



Town of Hilton Head Island
TOWN COUNCIL SPECIAL MEETING
Thursday, August 19, 2021, 11:00 a.m.
AGENDA

In accordance with the Local State of Emergency, this meeting will be conducted virtually and can be viewed on the [Town's website](#), [Town of Hilton Head Island Public Meetings Facebook page](#), [Beaufort County Channel](#), and Hargray Channels 9 & 113.

- 1. Call to Order**
- 2. FOIA Compliance:** Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.
- 3. Roll Call**
- 4. Approval of the Agenda**
- 5. Pledge to the Flag**
- 6. Report of the Town Manager**
 - a. Items of Interest
 - i. Building Safety Program – Chris Yates, Interim Director of Community Development
 - b. Quarterly Update of the Gullah Geechee Land & Cultural Preservation Project Workplan – Teri Lewis, Deputy Director of Community Development
- 7. Reports from the Members of Town Council**
 - a. General Reports from Town Council
 - b. Report of the Lowcountry Area Transportation Study – Councilman Stanford
 - c. Report of the Lowcountry Council of Governments – Councilwoman Becker
 - d. Report of the South Carolina Floodwater Commission – Mayor McCann
 - e. Report of the Southern Lowcountry Regional Board – Councilman Lennox
 - f. Report of the Beaufort County Airports Board – Councilman Ames
 - g. Report of the Community Services & Public Safety Committee – Councilman Harkins
 - h. Report of the Public Planning Committee – Councilman Ames
 - i. Report of the Finance & Administrative Committee – Councilman Lennox

8. Appearance by Citizens

*Citizens who wish to address Town Council during the meeting by phone must contact the Town Clerk at 843.341.4701 no later than **9:00 a.m. the day of the meeting.***

Citizens may also submit comments on agenda items on the [Open Town Hall Portal](#). This portal will close at 9:00 a.m.

9. New Business

a. First Reading of Proposed Ordinance 2021-20 – Business License Model Ordinance

First Reading of Proposed Ordinance 2021-20 to repeal and replace certain portions of the Municipal Code of the Town of Hilton Head Island, South Carolina, to include Sections 10-1-10 through Section 10-1-210 and replace with revised Code Sections 10-1-10 through 10-1-250; and providing for severability and an effective date.

b. Consideration of the Affiliated Agency Town Funding Standardization Process

c. Consideration of the American Rescue Plan Funding Appropriations

d. Consideration of the Proposed Calendar Year 2022 Town Council Meeting Schedule

10. Adjournment



Items of Interest

August 17, 2021

Building Safety Program

The Town of Hilton Head Island enforces the latest versions of the International Building Code and the International Residential Building Code as adopted and/or modified by the South Carolina Building Codes Council. The receipt of a Certificate of Occupancy allows a property owner to safely occupy a building. In light of the tragic event that has occurred in Surfside, Florida, the Town is proactively contacting the owners of all commercial property located on the Island with recommendations of action.

Status for Gullah Geechee Top Priority Project Recommendations

	Recommendations	Strategies	Resources			Status		
			Departments/Organizations	Funding Sources	Funding Amount	Date Started	Scope of Work	Percentage Completed
1	PP-4 Designate Historic Gullah Neighborhoods Conservation Overlay District	In establishing a Historic Gullah Neighborhoods Conservation Overlay District, the listed departments will work to reassess zoning, buffers, setbacks, etc. within the identified boundaries.	<ul style="list-style-type: none"> Community Development Department (Historic Neighborhoods Preservation Administrator – Project Lead) Infrastructure Services 	N/A	N/A	1/2020	<ul style="list-style-type: none"> Drafted LMO Amendments Reviewed and forwarded by Gullah Task Force, LMO Committee, Planning Commission including Public Hearing Public Planning Committee only moved forward the Family Compound and Family Subdivision portion of the amendments Additional discussion required related to density increase, land uses, and home occupations 	25%
2	PP-6 Provide greater flexibility for ROWs and drainage easements	This project is a part of PP-5. Flexibility in buffers, setbacks, and access easement widths are proposed for the Family Compound and Family Subdivision Applications	<ul style="list-style-type: none"> Community Development Department (Historic Neighborhoods Preservation Administrator – Project Lead) Infrastructure Services Fire Rescue Department 	N/A	N/A	1/2020	<ul style="list-style-type: none"> Drafted and Revised LMO Amendments Letters sent and signs posted Q&A website established Correspondence with public Reviewed with Gullah Task Force, LMO Committee, and Planning Commission including 2 Public Hearings, Public Planning Committee in multiple meetings, Town Council First Reading, and Town Council Revised First Reading. Recommended for approval by Task Force, LMO Committee, Planning Commission, Public Planning Committee, and Town Council First Reading Town Council Second Reading and Ordinance Adoption on 7/20/2021 	100%
3	PP-2 “Fast Track” Development Review Process	This project is a part of PP-5. To alleviate the financial hardship of a lengthy waiting period, upon completion of development review, Family Compound and Family Subdivision applications will be processed first.	<ul style="list-style-type: none"> Community Development Department (Historic Neighborhoods Preservation Administrator – Project Lead) Infrastructure Services Palmetto Electric Water and Sewer 	N/A	N/A	1/2020	<ul style="list-style-type: none"> Drafted and Revised LMO Amendments Letters sent and signs posted Q&A website established Correspondence with public Reviewed with Gullah Task Force, LMO Committee, and Planning Commission including 2 Public Hearings, Public Planning Committee in multiple meetings, Town Council First Reading, and Town Council Revised First Reading. Recommended for approval by Task Force, LMO Committee, Planning Commission, Public Planning Committee, and Town Council First Reading Town Council Second Reading and Ordinance Adoption on 7/20/2021 	100%
4	PP-5 Add Family Compound Provisions to Land Management Ordinance	Family Compound and Family Subdivision Amendments are proposed for properties within the Historic Neighborhoods. The Historic Neighborhoods are delineated in a map, which has also been proposed to be added to the LMO.	<ul style="list-style-type: none"> Community Development Department (Historic Neighborhoods Preservation Administrator – Project Lead) Infrastructure Services 	N/A	N/A	1/2020	<ul style="list-style-type: none"> Drafted and Revised LMO Amendments Letters sent and signs posted Q&A website established Correspondence with public Reviewed with Gullah Task Force, LMO Committee, and Planning Commission including 2 Public Hearings, Public Planning Committee in multiple meetings, Town Council First Reading, and Town Council Revised First Reading. Recommended for approval by Task Force, LMO Committee, Planning Commission, Public Planning Committee, and Town Council First Reading Town Council Second Reading and Ordinance Adoption on 7/20/2021 	100%

