ORDINANCE

AN ORDINANCE AMENDING AND RESTATING THE BUSINESS LICENSE ORDINANCE OF THE CITY OF WEST COLUMBIA, SOUTH CAROLINA; TO MAKE CERTAIN OTHER MODIFICATIONS TO THE CITY'S BUSINESS LICENSE PROCEDURES; AND OTHER MATTERS RELATED THERETO.

WHEREAS, the City of West Columbia, South Carolina (the "***City***") is a municipal corporation of the State of South Carolina, located in Lexington County, South Carolina and possesses all general powers granted by the Constitution and statutes of the State to municipal corporations;

WHEREAS, the City is duly empowered by Section 5-7-30 of the Code of Laws of South Carolina 1976, as amended, to require businesses located within the City to pay an excise tax for the privilege of doing business within the City;

WHEREAS, City Council of the City of West Columbia, the governing body of the City (the "***Council***") has previously enacted and implemented a comprehensive business license program (the "***Business License Program***");

WHEREAS, in September 2020 the South Carolina General Assembly adopted the "South Carolina Business License Tax Standardization Act", now codified at Sections 6-1-400 to 6-1-420 of the Code of Laws of South Carolina 1976, as amended (the "***Act***");

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;

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 based on the latest available IRS statistics, all municipalities and counties must update their business license class schedules every odd year; and

WHEREAS the Council has reviewed the Business License Program and the Act, and in order to comply with the requirements of the Act, Council has determined to amend and restate the Business License Program in its entirety.

NOW, THEREFORE, BEING DULY ASSEMBLED, be it ordained by the City Council of the City of West Columbia as follows:

Section 1. There is hereby enacted by the Council, for the purposes discussed above, the "Business License Program" of the City. Amendments, modifications and clarifications to the Business License Program or succeeding amendments, modifications or clarifications to Business License Program shall become effective if approved and enacted by the Council. Prior to such effective date, the version of the Business License Program enacted by the terms hereof shall remain in full force and effect.

Section 2. The Business License Program has previously been codified into the City's Code of Ordinances (the "***Code***"). By and through the enactment of this Ordinance, Title 7, Chapter 1 of the Code, entitled "LICENSING AND REGULATION – Business Licenses," shall be amended and restated, in its entirety, as follows:

Sec. 7-1-1 Title.

This Chapter shall be titled "Business License Program."

Sec. 7-1-2 License Required.

Every person engaged or intending to engage in any calling, business, 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 West Columbia South Carolina, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided.

Sec. 7-1-3 Definitions.

The following words, terms and phrases, when used in this Business License Program, shall have the meaning ascribed herein:

"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), (12) 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 the division of businesses by major groups subject to the same license rate as determined with reference to NAICS, or other basis deemed appropriate by the Council.

"Council" means the City Council of the City of West Columbia, as the governing body of the Municipality.

"Domicile" means a principal place from which the trade or business of a licensee is conducted, directed, or managed. For purposes of this Chapter, 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 Section 38-7-20 of the Code of Laws of South Carolina 1976, as amended, 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 Business License Program. 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 Title 58,

Chapter 9, Article 20 and Title 38, Chapters 7 and 45 of the Code of Laws of South Carolina 1976, as amended.

"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 West Columbia South Carolina.

"NAICS" means the North American Industry Classification System for the United States published by the Federal Office of Management and Budget.

"Person" means any individual, firm, partnership, limited liability partnership, limited liability company, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principal.

Sec. 7-1-4 Purpose and Duration.

The business license required by this Business License Program 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 Business License Program and the rates herein shall remain in effect from year to year as amended by the Council.

Sec. 7-1-5 Business License Tax, Refund.

A. The required business license tax shall be paid for each Business subject hereto according to the applicable 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 7-1-13 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 into separate 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.

Sec. 7-1-6 Registration Required.

A. The owner, agent, or legal representative of every business subject to this Business License Program, whether listed in the NAICS 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 drinking place (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 Business License Program 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 as necessary to determine Gross Income.

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.

E. The Municipality requires the registration of and will maintain a register of all Charitable Organizations operating in the Municipality. Charitable Organizations are required to register with the Municipality, and, pursuant to Section 6-1-330 of the Code of Laws of South Carolina 1976, as amended, Charitable Organization must pay an administration fee for the costs of administering such register and regulating Charitable Organizations. The initial registration fee for Charitable Organizations shall equal $25.00 and such amount shall be subject to change as a part of the Municipality's annual budget or a subsequent amendment to the Business License Program.

Sec. 7-1-7 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 Business License Program 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, as available. No person shall be exempt from this Business License Program 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 Business License Program.

