

Chapter 9

LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS*

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ARTICLE I. IN GENERAL

Secs. 9-1—9-20. Reserved.

ARTICLE II. OCCUPATIONAL LICENSES***Sec. 9-21. License required.**

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

(Code 1991, § 9-21; Ord. of 3-29-1991, § 1)

Sec. 9-22. Definitions.

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

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 operations are devoted to charitable purposes.

Charitable purpose means 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. A charitable organization shall be deemed a business subject to a license tax unless the entire net proceeds of its operation, after necessary expenses, are devoted to charitable purposes. Compensation in any form to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

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 town council.

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 municipality, excepting therefrom income from business done wholly outside of the municipality on which a license tax is paid to some other city or a county and fully reported to the municipality. The term "gross income for brokers or agents" means gross commissions received or retained, unless otherwise specified. The term "gross income for insurance companies" means gross premiums collected. Gross income for business license tax purposes shall not include taxes collected for a

***State law references—**Business license fees authorized for municipalities, S.C. Code 1976, § 5-7-30; imposition or increase of license tax, S.C. Code 1976, § 6-1-315.

governmental entity, escrow funds, or funds which are the 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 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.

License inspector means the town clerk, or other person designated to administer this article.

Person means any individual, firm, partnership, 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.

Town means the Town of Blacksburg.
(Code 1991, § 9-22; Ord. of 3-29-1991, § 2)

Sec. 9-23. Purpose and duration.

The business license levied by this article is for the purpose of providing such regulation as may be required by the business 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 from May 1 to April 30. The provisions of this article and the rates herein shall remain in effect from year to year as amended by town council.

(Code 1991, § 9-23; Ord. of 3-29-1991, § 3)

Sec. 9-24. License fee.

The required license fee shall be paid for each business subject hereto according to the applicable rate classification on or before June 1 in each year. 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 fee shall be computed on the combined gross income for the classification requiring the highest rate. A license fee based on gross income shall be computed on the gross income for the preceding calendar or fiscal year, and on a 12-month projected income based on the monthly average for a business in operation for less than one year. The fee for a new business shall be computed on the estimated probable gross income stated in the license application for the balance of the license year. The initial fee for an annexed business shall be prorated for the number of months remaining in the license year. No refund shall be made for a business that is discontinued.

(Code 1991, § 9-24; Ord. of 3-29-1991, § 4)

Sec. 9-25. Registration required.

The owner, agent or legal representative of every business subject to this article, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year, except that a new business shall be

required to have a business license prior to operation within the town. 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, the business name as reported on the state income tax return, and all information about the applicant and the business deemed necessary to carry out the purposes of this article by the license inspector. 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 and personal property taxes due and payable to the town have been paid. Insurance agents and brokers shall report the name of each insurance company for which a policy was issued and the total premiums collected for each company for each type of insurance coverage on a form approved by the license inspector. An insurance agent not employed by a company shall be licensed as a broker.

(Code 1991, § 9-25; Ord. of 3-29-1991, § 5)

Sec. 9-26. Deductions and exemptions.

(a) No deductions from gross income shall be made except income from business done wholly outside of the town on which a license tax is paid to some other municipality or a county, or income which cannot be taxed pursuant to state or federal law.

(b) The applicant shall have the burden to establish the right to deduction by satisfactory records and proof.

(c) No person shall be exempt from the requirements of this article by reason of the lack of an established place of business within the town, 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 U.S. Office of Management and Budget Standard Industrial Classification Manual. No person shall be exempt from this article 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 article.

(d) Charitable organizations which have exemptions from state and federal income taxes shall be exempt from a business license tax only in cases where the sponsors, organizers, directors, trustees, or persons who exercise ultimate control of the organization receive no part of the proceeds of operation, and all proceeds are devoted to charitable purposes as defined by this article. Payment of necessary costs of operation and wages to nonmanagement employees will not disqualify a charitable organization from exemption.

(Code 1991, § 9-26; Ord. of 3-29-1991, § 6)

Sec. 9-27. False application unlawful.

It shall be unlawful for any person subject to the provisions of this article 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 article.

(Code 1991, § 9-27; Ord. of 3-29-1991, § 7)

Sec. 9-28. 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 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 town. A change of address must be reported to the license inspector within ten 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 requiring a new business license, based on old business income.

(Code 1991, § 9-28; Ord. of 3-29-1991, § 8)

Sec. 9-29. Administration of article.

The license inspector shall administer the provisions of this article, collect license fees, issue licenses, make or initiate investigations and audits to ensure 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 article, and perform such other duties as may be duly assigned.

(Code 1991, § 9-29; Ord. of 3-29-1991, § 9)

Sec. 9-30. Inspection and audits.

For the purpose of enforcing the provisions of this article the license inspector or other authorized agent of the town is empowered to enter upon the premises of any person subject to this article 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 in addition to other 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 town to ensure compliance with this article. Records of inspection and audits shall not be deemed public records, and the license inspector shall not release the reported gross income of any person by name without permission of the licensee, provided that statistics compiled by classifications may be made public.

(Code 1991, § 9-30; Ord. of 3-29-1991, § 10)

Sec. 9-31. Assessments.

(a) When any person shall have failed to obtain a business license or to furnish the information required by this article or the license inspector, the license inspector shall proceed to examine such records of the business or any other available records as may be appropriate and to conduct such investigations and statistical surveys as he may deem appropriate to assess a license tax and penalties as provided herein.

(b) A notice of assessment shall be served by certified mail and an application for adjustment of the assessment may be made to the license inspector within five days after the notice is mailed or the assessment will become final. The license inspector shall establish by regulations the procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment.