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5	CP-17 Recognize Gullah Churches to be Source of Leadership and Communication	Outreach with Gullah churches will be conducted to gather information, assess needs, and disseminate information.	<ul style="list-style-type: none"> Historic Neighborhoods Preservation Administrator Church Leadership Church Parishioners 	N/A	N/A	4/2020	<ul style="list-style-type: none"> Prepared and sent introduction letter regarding role and availability of Historic Neighborhood Preservation Administrator Provide updates via email regarding Gullah Geechee affairs 	Ongoing
6	CP-14 Establish Open-Air Market for Gullah Products	The identified organizations will work together to establish an open air market that will work to promote Gullah Culture and create economic development opportunities for participants.	<ul style="list-style-type: none"> Historic Neighborhoods Preservation Administrator Native Island Business and Community Affairs Association (NIBCAA) Office of Cultural Affairs (OCA) 	N/A	N/A	4/2020	<ul style="list-style-type: none"> Gathered Input from Local Vendors Met with Staff, NIBCAA, and Gullah Task Force Representative Legal Review from Staff and Town Attorneys Drafted business plan Drafted layout of proposed site Squire Pope Community Park (Rowing and Sailing Center) has been considered for the location and will be presented at the Community Services and Public Safety Committee tentatively scheduled for 9/27/2021 	75%
7	CP-7 Program to educate Town officials, teachers, and others on Gullah history and culture	A historical and cultural training module will be developed for new hires and newly elected positions for the Town of Hilton Head Island. This program will also work towards the appeal to include Gullah Geechee history and culture in the South Carolina state standards for social studies K-12 school curriculum.	<ul style="list-style-type: none"> Historic Neighborhoods Preservation Administrator Town of Hilton Head Human Resources Gullah Museum Penn Center Historic Mitchelville Freedom Park Gullah Geechee Cultural Heritage Corridor Commission Hilton Head Island Historians Office of Cultural Affairs South Carolina State Department of Education Other education resources 	Town of Hilton Head Island	+/- \$600	2/2021	<ul style="list-style-type: none"> <i>Getting to Know the Gullah Geechee Community</i> Recording created 5/25/2021 Record <i>Resilience in Vulnerable Communities: The Preservation of Gullah Geechee Communities in Hilton Head, South Carolina</i> for new Town staff. Presentation to Staff on Family Compound and Family Subdivision requirements and application process scheduled for 8/25/2021 Town Manager has tentatively scheduled a tour with Gullah Heritage Tours for the Mayor and Senior Staff but the timing is contingent on Covid numbers 	25%
8	HP-4 NIBCAA to work with the Community Foundation of the Low Country (CFL) to create a fund to clear property titles.	The identified departments and organizations will work together to organize fund-raising efforts purposed to clear property titles.	<ul style="list-style-type: none"> Historic Neighborhoods Preservation Administrator – Project Lead NIBCAA CFL 	Local Donors Grants	+/- \$5000	8/2021	<ul style="list-style-type: none"> Staff working with CFL to investigate Farm Service Administration (FSA) Heirs' Property Relending Program as possible funding source. 	10%

