

## ORDINANCE

### AN ORDINANCE TO AMEND THE ORDINANCE REQUIRING THE PAYMENT OF LICENSE ON BUSINESS, OCCUPATIONS AND PROFESSIONS IN THE CITY OF BENNETTSVILLE, SOUTH CAROLINA, MAY 1, 1994.

#### Sec. 1. License Required.

Every person engaged or intending to engage in any calling, business, occupation or profession listed in the classification index portion of this ordinance, in whole or in part, within the limits of the City of Bennettsville, South Carolina, is required to pay an annual license fee and obtain a business license as herein provided.

#### Sec. 2. Definitions.

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

a. "*Business*" means a calling, occupation, profession, or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly. A charitable organization shall be deemed a business unless the entire proceeds of its operation are devoted to charitable purposes.

b. "*City*" means the City of Bennettsville.

c. "*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, equalization of tax burden, relationships of services, or other basis deemed appropriate by City Council.

d. "*Gross Income*" means the total revenue of a business, received or accrued, for one calendar year collected or to be collected by a business within the city limits, excepting therefrom income from interstate commerce, (except for insurance companies as provided in Classification 8), and from business done wholly outside of the City on which a license tax is paid to some other municipality. The gross income for business license purposes shall conform to the gross income reported to the South Carolina Tax Commission or the South Carolina Insurance Commission. In the case of brokers or agents, gross income shall mean gross commissions retained.

e. "*Itinerant Business*" means any business not permanently located inside City Limits.

f. "Peddlers" means a person or persons not having a permanent place of business within the City Limits of Bennettsville and where delivery is made at the time of sale.

g. "Person" means any individual, firm, partnership, cooperative non-profit membership non-profit membership, corporation, joint adventure, 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.

**Sec. 3. Purpose and Duration.**

The business license levied by this ordinance is for the purpose of providing such regulation as may be required for 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 year and shall expire on April 30. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by City Council.

**Sec. 4. License Fee.**

The required license fee shall be paid for each business subject hereto according to the applicable rate classification on or before the 1st day of May in each year. A separate license shall be required for each place of business and for each classification of business conducted at one location. If gross income cannot be separated for classifications at one location, the license fee shall be computed on the combined gross income for the classification requiring the highest rate, in addition to the base rate for each classification. A license fee based on gross income shall be computed on the gross income for the preceding calendar year or during the most recent year that work was performed in the City. The fee for a new permanently established business inside the City shall be computed on a gross income of \$2,000.00. To determine the gross income for the next full license year of a new business, take the actual income for the months in business, then multiply that figure by twelve for a full year estimate. For example:

$$\frac{(\text{actual income}) \quad 40,000}{(\text{months in business}) \quad 4} = 10,000 \text{ (average monthly gross)}$$

$$\text{(average monthly gross) } 10,000 \times 12 = \$120,000 \text{ (estimated gross for full year)}$$

For the purpose of this Chapter, any person who does not have his/her principal place of business located within the City shall be deemed an itinerant and shall be subject to license taxes levied by this chapter on itinerants in the line of business for which a license is ought, then the tax shall be double the rate levied by this chapter.

Itinerant contractors will pay their business license fee on each job during a calendar year based on the construction cost reported on each building permit.

**Sec. 5. Registration Required.**

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 May 1 of each year except that a new business shall be required to have a business license prior to operation within the City. Application shall be on a form provided by the License Inspector which shall contain the Social Security Number and/or the Federal Employer's Identification Number, and all information about the applicant and the business deemed necessary to carry out the purpose of this ordinance by the License Inspector. The applicant shall certify under oath that the information given in the application is true, that the gross income or capital invested is accurately reported, or estimated for a new business, without any unauthorized deductions, and that all assessments and personal property taxes due and payable to the City have been paid. Each application for a new business license shall be circulated to all department heads and Council members and no such license shall be issued until three days have elapsed from the time of the filing of the application, except by approval of Council.