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. Notwithstanding the registration requirement in Sec. 7-1-6(E) above, 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, or (2) any net proceeds of operation, after necessary expenses of operation, are used for a purpose other than a Charitable Purpose. 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 Charitable Organization shall not be deemed a necessary expense of operation.

F. For profit vendors at community sponsored events or festivals within the Municipality may be exempt from normal license taxes, provided, and as shall be approved by Council, that a per event or per festival fee is paid in lieu of a license tax prior to each such event or festival.

Sec. 7-1-8 False Application Unlawful.

It shall be unlawful for any Person subject to the provisions of this Chapter 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 Business, Licensee or business license tax required by this Chapter.

Sec. 7-1-9 Display and Transfer.

A. Each Business 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.

Sec. 7-1-10 Administration of Chapter.

The License Official shall administer the provisions of this Chapter, 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 City Administrator or his/her designee, assist in prosecution of violators, produce forms, make reasonable regulations relating to the administration of this Business License Program, and perform such other duties as may be duly assigned.

Sec. 7-1-11 Inspection and Audits.

A. For the purpose of enforcing the provisions of this Business License Program, the License Official or other authorized agent of the Municipality is empowered to enter upon the premises of any person subject to this Business License Program to make inspections, 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 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.

B. The License Official shall have the authority to make inspections and conduct audits of Businesses within the Municipality to ensure compliance with the Business License Program. Financial information obtained by inspections and audits shall not be deemed public records, and the License Official 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 Business License Program, State or Federal law, or proper judicial order. Statistics compiled by classifications are public records.

Sec. 7-1-12 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 Section 6-1-410 of the South Carolina Code 1976, 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 Section 6-1-410 of the South Carolina Code 1976, as amended 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 Code of Laws of South Carolina 1976, as amended, 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.

Sec. 7-1-13 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 City Administrator and/or his designee 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.

Sec. 7-1-14 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.

Sec. 7-1-15 Denial of License.

The License Official shall 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.

Sec. 7-1-16 Suspension or Revocation of License.

When the License Official determines:

A. A license has been mistakenly or improperly issued or issued contrary to law; or

B. A Licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this Business License Program; or

C. A Licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application; or

D. A Licensee has been convicted, within the previous 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; or

E. A Licensee has allowed, has knowledge or notice or, based on the circumstances, reasonably should have knowledge or notice that any person or employee has committed a crime of moral turpitude on the business premises, or permitted any person or employee 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

F. Licensee has engaged in an unlawful activity or nuisance related to the Business; or

G. 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 Business License Program.

Sec. 7-1-17 Appeals to Council.

A. Except with respect to appeals of assessments under Section 7-1-12 hereof, which are governed by Section 6-1-410 of the Code of Laws of South Carolina 1976, as amended, 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 Title 58, Chapter 9, Article 20 and Title 38, Chapters 7 and 45 of the Code of Laws of South Carolina 1976, as amended, the Municipality may establish a different procedures, as necessary.

Sec. 7-1-18 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.

Sec. 7-1-19 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 Chapter. 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.

Sec. 7-1-20 Violations.

Any Person violating any provision of this Business License Program 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 Business License Program.

Sec. 7-1-21 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 Sections 6-1-400 *et seq.* of the Code of Laws of South Carolina 1976, as amended, the standardization act shall control.

Sec. 7-1-22 – Classification and Rates.

A. The business license tax for each Classification 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 City's municipal clerk and shall be made available by the Business License Official.

Section 3. The Business License Rate Schedule, a copy of which is attached hereto as **Appendix A** and included herein by reference, is hereby approved. The rates set forth therein may be amended from time to time by the Council as necessary. The initial form of the Class Structure Model by NAICS code, a copy of which is attached hereto as **Appendix B** and included herein by reference, is hereby approved and shall be updated by the License Official as set forth in Section 7-1-22 of the Code, subject to the ability of Council to make any adjustments as may be necessary from time to time.

Section 4. Nothing in this Ordinance or in the Business License Program hereby enacted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause of causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 5. All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed in their entirety.

Section 6. This Ordinance and the provisions hereof shall become effective beginning with the business license period commencing on May 1, 2022.

Section 7. Any prior ordinances of the City 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 this Ordinance.

DONE AND ORDAINED IN COUNCIL ASSEMBLED, this 15th day of November 2021.

CITY OF WEST COLUMBIA, SOUTH CAROLINA

(SEAL)

By: _____
Mayor

Attest:

By: _____
City Clerk

First Reading: November 1, 2021
Second Reading: November 15, 2021

SOUTH CAROLINA	)	**AN ORDINANCE AMENDING THE BUSINESS LICENSE**
COUNTY OF LEXINGTON	)	**ORDINANCE OF THE CITY OF WEST COLUMBIA, SOUTH**
CITY OF WEST COLUMBIA	)	**CAROLINA; AND OTHER MATTERS RELATED THERETO**

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of West Columbia (the "***City Council***"), the governing body of the City of West Columbia, South Carolina (the "***City***"), in a meeting duly assembled, as follows:

Section 1 Findings. The City Council makes the following findings of fact in connection with the enaction of this ordinance (this "***Ordinance***"):

(A) The City is a municipal corporation of the State of South Carolina, located in Lexington County, South Carolina and possesses all general powers granted by the Constitution and statutes of the State to municipal corporations.