(c) A final assessment may be appealed to town council only by payment in full of the assessment under protest within five days and the filing of written notice of appeal within ten days after payment pursuant to the provisions of this article relating to appeals to town council.

(Code 1991, § 9-31; Ord. of 3-29-1991, § 11)

Sec. 9-32. Delinquent license fees.

For nonpayment of all or any part of the correct license fee, the license inspector shall levy and collect a late penalty of five 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 60 days after its due date, the license inspector shall 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.

(Code 1991, § 9-32; Ord. of 3-29-1991, § 12)

Sec. 9-33. Notices.

The license inspector may, but shall not be required to, mail written notices that license fees are due, but if notices are not mailed there shall be published a notice of the due date in a newspaper of general circulation within the town three times prior to the due date in each year.

(Code 1991, § 9-33; Ord. of 3-29-1991, § 13)

Sec. 9-34. Denial of license.

The license inspector shall deny a license to an applicant when the application is incomplete, contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact, 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 town council as herein provided. Denial shall be written with reasons stated.

(Code 1991, § 9-34; Ord. of 3-29-1991, § 14)

Sec. 9-35. 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;
- (2) A licensee has breached any condition upon which his license was issued or has failed to comply with the provisions of this article;

- (3) A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of material fact in the license application;
- (4) 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
- (5) A licensee has engaged in any 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 town by personal service or certified mail that the license is suspended pending a hearing before town 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 a regular or special council meeting within 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 article.

(Code 1991, § 9-35; Ord. of 3-29-1991, § 15)

Sec. 9-36. Appeals to town council.

(a) Any person aggrieved by a final assessment or a denial of a business license by the license inspector may appeal the decision to town council by written request stating the reasons therefor filed with the license inspector within ten days after the payment of the assessment under protest or notice of denial is received.

(b) An appeal or a hearing on revocation shall be held by town council within 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, 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 shall govern the hearing. Town 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 final unless appealed to a court of competent jurisdiction within ten days after service.

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

(Code 1991, § 9-36; Ord. of 3-29-1991, § 16)

Sec. 9-37. 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 article. 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.
(Code 1991, § 9-37; Ord. of 3-29-1991, § 17)

Sec. 9-38. Violations.

Any person violating any provisions of this article 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 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 herein.
(Code 1991, § 9-38; Ord. of 3-29-1991, § 18)

Sec. 9-39. Severability.

A determination that any portion of this article is invalid or unenforceable shall not affect the remaining portions.
(Code 1991, § 9-39; Ord. of 3-29-1991, § 19)

Sec. 9-40. Classification rate schedules.

The license fee for each class of business shall be computed in accordance with the following rates. The major groups of business included in each class are listed with the major group number according to the Standard Industrial Classification Manual (SIC). The license inspector shall determine the proper class for a business according to the SIC.
(Code 1991, § 9-40; Ord. of 3-29-1991, § 20)

Editor's note—The rate schedules referred to above is not included within this article, but is on file in the offices of the town.

Secs. 9-41—9-50. Reserved.

ARTICLE III. PEDDLERS AND SOLICITORS*

Sec. 9-51. Peddling in fire limits prohibited.

It shall be unlawful for any person without a town business license to display any merchandise of any nature for sale, or sell, or offer to sell, any merchandise on any public street, alleyway, sidewalk, or on any public property within the fire limits of the town; or, within 100 feet of any establishment housing mercantile. Each such display, offer to sell, or sell, shall be a separate violation of this section and upon conviction, the violator shall be punished in accordance with section 1-12.
(Code 1991, § 9-51)

*State law reference—Peddlers and hawkers, S.C. Code 1976, § 40-41-10 et seq.

Sec. 9-52. Door-to-door peddlers and solicitors.

(a) Door-to-door solicitation and peddling of goods within the town is lawful when conducted in a proper manner. When authorized by this chapter, door-to-door solicitation and peddling of goods may be conducted only between the hours of 9:00 a.m. to 5:00 p.m., Monday through Saturday. No door-to-door solicitation or peddling of goods shall be allowed on Sundays or holidays.

(b) Each door-to-door solicitor or peddler must be registered with the police department prior to door-to-door sales. No approval for door-to-door sales may be issued to any solicitor or peddler who has been convicted of a crime.

(c) Applications for business licenses for solicitors and peddlers shall be made to the town hall, shall be sworn and in writing, and shall contain the following information:

- (1) Name of applicant;
- (2) Address of applicant;
- (3) A brief description of the nature of the business to be conducted and the goods to be sold, and, if the goods are farm or orchard products, a statement whether they are produced or grown by the applicant;
- (4) The name and address of the person, firm or corporation which the applicant represents;
- (5) The length of time for which the right to do business is desired;
- (6) If a vehicle is to be used, a description of the vehicle, together with state vehicle license number or other means of identification;
- (7) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, and if so, the nature of the offense, and the punishment or penalty assessed; and
- (8) Such other information as the chief of police may deem necessary for the proper police protection of the town.

(d) If a license is denied, the applicant may appeal the denial in the manner provided in the town ordinance relating to appeals.

(e) Licenses issued under the article shall not be assigned or transferred, nor shall they be used by any person other than the person to whom they were issued.

(f) Business licenses issued under this article may be suspended or revoked for any of the following reasons:

- (1) Fraudulent obtaining of the business license by giving false information on any substantial matter in the application for the license;
- (2) Any violation of the provisions of this article;
- (3) Conviction of the license holder of any felony or crime involving moral turpitude; or