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9	HP-2 Leverage local, state, and national organizations to address Heirs' Property	Contact will be established to maintain awareness of information and programs that are related to Heirs' Property.	<ul style="list-style-type: none"> Historic Neighborhoods Preservation Administrator Pan African Family Empowerment and Land Preservation Network (PAFEN) South Carolina Legal Services (SCLS) Heirs' Property Retention Coalition (HPRC) South Carolina Appleseed Legal Justice Center (SCALJC) Black Family Land Trust (BFLT) Black Belt Justice Center (BBJC) 	N/A	N/A	8/2021	<ul style="list-style-type: none"> Drafted initial letter 	25%
10	PP-14 Program for temporary or seasonal signs to promote economic opportunities for Gullah businesses and residents	Temporary or seasonal signs that are compliant with the Town LMO will be established and distributed upon request to Gullah businesses and residents.	<ul style="list-style-type: none"> Community Development Department (Historic Neighborhoods Preservation Administrator – Project Lead) Town Staff NIBCAA OCA 	Town of Hilton Head Island	TBD based on sign cost and the number of signs needed.	4/2020	<ul style="list-style-type: none"> Staff coordinated with NIBCAA on proposed program Staff prepared initial sign design and cost estimates Proposed program introduced at the Public Planning Committee meeting on 6/2/2021 Staff coordinated with Town and Staff Attorneys to determine proposed sign regulations Additional detail about proposed program was presented to the Public Planning Committee on 7/21/2021 	50%
11	HP-1 Utilize Heritage Library as a first step to clear land title	This project will be implemented in conjunction with CP-1. The identified departments and organizations will work together to research strategies to clear land titles for Heirs' Property.	<ul style="list-style-type: none"> Historic Neighborhoods Preservation Administrator Heritage Library Additional resources related to clearing land titles 	Heritage Library Charitable Foundations	Project Start-up: \$4,600 First 3 Years of Service: \$2,500	9/2020	<ul style="list-style-type: none"> Held initial meetings regarding the creation of a genealogy clinic to aid in clearing property titles Equipment and Software priced and ordered Heritage Library began public communications announcing clinic availability Office setup week of 5/31/2021 First Test Clients 6/15/2021 Genealogy Heirs' Property Event 8/12/2021 	100%
12	PP-12 Program to Educate Gullah Residents on Policy – Taxes, Land Use, Development	Meetings and workshops will be held with the identified departments and organizations to provide education on different issues that impact Gullah residents.	<ul style="list-style-type: none"> Town of Hilton Head Island Staff (Historic Neighborhoods Preservation Administrator – Project Lead) Beaufort County 	Town of Hilton Head Island	+/- \$1000	2/2020	<ul style="list-style-type: none"> Work with The Links, Inc. to promote education from the Center from Heirs' Property Preservation on Heirs' Property, Forestry, and Wills Staff will provide training on Family Compounds and Family Subdivisions tentatively scheduled for 9/2021 	50%

Status for Gullah Geechee Top Priority Project Recommendations

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13	HP-3 Encourage Center for Heirs' Property Preservation (CHPP) to Open Satellite Office	This project will be implemented in two parts. Part 1 - Information and assistance will be provided to land owners with Heirs' Property that meet the income requirements. Part 2 – Creation of a local Heirs' Property resource center that benefits citizens of all income levels.	<ul style="list-style-type: none"> Historic Neighborhoods Preservation Administrator – Project Lead Staff Attorney/Town Attorney CHPP Outside Legal Services 	CFL Charitable Foundations Grants	TBD based on staff and facility needs	5/2019	<ul style="list-style-type: none"> Held initial conversation with request for CHPP to open satellite office Staff followed up in 5/2020 to reopen conversation for satellite office and was informed that client assistance is currently virtual due to COVID 	10%
14	CP-1 Promote Heritage Library to research history and genealogy	This project will be implemented in conjunction with HP-1. The identified departments and organizations will work together to research strategies to clear land titles for Heirs' Property.	<ul style="list-style-type: none"> Historic Neighborhoods Preservation Administrator Heritage Library Additional resources related to history and genealogy research 	Heritage Library Charitable Foundations	See HP-1	9/2020	<ul style="list-style-type: none"> Held initial meetings regarding the creation of a genealogy clinic to aid in clearing property titles Equipment and Software were priced and ordered Heritage Library began public communications announcing clinic availability Office setup week of 5/31/2021 First Test Clients 6/15/2021 Genealogy Heirs' Property Event 8/12/2021 	100%
15	PP-11 Fund for Delinquent Taxes	The identified departments and organizations will work together to organize fund-raising efforts purposed to assist land owners who are delinquent and unable to pay their property taxes.	<ul style="list-style-type: none"> Historic Neighborhoods Preservation Administrator NIBCAA Beaufort County Tax Office CFL Pan African Family Empowerment & Land Preservation Network (PAFEN) 	Charitable Foundations Grants Local Donors	+/- \$1000	2/2021	<ul style="list-style-type: none"> Prepared press release for Penn Center's Land Preservation Assistance Program to aid Beaufort County property owners PAFEN assists property owners with paying delinquent taxes and redeeming properties sold at Beaufort County Tax Auction 	50%
16	PP-3 HNPA to work with Gullah property and business owners to assist with Town Regulations	"Walk ins" are currently being assisted by the named departments.	<ul style="list-style-type: none"> Community Development Department (Historic Neighborhoods Preservation Administrator – Project Lead) Infrastructure Services Fire Rescue Department 	N/A	N/A	6/2019	<ul style="list-style-type: none"> Prepared and presented to Gullah Geechee Land & Cultural Preservation Task Force case studies related to assistance requested Examples of assistance requested by Native Islanders are addressing, property access, and dirt roads Staff is setting up a One-Stop Shop Permitting Assistance Center and Gullah Geechee Site Design Studio 	100%



