

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. 044-08HR

2008 JUL 31 PM 1:16  
RICH  
COUNTY

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 16, LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS; ARTICLE 1, IN GENERAL, SO AS TO AMEND REQUIREMENTS PERTAINING TO SEXUALLY ORIENTED BUSINESSES, AND MAKE CLARIFICATIONS PERTAINING TO ALL BUSINESSES.

WHEREAS, sexually oriented businesses require special supervision from the public safety agencies of the County in order to protect and preserve the health, safety, and welfare of patrons of such businesses as well as citizens of the County; and

WHEREAS, upon review of numerous studies, case law, analyses, and observations, the County concludes that sexually oriented businesses, as a category of business, are associated with a wide variety of negative secondary effects, including but not limited to, public safety risks, prostitution, potential spread of disease, lewdness, public indecency, illicit sexual activity, sexual assault and exploitation and other crimes against morality and decency; and

WHEREAS, the Richland County Council has a substantial government interest in minimizing and controlling these adverse effects and thereby protecting the health, safety and welfare of the citizenry; protect the citizens from crime; and preserve the quality of life; and

WHEREAS, the County's interest in regulating sexually oriented businesses extends to future secondary effects that could occur in the County related to current sexually oriented businesses as well as sexually oriented businesses that may locate in the County in the future; and

WHEREAS, the County recognizes its constitutional duty to interpret, construe, and amend its laws and ordinances to comply with constitutional requirements as they are announced; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the United States Constitution or the South Carolina Constitution, but to enact an ordinance to further the content-neutral governmental interests of the County, to wit, the controlling of secondary effects of sexually oriented businesses.

NOW, THEREFORE, pursuant to the authority by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

**SECTION I.** The Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations; Article I, In General; Sections 16-1 through 16-3 are hereby amended as follows:

**Section 16-1. License Required.**

Every person engaged or intending to engage in any calling, business, occupation or profession, whether or not it is listed in the rate classification index portion of the Business License Fee Schedule, in whole or in part, within the unincorporated areas of the county is required to submit a completed application for a business license accompanied by the appropriate fees for the privilege of doing business in the county and to obtain a business license as herein provided, except those as noted in Section 16-7.

**Section 16-2. Definitions.**

The following words, terms, and phrases, when used in this article shall have the meaning ascribed herein, except where the context clearly indicates or requires a different meaning:

- (1) “*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.
- (2) “*Charitable organization*” means a person:
  - (a) determined by the Internal Revenue Service to be a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code; or
  - (b) that is or holds itself out to be established for any benevolent, social welfare, scientific, educational, environmental, philanthropic, humane, patriotic, public health, civic, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety; or
  - (c) that employs a charitable appeal as the basis of solicitation or an appeal that suggests that there is a charitable purpose to a solicitation, or that solicits or obtains contributions solicited from the public for a charitable purpose.
- (3) “*Charitable purpose*” means a purpose described in Section 501(c)(3) of the Internal Revenue Code or a benevolent, social welfare, scientific, educational, environmental, philanthropic, humane, patriotic, public health, civic, or other eleemosynary objective, including an objective of an organization of law enforcement personnel, firefighters, or other persons who protect the public safety if a stated purpose of the solicitations includes a benefit to a person outside the actual service membership of the organization.
- (4) “*Classification*” means a 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 County Council.
- (5) “*Construction Manager*” means any self-employed individual, firm, partnership, corporation, or group which supervises or coordinates construction of any building, highway, sewer, grading, improvement, re-improvement, structure, or part thereof. Notwithstanding payment by fixed price, commission, fee, or wage, said “construction manager” shall be classified in the category of “construction contractors” for purposes of this article and shall pay a license fee based upon the total cost of the undertaking supervised or coordinated, except as otherwise exempted.
- (6) “*Contractor*” means any self-employed individual (not reporting income taxes on the IRS Form W2), firm, partnership, corporation, or group performing a service or providing a product subsequent to a contract signed by that party and another party.
- (7) “*County*” means the County of Richland.
- (8) “*Drinking Place*” means any business which obtains the majority, not necessarily at least 50.1%, of its gross income from the sale or provision of alcohol for onsite consumption.
- (9) “*Gross income*” means the total revenue of a business, received or accrued, for one (1) calendar or fiscal year, collected or to be collected by a business within the county, excepting there from business done wholly outside of the county on which a license fee is paid to some other county or a municipality and fully reported to Richland County.