(B) The City is duly empowered by Section 5-7-30 and Title 6, Chapter 1, Article 3 of the Code of Laws of South Carolina 1976, as amended (the "***S.C. Code***"), to require businesses located within the City to pay an excise tax for the privilege of doing business within the City.

(C) By an ordinance enacted by the City Council on December 18, 2019, the City has previously enacted and implemented a comprehensive business license program (the "***Business License Program***") codified at Title 7 Chapter 1 of the City's Code of Ordinances (the "***City Code***").

(D) The Business License Program complies with Sections 6-1-400 to 6-1-420 of the S.C. Code (the "***Act***") which requires all municipalities and counties that impose a business license tax to utilize the Act's standardized business licensing requirements and class schedule based on the latest available IRS statistics.

(E) The Act also requires that by December thirty-first of every odd year, each municipality levying a business license tax must adopt, by ordinance, the latest Standardized Business License Class Schedule as recommended by the Municipal Association of South Carolina (the "***Association***") and adopted by the Director of the Revenue and Fiscal Affairs Office.

(F) On the basis of the foregoing, the City Council has determined to amend the Business License Program to adopt the latest Standardized Business License Class Schedule, as required by the Act, and to make other minor amendments as recommended by the Association.

Section 2 City Code Amendments. Chapter 5, Article II, Sec. 5-26 of the City's Code is amended and restated as set forth at Exhibit A to this Ordinance.

Section 3 Cause of Action. Nothing in this Ordinance or in the Business License Program hereby amended shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 4 Repealer. All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed in their entirety.

Section 5 Effective Date. This Ordinance and the provisions hereof shall become effective beginning

with the business license period commencing on May 1, 2024.

DONE AND ORDAINED IN COUNCIL ASSEMBLED, this 18th day of December 2023.

CITY OF WEST COLUMBIA, SOUTH CAROLINA

(SEAL)

Temus C. Miles, Jr., Mayor

ATTEST:

Crystal Bouknight, City Clerk

First Reading: December 5, 2023

Second Reading: December 18, 2023

Exhibit A

APPENDIX A

BUSINESS LICENSE RATE SCHEDULE

RATE CLASS	INCOME: $0 - $2,000 BASE RATE	INCOME OVER $2,000 Rate per Thousand or fraction thereof
1	$ 25.00	$0.85
2	$ 30.00	$1.05
3	$ 35.00	$1.25
4	$ 40.00	$1.45
5	$ 45.00	$1.65
6	$ 50.00	$1.85
7	$ 55.00	$2.05
8.1	$ 75.00	$1.00
8.2	$ set by State statute	
8.3	MASC Telecommunications	
8.4	MASC Insurance	
8.51	$12.50 + $12.50 per machine	$1.50
8.52	$12.50 + $12.50 per machine	$1.50
8.6	$ 5.00 or $12.50 per table	$2.00
9.2	$ 50.00	$2.00
9.3	$25.00	$0.85
9.5	$100.00	$2.00
9.7	$100.00	$5.00
9.9	$25.00	$1.25

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.

DECLINING RATES

Declining rates apply in all classes for Gross Income in excess of $1,000,000, unless otherwise specifically provided for in this Business License Program.

Gross Income	Percent of Class Rate for each additional $1,000
$ 2,000 – $ 1,000,000	100%
$ 1,000,001 – $ 3,000,000	90%
$ 3,000,001 – $ 5,000,000	80%
$ 5,000,001 – $ 7,000,000	70%
OVER $ 7,000,001	60%

CLASS 8 RATES

Each NAICS number designates a separate sub-Classification. The businesses in Class 8 herein are treated as separate and individual subclasses due to provisions of State law, regulatory requirements, service burdens, tax equalization considerations, etc., which are deemed to be sufficient to require individually determined rates. Non-resident rates do not apply, except where indicated.

