 2-9-88; Ord. No. O-26-91, 7-23-91; Ord. No. O-29-92, 11-24-92; Ord. No. O-9-93, 1-26-93; Ord. No. O-27-93, 9-28-93; Ord. No. O-36-93, 11-23-93; Ord. No. O-18-96, 4-9-96; Ord. No. O-36-96, 9-10-96; Ord. No. O-38-97, 12-9-97; Ord. No. O-19-04, 7-27-04, Ord. No. 4-9-13)

Sec. 7-1003. - Purpose, effective date and duration.

The business license levied by this ordinance is for the purpose of providing such regulation as may be

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required by the businesses subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. Each license shall be issued for one calendar year and shall expire on December 31. The provisions of this chapter shall become effective on January 1, 1979 and shall remain in effect from year to year as amended by City Council.

(Ord. of 19-79, § 3, Ord. No. 4-9-13)

Sec. 7-1004. - License Tax .

- (1) The required license tax shall be paid for each business subject hereto according to the applicable rate classification as provided in the classification rate schedules on or before April 15 in each year.
- (2) 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 license tax shall be computed on the combined gross income using the classification requiring the highest rate. A license tax based on gross income shall be computed on the gross income for the preceding calendar year or fiscal year, and on a twelve-month projected income based on the monthly average for a business in operation for less than one year, or during the most recent year that work was performed in the city as determined by the business license administrator, using the classification rate schedules. The tax for a new itinerant business or a new resident business shall be computed on the estimated probable gross income stated in the business license application for the balance of the license year.

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 business license administrator using the classification rate schedules, and thereafter, the tax for a new resident business shall be as follows:

Year of Operation	License Tax
1st renewal of license	40% of applicable tax
2nd renewal of license	60% of applicable tax
3rd and subsequent renewal of license	100% of applicable tax

- (3) Unless otherwise specifically provided for in this chapter, itinerant subject to this chapter shall be assessed a business license tax at a rate twice that set forth in the applicable rate classification in the classification rate schedules.
- (4) Itinerant general contractors and itinerant specialty trade contractors shall pay their business license tax on each job during a calendar year based on the construction cost reported on each building/miscellaneous permit.
- (5) Any individual, except farmers, who sell their own produce in its natural state, operating out of

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the Farmers/Crafts Market is required to have a city business license.

- (6) Itinerant peddlers will pay their business license tax based on estimated gross sales of each visit.
- (7) Notwithstanding any other provision in this chapter, the business license tax for insurance companies and brokers for nonadmitted insurance companies shall be payable on or before April 15 of each year without penalty, commencing April 15, 1997. For preceding years, the tax therefor shall be due and payable pursuant to subsection (a) hereinabove.
- (8) An itinerant operative builder shall purchase a business license based upon the construction cost reported on the building permit. Within thirty (30) days of the parcel having been sold, an add-on license tax must be paid based upon the difference in the reported construction cost and the actual selling price.
- (9) An itinerant real estate developer shall purchase a business license at the base tax rate upon issuance of the permit for land work, such as site clearing. Within thirty (30) days of the sale of each lot or lot and building an add-on license tax must be paid based on the actual selling price.
- (10) No refund shall be made for a business that is discontinued.

(Ord. of 1-9-79, § 4; Ord. No. O-01-84, § 2, 1-10-84; Ord. No. O-02-86, § 2, 1-28-86; Ord. No. O-32-91, 11-26-91; Ord. No. O-03-96, 1-9-96; Ord. No. O-18-96, 4-9-96; Ord. No. O-36-96, 9-10-96, Ord. No. 4-9-13)

Sec. 7-1005. - Registration required.