Gross income for brokers or agents means gross commissions received or retained, unless otherwise specified. Gross income for business license fee purposes shall not include taxes collected for a governmental entity (such as sales taxes), 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 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 Department of Insurance, or other government agency.

- (10) "*Gross receipts*" means the value proceeding or accruing from the sale of tangible personal property, including merchandise and commodities of any kind and character and all receipts, by the reason of any business engaged in, including interest, dividends, discounts, rentals of real estate or royalties, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, or any other expenses whatsoever, and without any deductions on account of losses.
- (11) "*Insurance company*" refers to a businesses which meets the definition established in South Carolina Code of Laws, § 38-1-20, Definitions: an insurer defined as "any corporation, ... or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance [defined as a "contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies"] or surety business, including the exchanging of reciprocal or inter-insurance contracts between individuals, partnerships, and corporations", and does not meet the criteria for a health maintenance organization as covered by South Carolina Code of Laws, § 38-33-140(D).
- (12) "*License official*" means a county employee who is designated to administer this article, and/or his/her designee(s).
- (13) "*Person*" means any individual, firm, partnership, LLP, LLC, cooperative, nonprofit membership, corporation, joint venture, professional 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.
- (14) "*Sexually Oriented Business*" means a sexually oriented business as defined within Section 26-22 of the Richland County Code of Ordinances.

### **Section 16-3. General Purpose and Duration.**

- (1) The requirement of a business license is for the purpose of assuring that a business conducted within unincorporated Richland County complies with all applicable State and County regulations and requirements in order to protect the health, safety and welfare of the citizens of the County. Additionally, the requirement of a business license fee levied by this article serves to establish an excise tax for the privilege of doing business within unincorporated Richland County.
- (2) Each license that is issued shall be valid for one calendar year, beginning on January 1 and expiring on December 31. This time period shall be considered a license year. The provisions of this article and the rates set out in this article shall remain in effect from year to year as amended by the County Council.

**SECTION II.** The Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations; Article I, In General; Sections 16-6 through 16-7 are hereby amended as follows:

**Section 16-6. Registration Required.**

- (1) 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. A new business shall be required to have a business license prior to operation within any unincorporated area of the county.
- (2) Application shall be on a form provided by the License Official, which shall contain the Social Security Number and/or the Federal Employer's Identification Number, the South Carolina Retail License Number (if applicable), the business name as reported on the South Carolina income tax return, the business name as it appears to the public at the physical location, and all information about the applicant and the business deemed reasonably necessary to carry out the purpose of this article by the License Official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross income figures.
- (3) The applicant shall certify 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, that all funds due to the County have been paid, and that all other licenses and permits required by the County or State to do business in the County have been obtained.
- (4) No business license shall be issued until the applicant has obtained all other licenses and/or permits required by the County or State to do business in the County, and paid in full any associated license and permit fees or business-related fees and taxes, including any late fees or penalties.
- (5) As a prerequisite to submittal of a business license application, the premises and real property to be used as a business must be in compliance with all applicable state and local health, fire, zoning and building codes or regulations. As part of the Business License application, the applicant must submit to the License Official documentation that shows that the premises is currently in compliance with the Richland County Zoning Ordinance, Building Code, Electrical Code, Mechanical Code, Plumbing Code, Roofing Code and other applicable regulatory Codes as adopted by the County Council.
- (6) 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 Official. An insurance agent not employed by an insurance company or employed by more than one insurance company shall be licensed as a broker.
- (7) Fireworks Sales: Any establishment desiring to sell fireworks must first acquire the Annual State Board of Pyrotechnic Safety License and must meet all regulations pursuant to the provisions of Regulation 19-405, S.C. Code of Laws for 1976. Prior approval of the Richland County Sheriff's Department is required as governed by regulations of the State Fire Marshal pursuant to the 1976 Code, Chapter 9 of Title 23, and Chapter 43 of Title 39, governing the transportation and use of pyrotechnics.
- (8) Miscellaneous Sales (Antique Malls, Flea Markets or Leased Space Sales): Any person leasing space for the sale of merchandise from an established business shall be required to have a business license, whether or not the sales are made through a central cash register. Furthermore, it shall be the responsibility of the lessor of the spaces to advise the business license office of persons leasing space.