Insurance agents and brokers, banks, loan companies, finance companies, automobile dealers or any other person, firms or company selling insurance, shall provide a list of all insurance companies represented, including name, address, telephone number, and the total amount of premiums due or collected for each company, including renewals, annual and new businesses written during the preceding year, if such information is available.

**Sec. 6. Deductions, Exemptions, and Charitable Organizations.**

No deductions from gross income shall be made except income from interstate commerce only (except for insurance companies as provided in Classification 8), income from business done wholly outside of the City on which a license tax is paid to some other municipality, or income which cannot be taxed pursuant to State Law. The applicant shall have to establish the right to deduction by satisfactory records and proof.

No person shall be exempt from the requirements of the ordinance by reason of the lack of an established place of business within the City, unless exempted by State or Federal law. 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 the liability for the payment of any other tax by reason of the application of this Ordinance.

**Sec. 7. False Application Unlawful.**

It shall be unlawful for any person subject to the provisions of this ordinance to make a false application for a business license, or to give or file, or direct the giving or filing of any false information with respect to the license or fee required by this ordinance.

**Sec. 8. Display and Transfer.**

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 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 City. 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 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 licensee to prosecution for doing business without a license. A business license shall not be transferable and a transfer of ownership shall be considered a termination of the old business and the establishment of a new business. Thus a new business license will be required and will be computed on the gross income for the entire preceding year of the old business.

**Sec. 9. Administration of Ordinance.**

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

**Sec. 10. Inspection and Audits.**

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 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 false information has been filed by the licensee, the costs of the audit shall be added to the correct license fee and late penalties provided herein. Each day of failure to pay the proper amount of license fee shall constitute a separate offense. The License Inspector shall make systematic inspections of all businesses within the City to insure compliance with this

ordinance. Records of inspections and audits shall not be deemed public record, and the License Inspector shall not release the reported gross income of any person by name without written permission of the licensee, provided that statistics compiled by classifications may be made public.

**Sec. 11. Delinquent License Fees.**

For non-payment of all or any part of the correct license fee, the License Inspector shall levy (15%) percent of the unpaid fee for each month or portion thereof after the due date until paid. If any license fee shall remain unpaid for sixty (60) days after its due date, the License Inspector shall issue and execution which shall constitute a lien upon the property of the licensee for the tax, penalties and costs of collection, and he shall proceed to collect in the same manner as prescribed by law for the collection of other taxes.

**Sec. 12. Notices.**

The License Inspector will mail renewal licenses to all existing businesses within the City of Bennettsville. Failure to receive a renewal license in the mail will not excuse the business from non-payment or penalty. All persons interested in opening a new business within the City of Bennettsville may obtain application from the Planning and Zoning Department at 119 South Marlboro Street.

**Sec. 13. Denial of License.**

The License Inspector shall deny any license to an applicant when the application is incomplete, contains a misrepresentation, false or misleading statements, evasion or suppression of a material fact, when City taxes and assessments have not been paid, or when the activity for which a license is sought is unlawful or constitutes a public nuisance. A decision of the License Inspector shall be subject to appeal to City Council as herein provided. Denial shall be written with reasons stated.

**Sec. 14. Suspension or Revocation of License.**

When the License Inspector determines that:

- 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 ordinance; 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 of an offense under a law or ordinance regulating business, a crime involving moral turpitude, or an unlawful sale of merchandise or prohibited goods; or

E. A licensee has engaged in an unlawful activity or nuisance related to the business;

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 registered 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.

**Sec. 15. Hearing by City Council.**

a. Any person aggrieved by a denial of a business license by the License Inspector may appeal the decision to City Council by written request stating the reasons therefore filed with the License Inspector or City Clerk within ten (10) days after the notice of denial is received.

b. An appeal from a denial or a hearing on revocation shall be held by 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. At such hearing all parties shall have the right to be represented by counsel and 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 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 application of the standards herein which shall be served upon all parties or their representatives and shall be final unless appealed to a court of competent jurisdiction within ten (10) days after service.

c. No person shall be subject to prosecution for doing business without a license until the expiration of ten (10) days after notice of denial or revocation which is not appealed or until after final judgment of court upholding denial or revocation. A person who has been denied a license hereunder shall be subject to prosecution until a license is issued.