- (1) 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 April 15, of each year, provided, a new business shall be required to have a business license prior to operation within the City. A license for a bar (NAICS 722410) must be issued in the name of the individual who has been issued a State alcohol, beer, wine permit or license and will have actual control and management of the business.
- (2) Application shall be on a form provided by the License Inspector which shall contain the Social Security Number and/or Federal Employer's Identification Number, the business name as reported on the South Carolina income tax return and all information about the applicant and the Licensee and the business deemed appropriate to carry out the purpose of this ordinance by the License Inspector. Applicants filing a renewal application who are required to file a South Carolina monthly sales tax report will provide with their application a copy of their business sales tax reports for the calendar year just completed (1 January through 31 December). Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross income figures.
- (3) The applicant shall certify under oath that all the information given in the application is true,

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that the reports provided are true copies of originals, that the gross income is accurately reported, or estimated for a new business and that no unauthorized deductions were taken and that all other assessments personal property taxes on business property and other monies due and payable to the City have been paid.

- (4) Insurance agents and brokers, banks, loan companies, finance companies, automobile dealers, or any other person, firm or company selling any type of insurance shall provide a list of all insurance companies represented, including name, address, telephone number, and total amount of premiums due or collected for each company, including renewals, annual and new business written during the preceding year, if such information is available.
- (5) Any person, firm, company, agent, broker, representative or independent agent selling or writing or placing insurance plans or policies shall not place, write, sell or order any kind or type of insurance from any insurance company, society or association until that company has duly paid the city business license tax for the current year, as well as for all prior years, with all penalties and interest due. Upon violation of this provision each person, firm, company, agent, broker, representative or independent agent shall pay a fine of two hundred dollars (\$200.00) or be confined for thirty (30) days in jail. Each policy or contract of insurance sold or issued shall constitute a separate offense. Insurance agents employed by more than one company shall be licensed as brokers, and the business license tax shall be based on the total gross commissions.

(Ord. of 1-9-79, § 5; Ord. No. O-01-80, 2-12-80, § 1; Ord. No. O-18-80, 12-9-80, §§ 2—4; Ord. No. O-02-86, § 3, 1-28-86, Ord. No. 4-9-13)

Sec. 7-1006. – Deductions, Exemptions, and Charitable Organizations.

- (1) No deductions from gross income shall be made except income earned from business done wholly outside of the City on which a license tax is paid to some other municipality or county and fully reported to the City, taxes collected for a governmental entity, or income which cannot be included for computation of the tax pursuant to State or Federal law. The applicant shall have the burden to establish the right to exempt income by satisfactory records and proof.
- (2) No person shall be exempt from the requirements of this ordinance by reason of the lack of an established place of business within the City, unless exempted by State or Federal law. The License Inspector shall determine the appropriate classification for each business in accordance with the latest issue of the North American Industry Classification System (NAICS) for the United States published by the Office of Management and Budget, and shall administer interpretations whenever necessary to determine the proper classification of a business. 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 the payment of any other tax or fee by reason of the application of this ordinance.

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- (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 reports income from for-profit activities, or unrelated business income, for Federal income tax purposes to the Internal Revenue Service shall be deemed a business subject to a business license tax on the part of its gross income from such for-profit activities or unrelated business income.

A Charitable Organization shall be deemed a business subject to a business license tax on its total gross income if (1) any net proceeds 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.

- (4) A charitable organization must provide a copy of their Tax Exemption letter from the Internal Revenue Service in order to be designated as a Charitable Organization.

(Ord. of 1-9-79, § 6; Ord. No. O-01-80, § 2, 2-12-80; Ord. No. O-29-92, 11-24-92, Ord. No. 4-9-13)

Sec. 7-1007. - 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.

(Ord. of 1-9-79, § 7, Ord. No. 4-9-13)

Sec. 7-1008. - Display and transfer.

- (1) All persons shall display the license issued to them on the original form provided by the License Inspector in a conspicuous place in the business establishment at the address shown on the license. A transient or nonresident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the City.
- (2) A change of address must be reported to the License Inspector 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 of the License Inspector and compliance with zoning and building codes. Failure to obtain the approval of the License Inspector for a change of address shall invalidate the license and subject the license to prosecution for doing business without a license. A business license shall 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.