**Section 16-7. Deductions, Exemptions, Charitable Organizations, and Determination of Classification**

- (1) No deductions from gross income shall be made except income from business done wholly outside of the county jurisdiction on which a license fee is paid to another county or to any municipality, taxes collected for a governmental entity, 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 by including with the business license application, either new or renewing, a separate itemized list showing all deductions claimed, or no deductions will be allowed. Deductions will be approved as authorized by this section.
  
- (2) (a) No person shall be exempt from the requirements of this article by reason of the lack of an established place of business within the County, unless exempted by State or Federal law. The following businesses, occupations or professions are exempt from the requirements of this article:
  - 1. Teachers;
  - 2. Ministers, pastors, preachers, rabbis and other leaders of commonly recognized religious faiths;
  - 3. Telephone, telegraph, gas and electric and other utilities or providers regulated by the South Carolina Public Service Commission;
  - 4. Insurance companies; and
  - 5. An entity which is exempt from license tax under any state law other than South Carolina Code of Laws, § 4-9-30(12), or a subsidiary or affiliate of any such exempt entity.
  
- (b) No person shall be exempt from this article by reason of the payment of any other tax or fee, unless exempted by State law, and no person shall be relieved of the liability for the payment of any other tax or fee by reason of the application of this article.
  
- (3) In lieu of the license required by Section 16-1, a participant in a single annual event of not more than ten consecutive calendar days in length may be issued a permit at the rate of \$10.00 on gross income on the first \$2,000 and \$1.20 on each additional \$1,000.00 of gross income or fraction thereof. This permit will be valid only for the time period specified thereon and can be obtained for no more than one event annually. Organizers of such events may pay for and obtain a business license on behalf on all its vendors at a rate of \$10 per vendor or on the previous year's income generated by the event based upon the rate above, whichever is greater.

Inspections prior to the issuance of a permit may be waived. Inspections may be conducted during the event. For purposes of this subsection, an event is defined as participation by a group of exhibitors or others where displays are established in individual booths or stalls for the purpose of presenting to the audience goods, wares, merchandise or services offered for sale, rent or promotional purposes or for the general good will of the exhibitors. An event may be a trade show, an antique show, a craft show, or any other type of show fitting this definition.

- (4) Notwithstanding any provision to the contrary, businesses and individuals defined as "contractor" herein shall be exempt from the provisions of this article in the following manner:

The business license fee shall be reduced by excluding that portion of the business' gross income generated from work done for which a Richland County building permit was obtained and a building permit fee paid (by either the general contractor or subcontractor responsible for that work), pursuant to the provisions of Section 6-51 of the Richland County Code of Ordinances.

If all income of a contractor is generated from work done for which a building permit fee is paid (by either the general contractor or subcontractor responsible for that work), said contractor shall be exempt from paying any business license fee. Such an exempt contractor shall still submit a business license application by the deadline with documentation attached establishing such contractor's right to an exemption.

Income generated from work done for which a Richland County building permit is not required, such as general repairs, shall be subject to a business license fee on that income.

- (5) Charitable organizations which have exemptions from state and federal income taxes and/or are 501(c)(3) organizations according to the IRS Tax Code and where all proceeds are devoted to charitable purposes are exempt from a business license fee. Documentation of the claim to this exemption must be provided.
- (6) The provisions of this article shall not extend to persons who grow their own agricultural produce or products, and use the Columbia State Farmers' Market, or other farmers' markets officially recognized by the County, to sell their produce directly to consumers.
- (7) The License Official shall determine the appropriate classification for each business.

**SECTION III.** The Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations; Article I, In General; Section 16-10 is hereby amended as follows:

**Section 16-10. Administration, Enforcement.**

- (1) The License Official 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 appropriate 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 assigned by the County Administrator.
- (2) The Planning and Development Services Department, Building Codes and Inspections Department, Fire Marshal's Office, and Sheriff's Department, in addition to the License Official, are hereby empowered to make or initiate investigations to ensure compliance with the provisions of this article and to initiate prosecution of violations.