**Sec. 16. Violations.**

Any person violating any provision of this ordinance shall be deemed guilty of an offense and shall be subject to punishment under the general penalty provisions of the City Code upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent penalties and costs provided for herein.

**Sec. 17. Separability.**

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

**Sec. 18. Effective Date.**

This ordinance shall go into effect on and from the first day of May 1994, and all Ordinances or parts of Ordinances inconsistent herewith shall be and the same are hereby repealed.

**Sec. 19. Classification Rate Schedules.**

The license fee for each class of businesses shall be computed in accordance with the following rates. The major groups of businesses included in each class are listed with the major group number according to the Standard Industrial Classification Manual (SIC).

<b>RATE CLASSIFICATION INDEX</b>		
	<b>BASE RATE</b>	<b>MARGINAL RATE</b>
	Gross Receipts \$0 - \$2,000	Gross Receipts > \$2,000 per thousand or fraction thereof
<b><u>RATE CLASS 1</u></b>	\$25.00	\$ .90
Travel Agencies General Merchandise Stores Food Stores Auto Supply Stores Gasoline Service Stations Apparel and Accessory Stores Eating Places (except those serving alcoholic beverages) Insurance Companies (except Life, Health, Fire & Casualty)		
	<b>BASE RATE</b>	<b>MARGINAL RATE</b>
	Gross Receipts \$0 - \$2,000	Gross Receipts > \$2,000 per thousand or fraction thereof
<b><u>RATE CLASS 2</u></b>	\$35.00	\$1.00
Agricultural Production – Crops Agricultural Production – Animals Food and Kindred Products Textile Mill Products Apparel and other Finished Products from Fabrics and Similar Materials Furniture and Fixtures Rubber and Miscellaneous Plastic Products Leather & Leather Products Stone, Clay, Glass & Concrete Products Primary Metal Industries Fabricated and Metal Products (except Machinery and Transportation Equipment) Transportation Equipment Miscellaneous Manufacturing Industries Wholesale Trade – Durable Goods Wholesale Trade – Nondurable Goods Building Materials, Hardware, Garden Supply and Mobile Home Dealers Furniture, Home Furnishings & Equipment Stores Hotels, Rooming Houses, Camps and Other Lodging		

	<b>BASE RATE</b>	<b>MARGINAL RATE</b>
	Gross Receipts \$0 - \$2,000	Gross Receipts > \$2,000 per thousand or fraction thereof
<p style="text-align: center;"><b><u>RATE CLASS 3</u></b></p> Agricultural Service Lumber and Wood Products (except Furniture) Paper and Allied Products Petroleum Refining and Related Industries Electrical and Electronic Machinery, Equipment and Supplies Motor Freight Transportation & Warehousing Water Transportation Transportation by Air Miscellaneous Retail (except vending machines, peddlers & Pawnbrokers) Credit Agencies other than Banks Automotive Repair, Services and Garages Motion Pictures Amusement and Recreation Services (except Motion Pictures, Amusement Machines and Carnivals) Miscellaneous Service	\$45.00	\$1.10
	<b>BASE RATE</b>	<b>MARGINAL RATE</b>
	Gross Receipts \$0 - \$2,000	Gross Receipts > \$2,000 per thousand or fraction thereof
<p style="text-align: center;"><b><u>RATE CLASS 4</u></b></p> Printing, Publishing, and Allied Products Chemicals and Allied Products Machinery, (except Electrical) Communication (except Telephone) Miscellaneous Repair Services	\$55.00	\$1.20

