

## ***CITY OF CLINTON*** ***BUSINESS LICENSE ORDINANCE***

An ordinance to amend Chapter 18, Article I of the Code of the City of Clinton. Be it ordained by the City Council of the City of Clinton, South Carolina, in Council assembled that Sections 18-1 through 18-14 of Chapter 18 “Businesses” are amended and new sections are added to read as follows:

### **Chapter 18 Business Licenses**

#### **Section 18-1. License Required.**

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

#### **Section 18-2. 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 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 the operation are devoted to charitable purposes.

B. “City” means the City of Clinton.

C. “Classification” means the division of businesses by major groups subject to the same license rate.

D. “Gross Income” means the total revenue of a business, received or accrued, for one calendar year collected or to be collected from business done within the city, except therefrom income from business done wholly outside of the city on which a license tax is paid to some other municipality or a county and fully reported to the city. The gross income for business license purposes may be verified by inspections of returns filed with the Internal Revenue Service, the South Carolina Department of Revenue for income tax purposes, or the South Carolina Insurance Commission. Gross income for insurance companies shall mean gross premiums collected.

E. “License Inspector” means the Clerk/Treasurer or other person designated to administer this ordinance.

F. "Person" means any individual, firm, partnership, 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 principals.

**Section 18-3. Purpose and Duration.**

The business license levied by this ordinance 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 and shall expire on December 31 unless otherwise provided herein. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by City Council.

**Section 18-4. License Fee.**

The required license fee shall be paid for each business subject hereto according to the applicable rate classification on or before the fifteenth day of April in each year. A separate license shall be required for each place of business and for each classification of 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 twelve-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.

**Section 18-5. 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 the due date 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, the business name as reported on the South Carolina income tax return, 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 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. 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 and for each type of insurance coverage on a form approved by the license inspector. Any insurance agent not employed by a company shall be licensed as a broker.

**Section 18-6. Deductions and Exemptions.**

No deductions from gross income shall be made except income from business done wholly outside the city 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. The applicant shall have the burden to establish the right to deduction by satisfactory records and proof. No person shall be exempt from the requirements of this ordinance by reason of the lack of an established place of business within the city, unless exempted by state or federal law. The license inspector shall determine the appropriate classification for each business in accordance with the classifications contained herein and shall be also be empowered to determine the appropriate classification when a business or profession is not enumerated in the annual license schedule. 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 of the payment of any other tax by reason of the application of this ordinance.

**Section 18-7. 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.

**Section 18-8. 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 inspector within ten (10) days after removal of the business to a new location and the license will be valid at the new address upon written notification of the license inspector and compliance with zoning and building codes. Failure to obtain the approval of the license inspector for a change of address shall invalidate the license and subject the 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.

**Section 18-9. Administration of Ordinance.**

The license inspector shall administer the provisions of this ordinance, 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 ordinance, and perform such other duties as may be duly assigned.

**Section 18-10. Inspections 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 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 city to insure compliance with the ordinance. Records of inspections 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.

**Section 18-11. Assessments.**

When any person shall have failed to obtain a business license or to furnish the information required by this ordinance or the City of Clinton, the city or the South Carolina Municipal Association pursuant to contract shall proceed to examine such records of the business or any other available records as may be deemed appropriate and to conduct such investigations and statistical surveys as may be deemed appropriate to assess a license tax and penalties as provided herein. A notice of assessment shall be served by certified mail and an application for adjustment of the assessment may be made to the city within five (5) days after the notice is mailed or the assessment will become final. The city shall establish by regulation the procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment. A final assessment may be appealed to City Council only by payment in full of the assessment under protest within ten (10) days after payment pursuant to the provisions of this ordinance relating to appeals to City Council.

**Section 18-12. Delinquent License Fees.**

For nonpayment of all or any part of the correct license fee, the city shall levy and collect a late penalty of five (5%) 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 city 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.

**Section 18-13. Notices.**

The city 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 city three (3) times prior to the due date each year.

**Section 18-14. 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 City Council as herein provided. Denial shall be written with reasons stated.

**Section 18-15. Suspension or Revocation of License.**

When the license inspector determines that:

- A. A license has been mistakenly or improperly issued contrary to law; or
- B. A licensee has breached any condition upon which his license was issued or has failed to comply with the provision 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 certified 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 this 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.

**Section 18-16. Appeals to City Council.**

A. Any person aggrieved by a decision, final assessment, revocation, suspension, or 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 within ten (10) 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 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 which the applicant or licensee has been given written notice. At such hearings 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. 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 a circuit court upholding denial or revocation.

**Section 18-17. Confidentiality.**

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

**Section 18-18. Violations.**

Any person violating any provision of this ordinance 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 herein.

**Section 18-19. Separability.**

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

**Section 18-20. Classification.**

The license fee for each class of business shall be computed in accordance with a listing of rates which shall be amended from time to time by City Council and maintained at city hall.