MEMORANDUM

TO: Town Council
FROM: John M. Troyer, Director of Finance
VIA: Marc Orlando, ICMA-CM, Town Manager
CC: April Akins, Revenue Services Manager
DATE: August 17, 2021
RE: **First Reading Ordinance No. 2021-20 – Business License Model Ordinance**

Recommendation:

Staff recommends Council approve on first reading of Proposed Ordinance No. 2021-20. The state has mandated local jurisdictions adopt the model ordinance for business licenses. The purpose of the model ordinance is to streamline and simplify the reporting for businesses, while maintaining a revenue neutral position for the local jurisdictions.

Summary:

The South Carolina General Assembly passed Act 176 in September 2020. Act 176 is the Business License Standardization Act. The Act mandates local jurisdictions adopt the model ordinance so that businesses operating in multiple jurisdictions can more easily and efficiently satisfy the reporting requirements related to the administration of their business licenses. The law requires every local government with a business license tax to administer in the same way starting January 1, 2022. The law prevents municipalities from receiving a windfall in the first year of implementation as a result of the required changes. Standardization also ensures stability of the tax as a municipal revenue source for the future.

The law requires standardization of:

- due date
- definition of gross income
- application
- industry classification codes (NAICS)
- the appeals process
- minimum base rate (\$2,000)

among other requirements.

The law also allows businesses to make renewal payments through an on-line portal hosted by the State Revenue and Fiscal Affairs Office.

In requiring using the standardized classification system, the law requires the Town rebalance the business license rates to ensure revenue neutrality. The initial reclassification reduced Town revenues by \$339,892. Some businesses amounts were up, and some were down. Staff recommends an across the board increase in all business license rates of 7.2% to offset the revenue loss and maintain revenue neutrality. The standard class schedule will be required to be updated and rebalanced every two years from here on out.

The model ordinance was created by the Municipal Association of South Carolina (MASC) to assist with complying with the new law. MASC strongly suggests to repeal and replace the existing business license ordinance.

The process has included:

- Monitoring the legislative process
- Working closely with MASC and studying their recommendations
- Studying the new classification system
- Analyzing all businesses to assign a class under the new system
- Analyzing the revenue implications from changes to the classifications for existing businesses
- Presenting an update to the Finance and Administrative Committee on June 15th
- A public meeting at Town Hall on July 13th
- Information Sharing through the Town's various communication channels including the website, Facebook and other channels
- A scheduled information sharing on August 3rd
- Communication with and through the Chamber and its members

If Town Council chooses to adopt the model ordinance, a number of administrative steps would be required to implement the ordinance prior to the effective date of January 1, 2022. These steps include: Updating software for the new requirements, notifying taxpayers of the changes, updating the 8,000+ business license accounts for renewals, mailing the renewals and other administrative steps in anticipation of the effective date of January 1, 2022 for the SC Business License Standardization Act.

The staff recommends Town Council:

- Adopt the model ordinance on first reading on August 17, 2021
- Adopt the model ordinance on second reading on September 21, 2021
- Make the effective date of September 21, 2021 – for new businesses
- Allow for the administrative preparations for over 8,000 business license renewals before the due date of January 1, 2022 for existing businesses.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO. _____

PROPOSED ORDINANCE NO. 2021-20

AN ORDINANCE TO REPEAL AND REPLACE CERTAIN PORTIONS OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, TO INCLUDE SECTIONS 10-1-10 THROUGH SECTION 10-1-210 AND REPLACE WITH REVISED CODE SECTIONS 10-1-10 THROUGH 10-1-250 AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, in September of 2020, the General Assembly passed Act 176 mandating that all municipalities use standard methods of administering their business license codes; and

WHEREAS, Act 176 streamlines the business license process, creating a uniform process for taxing jurisdictions across the state; and

WHEREAS, the standardization process is not optional; it is now required by law; and

WHEREAS, as a result of Act 176, the Town Council desires to repeal and replace the current Town of Hilton Head Island Business License Ordinance with the model business license ordinance, crafted by the Municipal Association of South Carolina.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AND IT IS HEREBY ORDERED AND ORDAINED BY AND UNDER THE AUTHORITY OF THE SAID TOWN COUNCIL THAT CODE SECTIONS 10-1-10 THROUGH SECTION 10-1-210 IS HEREBY REPEALED IN THE ENTIRETY AND REPLACED WITH THE FOLLOWING CODE SECTIONS IDENTIFIED AS 10-1-10 THROUGH 10-1-250, AS FOLLOWS:

Section 10-1-10. License Required. Every person engaged or intending to engage in any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, in whole or in part within the limits of the Town of Hilton Head Island, South Carolina, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided. In addition to the above- described activities constituting doing business in the town, a person shall be deemed in business if that person owns and rents one (1) or more residential units (or partial interest therein) within the town. This applies to both short-term rentals and long-term rentals. A person shall also be deemed in business if that person owns and rents one (1) or more commercial property units (or partial interest therein) within the town.