**SECTION IV.** The Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations; Article I, In General; Section 16-13 is hereby amended as follows:

**Section 16-13. Delinquent License Fees, Partial Payment.**

- (1) A license fee shall be considered delinquent if all or any part of such fee has not been paid on or before March 15 of each calendar year. Businesses providing business license payments by the deadline but which have: a) indebtedness to the County, or b) have not yet obtained other necessary permits or licenses, or c) have not met other requirements necessary to obtain a business license, as specified in Section 16-6, shall accrue penalties until the indebtedness is cleared, the permits or licenses obtained, or met the other requirements necessary to obtain a business license, at which time the business license application processing may continue.
- (2) Partial payment may be accepted by the License Official to toll imposition of penalties as authorized in Section 16-22 on the portion paid; provided, however, no business license shall be issued or renewed until the full amount of the balance due, with penalties, has been paid.

**SECTION V.** The Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations; Article I, In General; Sections 16-15 through 16-21 are hereby amended as follows:

**Section 16-15. Denial of License.**

- (1) The License Official shall deny a license to an applicant if:
  - (a) the application is incomplete;
  - (b) the application contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact;

- (c) the applicant has given a bad check or tendered illegal consideration for any license fee;
- (d) within five years from the date of application, the applicant has been convicted of or pled guilty or nolo contendere any crime(s) or offense(s) under South Carolina Code of Laws, Title 16, Crimes and Offenses, Chapter 13, Forgery, Larceny, Embezzlement, False Pretenses and Cheats; Chapter 14, the Financial Transaction Card Crime Act; or South Carolina Code of Laws, § 39-15-1190, Sale of Goods or Services with a Counterfeit Mark; or the same crime or offense in another jurisdiction;
- (e) the premises and parcel of real property to be used for the business activity for which a license is sought is not in compliance with applicable state and/or local health, fire, zoning, and building codes and regulations.
- (f) the business activity for which a license is sought is unlawful; or
- (g) the business constitutes a public nuisance as determined by a court of law.

A decision of the License Official shall be subject to appeal to the Business Service Center Appeals Board as herein provided. Denial shall be written with reasons stated.

**Section 16-16. Drinking Places**

- (1) No license to operate a drinking place shall be issued to, or in the name of, a corporation, association, or a trade name as such. Any application for a corporation, association, or trade name shall be made by the officers for its use, and such officers shall identify in the application the name by which the business will be operated. In addition, such officers in making an application shall be held to assume all responsibility there under as individuals, and shall be subject to all the provisions and penalties set forth herein or in any other article of the Richland County Code of Ordinances.
- (2) In addition to the reasons for denial of a license set forth in Section 16-15 of this article, the License Official shall deny a business license to an applicant for a Drinking Place if the applicant or an agent of such applicant who has or will have actual authority to control and manage the business proposed to be operated:
  - (a) is a minor;
  - (b) has had an alcohol liquor license issued in the name of the applicant or other officer pursuant to South Carolina Code of Laws, § 61-6-10 *et seq.* suspended, revoked, or not renewed within a two-year period immediately preceding the filing of the application; or
  - (c) has had a business license revoked or denied under the provisions of this article within a three-year period immediately preceding the filing of the application.

**Section 16-17. Sexually Oriented Businesses.**

- (1) The purpose of this section is to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of Richland County, and to establish reasonable and uniform regulations to prevent or reduce to any extent the deleterious secondary effects of sexually oriented businesses within the County. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials or expression. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented

materials or expression protected by the First amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution or exhibition of obscenity.

- (2) Based on evidence of the adverse secondary effects of sexually oriented businesses presented in hearings and reports made available to the Richland County Council, and on the findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, LLC*, 124 S. Ct. 2219 (2003); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *Chesapeake B & M, Inc. v. Harford County*, 58 F.3d 1005 (4<sup>th</sup> Cir. 1995); *Giovani Carandola, Ltd. v. Fox*, 470 F.3d 1074 (4<sup>th</sup> Cir. 2006); *Centaur v. Richland County*, 392 S.E.2d 165 (S.C. 1990); *U.S. v. Pendergrass*, Petition to Enter a Plea of Guilty and Plea Agreement on the Charge of Tax Evasion (3:06-00147, M.D. Tenn. 2007); and other cases; and on reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona (1979); Minneapolis, Minnesota (1980); Houston, Texas (1987); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma City, Oklahoma (1986); El Paso, Texas (1986); New York City, New York (1994); Dallas, Texas (1997); Newport News, Virginia (1996); New York Times Square Study (1994); Phoenix, Arizona (1995-1998); Greensboro, North Carolina (2003); Toledo, Ohio (2002); Centralia, Washington 2004; Greensboro, North Carolina (2003); and also from the reports of "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, January 12, 2000; "Survey of Appraisers Fort Worth & Dallas, Effects of Land Uses on Surrounding Property Values," by Duncan Associates, September 2004; and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Richland County Council finds:
- (a) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, prostitution, potential spread of disease, lewdness, public indecency, illicit sexual activity, and sexual assault and exploitation.
- (b) Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating in the future. This substantial government interest in preventing secondary effects, which is the County's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the County's interest in regulating sexually oriented businesses extends to future secondary effects that could occur in the County related to current sexually oriented businesses in the future as well as sexually oriented businesses that may locate in the County in the future. The County finds that the cases and secondary effects documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.
- (3) No license to operate a sexually oriented business shall be issued to, or in the name of, a corporation, association, or a trade name as such. Any application for a corporation, association, or trade name shall be made by the officers for its use, and such officers shall identify in the application the name by which the business will be operated. In addition, such officers in making an application shall be held to assume all responsibility there under as individuals, and shall be subject to all