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(Ord. of 1-9-79, § 8; Ord. No. O-18-80, 12-9-80, § 5, Ord. No. 4-9-13)

Sec. 7-1009. - Administration of Article.

The License Inspector shall administer the provisions of this Article, collect license taxes, issue licenses, make or initiate investigations and audits to insure compliance, initiate denial or suspension and revocation procedures, report violations to the police department and City Attorney and assist in prosecution of violators, produce forms, make reasonable regulations relating to the administration of this ordinance, and perform any other duties as may be assigned by the City Manager.

(Ord. of 1-9-79, § 9, Ord. No. 4-9-13)

Sec. 7-1010. - Solicitation.

- (1) Door-to-door solicitation within the City, when authorized by this ordinance , will be conducted between the hours of 9:00 a.m. to 5:00 p.m. Monday through Saturday. No solicitation shall be allowed on Sundays and holidays.
- (2) Salespersons for magazines, periodicals, and encyclopedias with national distribution and not warehoused within the City, are considered itinerant businesses and require a city business license, prior to door-to-door sales. Prior to issue of the business license, the applicant must be registered with the police department and not have been convicted of a crime of moral turpitude.
- (3) Businesses located within the city limits will be allowed door-to-door solicitation when it is determined by the business License Inspector that the success of the business is predominantly determined by the degree of such solicitation.
- (4) Salespersons for itinerant businesses must maintain a valid city business license on person, when soliciting sales within the city limits.
- (5) In accordance with section 5-27-910, Code of Laws, State of South Carolina, the City of Beaufort requires a permit for solicitation from motorists. All rescue squads, volunteer fire departments, charitable or eleemosynary organizations will be required to apply for a permit through the police department. Failure to obtain a permit or abide by the permit stipulations, upon conviction, will subject the offender to a fine of not more than five hundred dollars (\$500.00) plus assessments, or imprisoned not more than thirty (30) days as prescribed in section 1-3048

(Ord. No. O-04-88, § 2, 2-9-88; Ord. No. O-26-91, § 1, 7-23-91; Ord. No. O-02-95, 1-24-95; Ord. No. O-53-98, 11-24-98, Ord. No. 4-9-13)

Sec. 7-1011. - Inspection and audits.

- (1) For the purpose of enforcing the provisions of this ordinance the License Inspector or other authorized agent of the City is empowered to enter upon the premises of any person subject to this ordinance to make inspections, examine and audit books and records, and it shall be

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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 license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of license tax shall constitute a separate offense.

- (2) The License Inspector shall make systematic inspections and random audits of all businesses within the City to insure compliance with this ordinance. Financial information obtained by inspections and audits shall not be deemed public records, the License Inspector shall not release the amount of 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.

(Ord. of 1-9-79, § 10; Ord. No. O-04-88, § 2, 2-9-88, Ord. No. 4-9-13)

Sec. 7-1012. – Assessments, Payment under Protest, Appeal.

- (1) If a person fails to obtain a business license or to furnish the information required by this ordinance or the License Inspector, the License Inspector shall 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 Inspector may deem appropriate to assess a license tax and penalties as provided herein.
- (2) A notice of assessment shall be served by certified mail or personal service. An application for adjustment of the assessment may be made to the License Inspector within ten (10) days after the notice is mailed or personally served or the assessment will become final. The License Inspector shall establish by regulation the procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment.
- (3) A final assessment may be appealed to City Council only by payment in full of the assessment under protest within ten (10) days and the filing of written notice of appeal within ten (10) days after payment pursuant to the provisions of this ordinance relating to appeals to City Council.

(Ord. of 1-9-79, § 11; Ord. No. O-04-88, § 2, 2-9-88, Ord. No. 4-9-13)

Sec. 7-1013. - Delinquent License Taxes, Partial Payment.