Section 10-1-20. Definitions. The following words, terms, and phrases, when used in this ordinance, shall have the meaning ascribed herein. Defined terms are not capitalized when used in this ordinance unless the context otherwise requires.

“Business” means any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, either directly or indirectly.

“*Charitable Organization*” means an organization that is determined by the Internal Revenue Service to be exempt from Federal income taxes under 26 U.S.C. Section 501(c)(3), (4), (6), (7), (8), (10) or (19).

“*Charitable Purpose*” means a benevolent, philanthropic, patriotic, or eleemosynary purpose that does not result in personal gain to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization.

“*Classification*” means that division of businesses by NAICS codes 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 the Council.

“*Council*” means the Town Council of the Town of Hilton Head Island, South Carolina.

“*Domicile*” means a principal place from which the trade or business of a licensee is conducted, directed, or managed. For purposes of this ordinance, a licensee may be deemed to have more than one domicile.

“*Gross Income*” means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within the Municipality. If the licensee has a domicile within the Municipality, business done within the Municipality shall include all gross receipts or revenue received or accrued by such licensee. If the licensee does not have a domicile within the Municipality, business done within the Municipality shall include only gross receipts or revenue received or accrued within the Municipality. In all cases, if the licensee pays a business license tax to another county or municipality, then the licensee’s gross income for the purpose of computing the tax within the Municipality must be reduced by the amount of revenues or receipts taxed in the other county or municipality and fully reported to the Municipality. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds that are the property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross receipts or gross revenues for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Department of Insurance, or other government agencies. In calculating gross income for certain businesses, the following rules shall apply:

- A. Gross income for agents shall be calculated on gross commissions received or retained, unless otherwise specified. If commissions are divided with other brokers or agents, then only the amount retained by the broker or agent is considered gross income.
- B. Except as specifically required by S.C. Code § 38-7-20, gross income for insurance companies shall be calculated on gross premiums written.
- C. Gross income for manufacturers of goods or materials with a location in the Municipality shall be calculated on the lesser of (i) gross revenues or receipts received or accrued from business done at the location, (ii) the amount of income allocated and apportioned to that location by the business for purposes of the business’s state income tax return, or (iii) the amount of expenses attributable to the location as a cost center of the business. Licensees reporting gross income under this provision shall have the burden to establish the amount and method of calculation by satisfactory records and proof. Manufacturers include those

taxpayers reporting a manufacturing principal business activity code on their federal income tax returns.

- D. Gross income for residential and commercial properties shall be calculated on the gross rental income or gross proceeds received from tenants to pay for the space, utilities and services provided under the rental agreement. All mandatory fees associated with the rental of the residential or commercial property should be included as gross income when calculating a business license tax.

“*License Official*” means a person designated to administer this ordinance. Notwithstanding the designation of a primary license official, the Municipality may designate one or more alternate license officials to administer particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code.

“*Licensee*” means the business, the person applying for the license on behalf of the business, an agent or legal representative of the business, a person who receives any part of the net profit of the business, or a person who owns or exercises control of the business.

“*Municipality*” means the Town of Hilton Head Island, South Carolina.

“*NAICS*” means the North American Industry Classification System for the United States published under the auspices of the Federal Office of Management and Budget.

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

Section 10-1-30. Purpose and Duration. The business license required by this ordinance is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. The license year ending on April 30, 2022, shall commence on January 1, 2021 and shall run for a 16-month period. Thereafter, the license periods shall be established as follows. Except as set forth below for business licenses issued to contractors with respect to specific construction projects, each yearly license shall be issued for the twelve-month period of May 1 to April 30. A business license issued for a construction contract may, at the request of the licensee, be stated to expire at the completion of the construction project; *provided*, any such business license may require that the licensee file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by the Council.

Section 10-1-40. Business License Tax, Refund.

- A. The required business license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the due date of the 30th day of April in each year, except for those businesses in Rate Class 8 for which a different due date is

specified. Late payments shall be subject to penalties as set forth in Section 12 hereof, except that admitted insurance companies may pay before June 1 without penalty.