the provisions and penalties set forth herein or in any other article of the Richland County Code of Ordinances.

- (4) Notwithstanding the pre-application process wherein an applicant must obtain documentation of compliance with all applicable state and local health, fire, zoning, and building codes or regulations pursuant to section 16-6(5) of this ordinance, upon application for a business license by an applicant identifying the business as a sexually oriented business, the License Official must circulate a form on which compliance shall be certified by the officials administering the applicable zoning, fire, building and health regulations. The applicable aforementioned officials shall determine compliance with their respective codes or regulations and inform the License Official of their determination within thirty days from the earliest date of receipt of the compliance form by any one of the aforementioned officials. If the License Official does not receive a particular determination of compliance from an official administering the aforementioned codes and regulations on or before this thirty-day time period, that compliance determination not received by the License Official shall be deemed approved. All other compliance determinations received before the thirty-day time period expires shall be unaffected by any other compliance determination that fails to meet the thirty-day time period.
- (5) During the time in which an application for a pre-existing Sexually Oriented Business is pending, the applicant may continue its business activity and shall not be subject to citations for violations of any provision of this article, nor any enforcement proceedings pursuant to this article or Section 1-8 of this Code of Ordinances.
- (5) The License Official shall approve or deny an application for a license for a Sexually Oriented Business within thirty days (30) calendar days from the date of receipt of the application. If the License Official fails to either approve or deny the application within thirty calendar days, then the application shall be deemed approved and business activity may begin or continue immediately, notwithstanding the fact that no license has been issued.
- (6) In addition to the reasons for denial of a license set forth in Section 16-15 of this article, the License Official shall deny a business license to an applicant for a Sexually Oriented Business if the applicant or an agent of such applicant who has or will have actual authority to control and manage the business proposed to be operated:
  - (a) is under the age of eighteen;
  - (b) within five years of the date of application, has been convicted of or pled guilty or nolo contendere to any of the following crimes: South Carolina Code of Laws, § 16-15-90, § 16-15-100, § 16-15-305, § 16-15-325, § 16-15-335, § 16-15-342, § 16-15-345, § 16-15-355, § 16-15-365, § 16-15-385, § 16-15-387, § 16-15-395, § 16-15-405, § 16-15-410, § 16-15-415, or § 16-15-425, or of the same crime in any other jurisdiction.
- (7) Applicants for a Sexually Oriented Business herein described, in addition to the license application(s) required under Section 16-1 of this article, shall complete a sworn, notarized statement on a form prepared by the License Official for the purpose of establishing his/her qualifications to operate a business identified in this section.
- (8) Owners of sexually oriented businesses are responsible for maintaining a list of their current contractors' names and a copy of a photo ID for each contractor on file.

**Section 16-18. Revocation of License.**

When the License Official 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 any provision of this article; 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;
- (d) has given a bad check or tendered illegal consideration for any license fee; or
- (e) the business activity for which a license was obtained has proven to be a public nuisance as determined by a court of law; or
- (f) the business has proven to be a public nuisance as determined by a court of law;

the License Official shall give written notice of intent to revoke to the licensee or the person in control of the business within the County by personal service or certified mail stating the License Official's basis for revocation and setting forth a date and time for a hearing before the Business Service Center Appeals Board for the purpose of determining whether the license should be revoked. The hearing shall be held within thirty (30) days from the date of service of the notice. A licensee who received proper notice yet fails to appear or defend at the revocation hearing waives his or her right to contest the revocation.