- (1) For non-payment of all or any part of the correct license tax, the License Inspector shall levy and collect a late penalty of fifteen (15) percent of the unpaid tax for each of the first two (2) months or portions thereof, then ten (10) percent for each of the following two (2) months, or portions thereof, and five (5) percent for each month or portion thereof after the due date until the end of that license year. If a court summons is prepared and served for the collection of business license taxes, the cost of one hundred dollars (\$100.00) will be assessed and charged to licensee in addition to license taxes and penalties. If any license tax shall remain unpaid for sixty (60) days after its due date, the License Inspector shall report it to the City Attorney for

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appropriate legal action, issue an execution which shall constitute a lien upon the property of the licensee for the tax, penalties and costs of collection, and shall proceed to collect in the same manner as prescribed by law for the collection of other taxes.

- (2) Partial payment may be accepted by the License Inspector, upon approval of the City Manager or his designee, 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.

(Ord. of 1-9-79, § 12; Ord. No. O-04-88, § 2, 2-9-88; Ord. No. O-36-93, 11-23-93; Ord. No. O-36-96, 9-10-96, Ord. No. 4-9-13)

Sec. 7-1014. - Notices.

The License Inspector may, but shall not be required to, serve or mail written notices that 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 City 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.

(Ord. of 1-9-79, § 13; Ord. No. O-04-88, § 2, 2-9-88, Ord. No. 4-9-13)

Sec. 7-1015. - Denial of license.

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

- (1) The application is incomplete, contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact; or
- (2) The activity for which a license is sought is unlawful or constitutes a public nuisance per se or per accidents; or
- (3) The applicant, Licensee or prior Licensee or the person in control of the business has been convicted of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude, or an unlawful sale of merchandise or prohibited goods; or
- (4) The applicant, Licensee or prior Licensee or the person in control of the business has engaged in an unlawful activity or nuisance related to the business or to a similar business in the City or in another jurisdiction; or
- (5) The applicant, Licensee or prior Licensee or the person in control of the business is delinquent in the payment to the City of any tax or fee; or
- (6) The license for the business or for a similar business of the Licensee in the City or another jurisdiction has been denied, suspended or revoked in the previous license year.

A decision of the License Inspector shall be subject to appeal to the City Council as herein provided. Denial shall be written with reasons stated.

(Ord. of 1-9-79, § 14; Ord. No. O-01-84, § 3, 1-10-84; Ord. No. O-04-88, § 2, 2-9-88, Ord. No. 4-9-13)

Sec. 7-1016. - Suspension or revocation of license.

When the License Inspector determines that:

- (1) A license has been mistakenly or improperly issued or issued contrary to law; or
- (2) A Licensee has breached any condition upon which his license was issued or has failed to comply with the provisions of this ordinance; or
- (3) A Licensee has obtained a license through fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application; or
- (4) A Licensee has been convicted of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude, or an unlawful sale of merchandise or prohibited goods; or
- (5) A Licensee has engaged in an unlawful activity or nuisance related to the business; or
- (6) The licensee is delinquent in the payment to the City of any tax or fee,

the License Inspector shall give written notice to the Licensee or the person in control of the business within the City by personal service or certified return receipt mail that the license is suspended pending a hearing before City Council for the purpose of determining whether the license should be revoked.

The notice shall state the time and place at which the hearing is to be held, which shall be at a regular or special Council meeting within thirty (30) days from the date of service of the notice. The notice shall contain a brief statement of the reasons for suspension and proposed revocation and a copy of the applicable provisions of this ordinance.

(Ord. of 1-9-79, § 15; Ord. No. O-04-88, § 2, 2-9-88; Ord. No. O-36-96, 9-10-96, Ord. No. 4-9-13)

Sec. 7-1017. - Appeals to city council.