	<b>BASE RATE</b>	<b>MARGINAL RATE</b>
	Gross Receipts \$0 - \$2,000	Gross Receipts > \$2,000 per thousand or fraction thereof
<b><u>RATE CLASS 5</u></b>	\$65.00	\$1.30
Fishing, Hunting and Trapping Mining – Minerals Measuring, Analyzing & Controlling Instruments; Photographics, Medical and Optical Goods; Watches & Clocks Local & Suburban Transit & Interurban Highway Passenger Transportation Security & Commodity Brokers, Dealers, Exchanges and Services Business Services		
	<b>BASE RATE</b>	<b>MARGINAL RATE</b>
	Gross Receipts \$0 - \$2,000	Gross Receipts > \$2,000 per thousand or fraction thereof
<b><u>RATE CLASS 6</u></b>	\$75.00	\$1.40
Sanitary Services Personal Services		
	<b>BASE RATE</b>	<b>MARGINAL RATE</b>
	Gross Receipts \$0 - \$2,000	Gross Receipts > \$2,000 per thousand or fraction thereof
<b><u>RATE CLASS 7</u></b>	\$100.00	\$1.50
Forestry Mining – Metals Tobacco Manufacture Pipelines (except Natural Gas) Insurance Agents, Brokers & Service Real Estate Holding & Other Investment Offices Health Services Legal Services Educational Services Social Services Engineering, Accounting, Research, Management and Related Services		

**RATE CLASS 8**

The businesses in this section are treated as separate and individual subclasses due to provisions by state law, regulatory requirements, service burdens, tax equalization consideration, etc., which are deemed to be sufficient to require individually determined rates.

**Contractors (All Types)**

Inside City Limits:

On gross receipts not exceeding \$2,000.....	\$ 55.00
On each additional \$1,000 or fraction thereof.....	.20

Outside City Limits:

On gross receipts not exceeding \$2,000.....	\$110.00
On each additional \$1,000 or fraction thereof.....	1.80

**Railroad Companies on Intrastate Business:**

On towns of 5,000 – 10,000 for first 1,000 inhabitants.....	\$ 25.00
For each additional 1,000 inhabitants.....	30.00

**Local and Suburban Transit (having a terminal in the City):**

On gross receipts not exceeding \$2,000.....	\$ 70.00
On each additional \$1,000 or fraction thereof.....	1.00

**Taxi Cabs (each car):**

On gross receipts not exceeding \$2,000.....	\$ 45.00
On each additional \$1,000 or fraction thereof.....	1.00

**Electric and Gas Service:**

On gross receipts not exceeding \$2,000.....	\$ 500.00
On each additional \$1,000 or fraction thereof.....	2.50

**Junk and Scrap Dealers:**

On gross receipts not exceeding \$2,000.....	\$ 45.00
On each additional \$1,000 or fraction thereof.....	1.00

**Telephone Companies:**

Doing business within the City of Bennettsville shall be charged a license fee based on its gross business income per annum for telephone communication services and related activities provided within the City of Bennettsville. This rate shall be computed upon the gross receipts from exchange access and usage and intraexchange private line telecommunications services billed to customers located within the City of Bennettsville.

The rate shall be ..... 3 %

In addition to the license fee rates charged hereinabove, a fee as hereinafter stated based upon the following gross receipts shall be charged:

On gross receipts from customer premised tele-communicatios equipment, service work charges, directory, miscellaneous excluding intrastate toll service revenues, and supplemental services billed to customers located within the City.

On gross receipts not exceeding \$25,000.....	\$ 250.00
On the next \$175,000 per \$1,000.....	5.00
Over \$200,000 per \$1,000.....	1.00

**Telegraph Companies or Agencies:**

For business done exclusively in the City of Bennettsville, and not including any business done to and from points without the State, and not including any business done for the U.S. Government, its officers or agents:

On gross receipts not exceeding \$2,000.....	\$ 100.00
On each additional \$1,000 or fraction thereof.....	1.00

**Automotive, Motor Vehicle and Farm Machinery Sales (except auto supply stores & gasoline service stations):**

Gross receipts for this classification shall include full sales price without deductions for trade-ins for dealers in new and used vehicles and equipment with or without repair.