- B. A separate license shall be required for each place of business and for each classification or business conducted at one place. If gross income cannot be separated for classifications at one location, the business license tax shall be computed on the combined gross income for the classification requiring the highest rate. The business license tax must be computed based on the licensee's gross income for the calendar year preceding the due date, for the licensee's twelve-month fiscal year preceding the due date, or on a twelve-month projected income based on the monthly average for a business in operation for less than one year. The business license tax for a new business must be computed on the estimated probable gross income for the balance of the license year. A business license related to construction contract projects may be issued on a per-project basis, at the option of the taxpayer. No refund shall be made for a business that is discontinued.
- C. A licensee that submits a payment greater than the amount owed may request a refund. To be considered, a refund request must be submitted in writing to the Municipality before the June 1 immediately following the April 30 on which the payment was due and must be supported by adequate documentation supporting the refund request. The Municipality shall approve or deny the refund request, and if approved shall issue the refund to the business, within thirty days after receipt of the request.

Section 10-1-50. Registration Required.

- A. 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; *provided*, a new business shall be required to have a business license prior to operation within the Municipality, and an annexed business shall be required to have a business license within thirty (30) days of the annexation. A license for a bar (NAICS 722410) must be issued in the name of the individual who has been issued the corresponding state alcohol, beer, or wine permit or license and will have actual control and management of the business.
- B. Application shall be on the then-current standard business license application as established and provided by the Director of the South Carolina Revenue and Fiscal Affairs Office and shall be accompanied by all information about the applicant, the licensee, and the business deemed appropriate to carry out the purpose of this ordinance by the license official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross receipts and gross revenue figures.
- C. The applicant shall certify under oath that the information given in the application is true, that the gross income is accurately reported (or estimated for a new business) without any unauthorized deductions, and that all assessments, personal property taxes on business property, and other monies due and payable to the Municipality have been paid. The applicant is also subject to compliance with the zoning ordinance, building code, electrical code, mechanical code, plumbing code, roofing code and other regulatory codes as adopted by the town council. With regard to registration of insurance companies and brokers for non-admitted insurance companies, the Municipal Association of South Carolina is designated as the exclusive agent of the town and is empowered to utilize all procedures and actions authorized by ordinance or state law.

- D. In addition to the Municipality's existing online payment system, the Municipality shall allow application, reporting, calculation, and payment of business license taxes through the business license tax portal hosted and managed by the South Carolina Revenue and Fiscal Affairs Office, subject to the availability and capability thereof. Any limitations in portal availability or capability do not relieve the applicant or Licensee from existing business license or business license tax obligations.
- E. Every business, which either 1) acts as an agent, broker or representative for any other person, or 2) has contractual arrangements with person, who are acting as independent contractors for it, shall supply the following information. The information required shall include the name, property address, telephone number, and estimated payments or premiums due to that person. Such information shall be supplied upon the request of the license inspector and shall be a condition to the obtainment of the license required under this chapter.
- F. Any person or entity that designs or installs irrigation systems ("landscape contractor") must be licensed to do so by the town. Prior to issuance or renewal of the license required herein, each landscape contractor or designated employee of said landscape contractor shall pass a certification test given by the town. Said license and certification must be shown at the annual renewal of the town business license. See section 13-3-310 of the Town Code for additional information regarding this requirement.
- G. Peddlers, solicitors, canvassers, door-to-door sales, direct retail sales of merchandise, vendors, participants at markets with regular activities require a business license. Regular activities are defined as more than two sale periods of more than three days per year.
- H. Promoters or Coordinators of art and craft shows, markets or other specialty venues require a business license.

Section 10-1-60. Deductions, Exemptions, and Charitable Organizations.

- A. No deductions from gross income shall be made except income earned outside of the Municipality on which a license tax is paid by the business to some other municipality or county and fully reported to the Municipality, taxes collected for a governmental entity, or income which cannot be included for computation of the tax pursuant to state or federal law. Properly apportioned income from business in interstate commerce shall be included in the calculation of gross income and is not exempted. The applicant shall have the burden to establish the right to exempt income by satisfactory records and proof.
- B. No person shall be exempt from the requirements of the ordinance by reason of the lack of an established place of business within the Municipality, unless exempted by state or federal law. The license official shall determine the appropriate classification for each business in accordance with the latest issue of NAICS. 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 liability for payment of any other tax or fee by reason of application of this ordinance.
- C. Wholesalers are exempt from business license taxes unless they maintain warehouses or distribution establishments within the Municipality. A wholesale transaction involves a sale to an individual who will resell the goods and includes delivery of the goods to the reseller. It does not include a sale of goods to a user or consumer.

- D. A charitable organization shall be exempt from the business license tax on its gross income unless it is deemed a business subject to a business license tax on all or part of its gross income as provided in this section. A charitable organization, or any affiliate of a charitable organization, that reports income from for-profit activities or unrelated business income for federal income tax purposes to the Internal Revenue Service shall be deemed a business subject to a business license tax on the part of its gross income from such for-profit activities or unrelated business income.
- E. A charitable organization shall be deemed a business subject to a business license tax on its total gross income if (1) any net proceeds of operation, after necessary expenses of operation, inure to the benefit of any individual or any entity that is not itself a charitable organization as defined in this ordinance, or (2) any net proceeds of operation, after necessary expenses of operation, are used for a purpose other than a charitable purpose as defined in this ordinance. Excess benefits or compensation in any form beyond fair market value to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

Section 10-1-70. 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 tax required by this ordinance.