- (1) Any person aggrieved by a decision, final assessment, proposed revocation, suspension, or a denial of a business license by the License Inspector may appeal the decision to the City Council by written request stating the reasons therefor filed with the License Inspector or City Clerk within ten (10) days after service by certified mail or personal service of the notice of decision, final assessment, proposed revocation, suspension or denial and the payment of the assessment under protest or notice of denial is received.
- (2) An appeal or a hearing on revocation shall be held by the City Council within thirty (30) days

after receipt of a request for appeal or service of notice of suspension at a regular or special meeting of which the applicant or licensee has been given written notice, unless continued by agreement. 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 the City Council shall govern the hearing. City Council shall by majority vote of members present render a written decision based on findings of fact and the application of the standards herein which shall be served upon all parties or their representatives and shall be the final decision of the City unless appealed to a court of competent jurisdiction within ten (10) days after service.

(Ord. of 1-9-79, § 16; Ord. No. O-04-88, § 2, 2-9-88; Ord. No. O-07-94, 5-24-94, Ord. No. 4-9-13)

Sec. 7-1018. – Confidentiality.

Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any official or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this ordinance. Nothing in this section shall be construed to prohibit the publication of 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 the license ordinance.

(Ord. No. 4-9-13)

Sec. 7-1019. - Violations.

Any person violating any provision of this ordinance shall be deemed guilty of an offense and shall be subject 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(s) shall not relieve the offender of liability for delinquent penalties and costs provided for herein.

(Ord. of 1-9-79, § 17; Ord. No. O-04-88, § 2, 2-9-88; Ord. No. O-30-93, 10-12-93, Ord. No. 4-9-13)

Sec. 7-1020. – Severability.

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

(Ord. No. 4-9-13)

Sec. 7-1021. - Classification rate schedules.

- (1) The Class Structure Model by the North American Industry Classification System code, designated as Appendix B to this ordinance, and the Class Structure Model by rate class, designated as Appendix C to this ordinance, may be amended by the City Council from time to

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time, and current copies shall be filed in the office of the City Clerk. Appendices B and C are tools for classification and not a limitation on businesses subject to a license tax. The License Inspector shall determine the proper class for a business according to the applicable NAICS code.

- (2) The license tax for each class of businesses subject to this ordinance shall be computed in accordance with the Rate Schedule, designated as Appendix A to this ordinance, which may be amended by the City Council from time to time and a current copy filed in the office of the City Clerk.

(Ord. No. O-04-88, § 2, 2-9-88, Ord. No. 4-9-13)

Sec. 7-1022. - Price restriction during emergencies.

Certain goods and services become scarce due to the disruption of the City's economy during emergency situations and certain merchants, vendors and contractors may take advantage of the emergency by price gouging.

The City Council hereby prohibits any merchant, vendor or contractor selling goods and/or offering services within the city from raising prices during the following time frames:

- (1) *Pre-hurricane.* From the period beginning with the notification of a hurricane watch for the City of Beaufort, issued by the National Weather Service, until either the hurricane is no longer a threat to the City of Beaufort or a declared state of emergency for the city is terminated.
- (2) *Earthquake or other disaster.* From the actual time of the emergency until the declared state of emergency is terminated.

Sale of goods and costs of services at prices above pre-emergency levels during the time frames herein provided shall only be allowed if merchants, vendors or contractors can document purchase of these goods or providing services at increased costs to them. Price level increases after a state of emergency is terminated shall be consistent with cost increases to the merchant, vendor or contractor.

- (3) *Penalties.* Any person violating any provision of this section shall be deemed guilty of a misdemeanor and shall be subject to punishment under the general penalty provision of this Code (Section 1-3048) and upon conviction, shall be fined up to five hundred dollars (\$500.00) per incident or thirty (30) days in jail or both and immediate revocation of a City of Beaufort Business License (if issued) for a period of one year. Each sale or contract determined to be price gouging shall constitute a separate offense.

(Ord. No. O-27-93, 9-28-93; Ord. No. O-30-93, 10-12-93, Ord. No. 4-9-13)

Sec. 7-1023. - Permission to use streets required.

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 City any line, pipe, cable, pole, structure or facility for utilities, communications, cable vision, or other purposes without a consent agreement or franchise agreement authorized by the City Council which prescribes the terms, fees and conditions for use.