**Section 16-19. Appeals.**

- (1) Any person aggrieved by a final assessment, charge backs from an audit, or a revocation or a denial of a business license by the License Official wishing to appeal must first file a written appeal with the License Official for decision by the Business Service Center Appeals Board. The Business Service Center Appeals Board, or its designee, is authorized to reject an appeal for failure to comply with the requirements of this subsection. The following requirements for submission of an appeal must be strictly complied with:
  - a. The appeal must be in writing and state the reasons for the appeal.
  - b. The appeal shall be filed with the License Official within ten calendar (10) days after the payment of all applicable fees and penalties, or within ten calendar days after notification of an assessment, charge-backs of an audit, or notice of denial or revocation is received.
  - c. The written notice of appeal must be accompanied by an administrative fee (which shall be determined by the License Official) that will be used to partially defray the costs incurred in connection with the administration of appeals. Payment under protest of all applicable fees and penalties, an assessment, or audit charge backs shall be a condition precedent to appeal. The fee will be refunded in the event of final resolution of the appeal in favor of the appellant.
- (2) An appeal or a hearing on revocation shall be held by the Appeals Board within thirty (30) calendar days, or as soon as reasonably possible, after receipt of a request for appeal or service of notice of suspension. The applicant or licensee shall be given written notice as to the date and time of the meeting. At the meeting, all parties have the right to be represented by counsel and to present testimony and evidence. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by the Board shall govern the hearing.

The Board shall, by majority vote of members present, render a written decision based upon findings of fact and the application of the standards herein which shall be served upon all parties or their representatives within fifteen (15) calendar days, or as soon as reasonably possible, after the hearing. The decision of the Board shall be final unless appealed to County Council within ten (10) calendar days after service of the Board's decision. County Council shall review the record and without further hearing affirm, modify, or deny the appeal in the event of an error of fact by the Board. The decision of Council shall be final unless appealed to a court of competent jurisdiction within ten (10) calendar days after service of the County Council's decision.

**Section 16-20. Consent, Franchise or Business License Fee Required.**

The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set pursuant to 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 fees unless specifically provided by the franchise or consent agreement.

**Section 16-21. Confidentiality.**

Except in accordance with proper judicial order, pursuant to an appeal, 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.

**SECTION VI.** The Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations; Article I, In General; is hereby amended as follows:

**Section 16-22. Criminal and Civil Penalties, Injunctive Relief.**

- a. **Criminal Penalty.** Any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction shall be subject to punishment under the general penalty provisions of Section 1-8 of this Code of Ordinances: that is, shall be subject to a fine of up to \$500.00 or imprisonment for not more than thirty (30) days or both. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent fees, penalties, and costs provided for herein.
- b. **Civil Penalty.** For non-payment of all or any part of the license fee, the License Official shall levy and collect a penalty of five (5%) percent of the unpaid fee for each month or portion thereof after the due date until paid. Penalties shall not be waived.
- c. **Injunctive Relief.** The County may seek injunctive relief in a court of competent jurisdiction as a means of enforcing the provisions of this article.

**SECTION VII. Severability.** If any section, subsection, or clause of this article shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

**SECTION VIII. Conflicting Ordinances.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION IX.** Effective Date. All sections of this ordinance shall be effective on and after July 15, 2008.

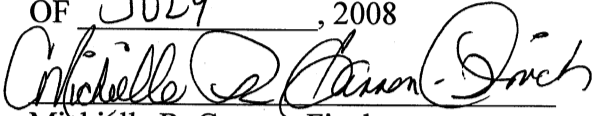
RICHLAND COUNTY COUNCIL

BY: \_\_\_\_\_

  
Joseph McEachern, Chair

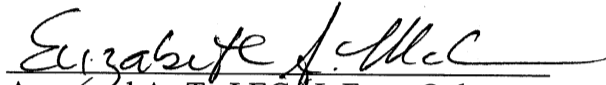
ATTEST THIS THE 22<sup>ND</sup> DAY

OF JULY, 2008



Michelle R. Cannon-Finch  
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE



Approved As To LEGAL Form Only  
No Opinion Rendered As To Content

First Reading: February 4, 2008  
Second Reading: February 19, 2008  
Public Hearing: March 4, 2008  
Third Reading: July 15, 2008