8.1 **NAICS 230000 - Contractors, Construction, All Types** [Non-resident rates apply]
Having permanent place of business within the municipality

Minimum on first $2,000	-	$ 75.00 PLUS,
Each additional 1,000	-	$1.00

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 Municipality's 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 Section 12-23-210)

8.3 NAICS 517111, 517112, 517122 - Telephone Companies:

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, 5242 - Insurance Companies:

Independent agents, brokers, 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 Title 38, Chapter 7 of the Code of Laws of South Carolina 1976, as amended and to brokers under Title 38, Chapter 45 of the Code of Laws of South Carolina 1976, as amended, 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, kiddy rides, video games, pin tables with levers, and other amusement machines with or without free play feature licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(1) and (A)(2) – **[Type I and Type II]**

Operator of machine	-	$12.50/machine PLUS, $12.50 business license for operation of all machines (not on Gross Income).[§12-21-2746] PLUS,
Per $1,000, or fraction over $2,000	-	$1.50

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]**

Operator of machine	-	$12.50/machine PLUS, $12.50 business license for operation of all machines (not on Gross Income). [§12-21-2720(B)] PLUS,
Per $1,000, or fraction over $2,000	-	$1.50

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 business that offers the use of billiard or pool tables shall be subject to business license taxation under its natural class for all gross income of the business excluding the gross income attributable to the billiard or pool tables. In addition, the billiard or pool tables shall require their own separate business licenses pursuant to SC Code § 12-21-2746 and shall be subject to a license tax of (A) $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 operation of the tables in addition to the tax authorized by state law for each table, as follows: per $1,000, or fraction over $2,000 - $2.00

CLASS 9 RATES

In addition to the standard Class 8 Rates, the Municipality further implements the following Class 9 Rates, which are further treated as separate and individual subclasses under the Business License Program. Non-resident rates do not apply, except where indicated.

9.1 [Reserved]

9.2 NAICS 522298 - Pawn Brokers - All Types

Minimum on first $2,000	-	$50.00 PLUS,
Per $1,000, or fraction, over $2,000	-	$2.00

9.3 NAICS 4411, 4412 - Automotive, Motor Vehicles, Boats, Farm Machinery or Retail
(except auto supply stores - see 4413)

Minimum on first $2,000	-	$25.00 PLUS,
Per $1,000, or fraction, over $2,000	-	$0.85

One sales lot (not more than 400 feet from the main showroom) may be operated under this license provided that proceeds from sales at the lot are included in gross receipts at the main office when both are operated under the same name and ownership.

Gross receipts for this Classification shall include value of trade-ins. Dealer transfers or internal repairs on resale items shall not be included in Gross Income.

The NAICS codes corresponding to Classes 9.41 and 9.42 have been eliminated. Businesses that were previously classified into 9.41 or 9.42 shall be required to apply and pay for a business license in their natural class.

9.5 NAICS 713290 - Bingo halls, parlors –

Minimum on first $2,000	-	$100.00 PLUS,
Per $1,000, or fraction, over $2,000	-	$2.00

9.6 [Reserved]

9.7 **NAICS 722410 - Drinking Places, bars, lounges, cabarets** (Alcoholic beverages consumed on premises)

Minimum on first $2,000	-	$100.00 PLUS,
Per $1,000, or fraction, over $2,000	-	$5.00

License must be issued in the name of the individual who has been issued a State alcohol, beer or wine permit or license and will have actual control and management of the business.

9.8 **[Reserved]**

9.9 **NAICS 485310 - Taxi Companies**

Minimum on first $2,000	-	$25.00 PLUS,
Per $1,000, or fraction, over $2,000	-	$1.25

Exhibit A: Amendment to Classes 1 – 8 in Appendix B of the Current Business License Ordinance

APPENDIX B

Classes 1 – 8: Business License Class Schedule by NAICS Codes

NAICS Sector/Subsector	Industry Sector	Class
11	Agriculture, forestry, hunting and fishing	1
21	Mining	3
22	Utilities	1
31 - 33	Manufacturing	3
42	Wholesale trade	1
44 - 45	Retail trade	1
48 - 49	Transportation and warehousing	2
51	Information	4
52	Finance and insurance	7
53	Real estate and rental and leasing	6
54	Professional, scientific, and technical services	4
55	Management of companies	7
56	Administrative and support and waste management and remediation services	3
61	Educational services	3
62	Health care and social assistance	3
71	Arts, entertainment, and recreation	3
721	Accommodation	1
722	Food services and drinking places	2
81	Other services	3
Class 8	**Subclasses**	
23	Construction	8.1
482	Rail Transportation	8.2
517111	Wired Telecommunications Carriers	8.3
517112	Wireless Telecommunications Carriers (except Satellite)	8.3
517122	Agents for Wireless Telecommunications Services	8.3
5241	Insurance Carriers	8.4
5242	Insurance Brokers for non-admitted Insurance Carriers	8.4
713120	Amusement Parks and Arcades	8.51
713290	Nonpayout Amusement Machines	8.52
713990	All Other Amusement and Recreational Industries (pool tables)	8.6

2025 Class Schedule is based on a three-year average (2019 - 2021) of IRS statistical data.