Section 10-1-80. Display and Transfer.

- A. All persons shall display the license issued to them on the original form provided by the license official in a conspicuous place in the business establishment at the address shown on the license. A transient or non-resident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the Municipality.
- B. A change of address must be reported to the license official within ten (10) days after removal of the business to a new location and the license will be valid at the new address upon written notification by the license official and compliance with zoning and building codes. Failure to obtain the approval of the license official for a change of address shall invalidate the license and subject the licensee to prosecution for doing business without a license. A business license shall not be transferable, and a transfer of controlling interest shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on old business income.

Section 10-1-90. Administration of Ordinance. The license official shall administer the provisions of this ordinance, collect business license taxes, issue licenses, make or initiate investigations and audits to ensure compliance, initiate denial or suspension and revocation procedures, report violations to the municipal attorney, assist in prosecution of violators, produce forms, undertake reasonable procedures relating to the administration of this ordinance, and perform such other duties as may be duly assigned. With regard to the administration of this chapter as it pertains to license fees from insurance companies and brokers for non-admitted insurance companies, the Municipal Association of South Carolina is designated as the exclusive agent of the town and is empowered to utilize all procedures and actions authorized by ordinance or state law.

Section 10-1-100. Inspection and Audits.

- A. For the purpose of enforcing the provisions of this ordinance, the license official or other authorized agent of the Municipality is empowered to enter upon the premises of any person subject to this ordinance to make inspections and to examine and audit books and records. It shall be unlawful for any such person to fail or refuse to make available the necessary books and records. In the event an audit or inspection reveals that the licensee has filed false information, the costs of the audit shall be added to the correct business license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of business license tax shall constitute a separate offense.
- B. The license official shall have the authority to make inspections and conduct audits of businesses to ensure compliance with the ordinance. Financial information obtained by inspections and audits shall not be deemed public records, and the license official shall not release the amount of business license taxes paid or the reported gross income of any person by name without written permission of the licensee, except as authorized by this ordinance, state or federal law, or proper judicial order. Statistics compiled by classifications are public records. With regard to inspections and audits of insurance companies and brokers for non-admitted insurance companies, the Municipal Association of South Carolina is designated as the exclusive agent of the town and is empowered to utilize all procedures and actions authorized by ordinance or state law.

Section 10-1-110. Assessments, Payment under Protest, Appeal.

- A. Assessments, payments under protest, and appeals of assessment shall be allowed and conducted by the Municipality pursuant to the provisions of S.C. Code § 6-1-410, as amended. In preparing an assessment, the license official may examine such records of the business or any other available records as may be appropriate and conduct such investigations and statistical surveys as the license official may deem appropriate to assess a business license tax and penalties as provided herein. With regard to assessments of insurance companies and brokers for non-admitted insurance companies, the Municipal Association of South Carolina is designated as the exclusive agent of the town and is empowered to utilize all procedures and action authorized by ordinance or state law.
- B. The license official shall establish a uniform local procedure consistent with S.C. Code § 6-1-410 for hearing an application for adjustment of assessment and issuing a notice of final assessment; provided that for particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the Municipality, by separate ordinance, may establish a different procedure and may delegate one or more rights, duties, and functions hereunder to the Municipal Association of South Carolina.

S.C. Code §6-1-410. (A) If a taxpayer fails or refuses to pay a business license tax by May first or, for business license taxes collected pursuant to Article 20, Chapter 9, Title 58 and Chapters 7 and 46, Title 38, the date on which the business license tax is due, the taxing jurisdiction business license official may serve notice of assessment of the business license tax due on the taxpayer by mail or personal service. Within thirty days after the date of postmark or personal service, a taxpayer may request, in writing with reasons stated, an adjustment of the assessment. An informal conference between the taxing jurisdiction business license official and the taxpayer must be held within

fifteen days of the receipt of the request, at which time the taxpayer may present any information or documents in support of the requested adjustment. Within five days after the conference, the taxing jurisdiction business license official shall issue a notice of final assessment and serve the taxpayer by mail or personal service with the notice and provide a form for any further appeal of the assessment by the taxpayer.