On gross receipts not exceeding \$2,000.....	\$ 40.00
On each additional \$1,000 or fraction thereof.....	1.10

**Drinking Places:**

Such establishments primarily engaged in the retail sale of drinks, such as beer, ale, wine, liquor, and other alcoholic beverages for consumption on the

premises. The sales of food frequently accounts for a portion of the receipts of these establishments.

On gross receipts not exceeding \$2,000.....\$ 200.00  
On each additional \$1,000 or fraction thereof..... 1.50

**Pawn Brokers:**

On gross receipts not exceeding \$2,000.....\$ 110.00  
On each additional \$1,000 or fraction thereof..... .90

**Restaurants (serving alcoholic beverages):**

Establishments primarily engaged in the retail sale of prepared food for consumption on the premises. The sale of prepared food accounts for a major portion of the receipts of these establishments. The sale of beer, ale, wine, liquor and other alcoholic beverages account for a portion of the receipts for the establishment.

On gross receipts not exceeding \$2,000.....\$ 100.00  
On each additional \$1,000 or fraction thereof..... 1.50

**Vending Machines (agents or dealers in automatic merchandising of food, candy, gum, cigarettes novelties or other merchandise):**

On gross receipts not exceeding \$2,000.....\$ 50.00  
On each additional \$1,000 or fraction thereof..... 1.35

**Peddlers (inclusive of all types):**

License to not be pro-rated.

**(Per Event)**

On gross receipts not exceeding \$2,000.....\$ 50.00  
On each additional \$1,000 or fraction thereof..... 3.00

**(Per Annum)**

On gross receipts not exceeding \$2,000.....\$ 200.00  
On each additional \$1,000 or fraction thereof..... 3.00

**Insurance Companies:**

Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, delivering a benefit, or doing any act in connection with a policy or claim shall constitute doing business within the municipality whether or not an office is maintained therein. A premium collected on property or a risk

located within the municipality shall be deemed to have been collected within the municipality.

Rates are to be computed on Gross Premiums (including new and renewal business without deduction for any dividend, credit, return premiums or deposits) collected through offices or agents located in the municipality, wherever the risk is located and wherever the premiums are collected. Exemptions in this business license ordinance for income from interstate commerce are hereby repealed. Gross income from interstate commerce shall be included in gross income for every business subject to a business license tax. The penalty for delinquent payments shall be 5% of the tax due per month, or portion thereof, after the due date until paid.

Life, Health & Accident..... 75% of Gross Premiums  
[Declining rate does NOT apply]

Fire & Casualty..... 2% of Gross Premiums  
[Declining rate does NOT apply]

Brokers for non admitted insurers..... 2% of Gross Premiums  
(Premiums for non-admitted businesses are not allowed in broker's gross commissions for other business. Declining rate does NOT apply)

\* All Payments and correspondence are to be directed to the Municipal Association of South Carolina.

**Amusement Machines, coin operated:**

Agents for, dealers in, or lessors of coin operated machines for the Playing of Games of skill or amusement.

Per Machine.....\$ 25.00

**Billiard or Pool Tables, All Types:**

Per Table.....\$ 12.50

**Circuses:**

On gross receipts not exceeding \$2,000.....\$ 150.00  
On each additional \$1,000 or fraction thereof..... 1.00

The following declining rate applies, with the exception of Insurance Companies in Rate Class 8, for gross income in excess of one million (\$1,000,000.00) dollars:

<b>0-1</b>	<b>100%</b>
<b>1-2</b>	<b>95%</b>
<b>2-3</b>	<b>90%</b>
<b>3-4</b>	<b>85%</b>
<b>4-5</b>	<b>80%</b>
<b>5-6</b>	<b>75%</b>
<b>6-7</b>	<b>70%</b>
<b>7-8</b>	<b>65%</b>
<b>8-9</b>	<b>60%</b>
<b>9-10</b>	<b>55%</b>
<b>over 10</b>	<b>50%</b>

New manufacturing shall pay in the first five (5) years of operation of fee at the rate scheduled of the application rate class with a maximum of two thousand dollars (\$2,000.00).