(Ord. No. O-01-98, 1-13-98, Ord. No. 4-9-13)

Sec. 7-1024. - Consent, franchise or business license tax required.

The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the City Council and shall be based on gross revenues derived from activities in the municipality, the length of lines installed in streets and public places, or other formula deemed appropriate by Council. No consent fee or franchise fee shall be construed to be in lieu of a business license tax based on gross revenue unless specifically approved by City Council. Credits for business license taxes paid may be applied to fees when specifically authorized by City Council.

(Ord. No. O-01-98, 1-13-98, Ord. No. 4-9-13)

Sec. 7-1025. - Retail telecommunications services.

(1) *Tax imposed.*

- a) Notwithstanding any other provisions of the 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. The business license tax year shall begin on January 1 of each year. The rate for the 2005 business license tax year shall be the maximum rate allowed by state law as in effect on February 1, 2005. Declining rates shall not apply.
- b) 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.

(2) *When tax due; penalty for delinquent tax.*

- a) For the year 2005, the business license tax for retail telecommunications services shall be due on February 1, 2005 and payable by February 28, 2005, without penalty. For years after 2005, the business license tax for retail telecommunications services shall be due on

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January 1 of each year and payable by January 31 of that year, without penalty.

- b) The delinquent penalty shall be five (5) percent of the tax due for each month, or portion thereof, after the due date until paid.
- (3) *Exemptions.* Exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Properly apportioned gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.
- (4) *Franchise or contractual agreements.*
 - a) Nothing in this section shall be interpreted to interfere with continuing obligations of any franchise agreement or contractual agreement in the event that the franchise or contractual agreement should expire after December 31, 2003.
 - b) All fees collected under such a franchise or contractual agreement expiring after December 31, 2003, shall be in lieu of fees or taxes which might otherwise be authorized by this section.
- (5) *Authority; collection.* As authorized by S.C. Code section 5-7-300, the agreement with the Municipal Association of South Carolina for collection of current and delinquent license taxes from telecommunications companies pursuant to S.C. Code section 58-9-2200 shall continue in effect. Notwithstanding the provisions of the agreement, for the year 2005, the Municipal Association of South Carolina is authorized to collect current and delinquent license taxes, in conformity with the due date and delinquent date for 2005 as set out in this section and is further authorized, for the year 2005, to disburse business license taxes collected, less the service charge agreed to, to this municipality on or before April 1, 2005, and thereafter as remaining collections permit.

(Ord. No. O-23-04, §§ 1—5, 9-14-04, Ord. No. 4-9-13)

Sec. 7-1026. – Insurance Companies

A. SIC/NAICS Codes for Insurance Companies shall be as follows:

<u>SIC</u>	<u>NAICS</u>
<u>CODE</u>	<u>CODE</u>
63	5241

1. Insurance Companies: Except as to fire insurance, “gross premiums” 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

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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..

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.

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.

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.

Declining rates shall not apply.

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|---------|--------|----|---|
| 631-632 | 52411 | 2. | <u>Life, Health and Accident</u>0.75% of Gross Premiums |
| 633-635 | 524126 | 3. | <u>Fire and Casualty</u>2% of Gross Premiums |
| 636 | 524127 | 4. | <u>Title Insurance</u>2% of Gross Premiums |

- B. Notwithstanding any other provisions of this ordinance, 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.
- C. Any exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.
- D. Pursuant to S.C. Code Ann. §§ 38-45-10 and 38-45-60, the Municipal Association of South Carolina is designated the municipal agent for purposes of administration of the municipal broker's premium tax. The agreement with the Association for administration and collection of current and delinquent license taxes from insurance companies as authorized by S.C. Code § 5-7-300 and administration of the municipal broker's premium tax in the form attached hereto is approved, and the Mayor is authorized to execute it.

(Ord. No. 11-13-12, Ord. No. 4-9-13)