(B) Within thirty days after the date of postmark or personal service, the taxpayer may appeal the notice of final assessment by filing the completed appeal form with the taxing jurisdiction business license official, by mail or personal service, and by paying to the taxing jurisdiction in protest at least eighty percent of the business license tax based on the final assessment. The appeal must be heard and determined by the taxing jurisdiction council or its designated appeals officer or appeals board. The taxing jurisdiction council or its designee shall provide the taxpayer with written notice of the hearing and with any rules of evidence or procedure prescribed by the taxing jurisdiction council or its designee. The hearing must be held within thirty days after receipt of the appeal form unless continued to another date by agreement of the parties. A hearing by the taxing jurisdiction council, its designee, or the appeals board must be held at a regular or special meeting of the taxing jurisdiction council or appeals board. At the appeals hearing, the taxpayer and the taxing jurisdiction have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The hearing must be recorded and must be transcribed at the expense of the party so requesting. The taxing jurisdiction council, its designee, or the appeals board shall decide the assessment by majority vote. The taxing jurisdiction council, its designee, the appeals board, or the designated appeals officer shall issue a written decision explaining the basis for the decision with findings of fact and conclusions and shall inform the taxpayer of the right to request a contested case hearing before the Administrative Law Court. The written decision must be filed with the taxing jurisdiction business license official and served on the taxpayer by mail or personal service. The decision is the final decision of the taxing jurisdiction on the assessment.

(C) Within thirty days after the date of postmark or personal service of the taxing jurisdiction's written decision on the assessment, a taxpayer may appeal the decision to the Administrative Law Court in accordance with the rules of the Administrative Law Court.

(D) For the purposes of this section, 'business license official' means the officer, employee, or agent designated by the taxing jurisdiction as having primary responsibility for business licensing within the taxing jurisdiction.

Section 10-1-120. Delinquent License Taxes, Partial Payment.

- A. For non-payment of all or any part of the correct business license tax, the license official shall impose and collect a late penalty of five (5%) percent of the unpaid tax for each month or portion thereof after the due date until paid. If any business license tax remains unpaid for sixty (60) days after its due date, the license official shall report it to the municipal attorney for appropriate legal action.

With regard to the collection of delinquent business license fees from insurance companies and brokers for non-admitted insurance companies, the Municipal Association of South Carolina is designated as the exclusive agent of the Town and is empowered to utilize all procedures and actions authorized by ordinance or state law.

Upon identification of a delinquent account the town manager or his/her designee has the authority to establish payment plans, revenue procedures, and reduce or waive penalties based on the revenue procedures as adopted with this ordinance.

- B. Partial payment may be accepted by the license official to toll imposition of penalties on the portion paid; *provided*, however, no business license shall be issued or renewed until the full amount of the tax due, with penalties, has been paid.

Section 10-1-130. Notices. The license official may, but shall not be required to, mail written notices that business license taxes are due. If notices are not mailed, there shall be published a notice of the due date in a newspaper of general circulation within the Municipality three (3) times prior to the due date in each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or grounds for waiver of penalties.

Current ordinance: With regard to the collection of delinquent business license fees from insurance companies and brokers for non-admitted insurance companies, the Municipal Association of South Carolina is designated as the exclusive agent of the Town and is empowered to utilize all procedures and actions authorized by ordinance or state law.

Section 10-1-140. Denial of License. The license official may deny a license to an applicant when the license official determines:

- A. The application is incomplete or contains a misrepresentation, false or misleading statement, or evasion or suppression of a material fact;
- B. The activity for which a license is sought is unlawful or constitutes a public nuisance *per se* or *per accidens*;
- C. The applicant, licensee, prior licensee, or the person in control of the business has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- D. The applicant, licensee, prior licensee, or the person in control of the business has engaged in an unlawful activity or nuisance related to the business or to a similar business in the Municipality or in another jurisdiction;
- E. The applicant, licensee, prior licensee, or the person in control of the business is delinquent in the payment to the Municipality of any tax or fee;
- F. A licensee has actual knowledge or notice, or based on the circumstances reasonably should have knowledge or notice, that any person or employee of the licensee has committed a crime of moral turpitude on the business premises, or has permitted any person or employee of the licensee to engage in the unlawful sale of merchandise or prohibited goods on the business premises and has not taken remedial measures necessary to correct such activity; or
- G. The license for the business or for a similar business of the licensee in the Municipality or another jurisdiction has been denied, suspended, or revoked in the previous license year.

A decision of the license official shall be subject to appeal as herein provided. Denial shall be written with reasons stated.

Section 10-1-150. Suspension or Revocation of License. When the license official determines:

- A. A license has been mistakenly or improperly issued or issued contrary to law;
- B. A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance;
- C. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in the license application;
- D. A licensee has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- E. A licensee has engaged in an unlawful activity or nuisance related to the business; or
- F. A licensee is delinquent in the payment to the Municipality of any tax or fee,

the license official may give written notice to the licensee or the person in control of the business within the Municipality by personal service or mail that the license is suspended pending a single hearing before Council or its designee for the purpose of determining whether the suspension should be upheld and the license should be revoked.

The written notice of suspension and proposed revocation shall state the time and place at which the hearing is to be held, and shall contain a brief statement of the reasons for the suspension and proposed revocation and a copy of the applicable provisions of this ordinance.

Section 10-1-160. Appeals to Council or its Designee.

- A. Except with respect to appeals of assessments under Section 11 hereof, which are governed by S.C. Code § 6-1-410, any person aggrieved by a determination, denial, or suspension and proposed revocation of a business license by the license official may appeal the decision to the Council or its designee by written request stating the reasons for appeal, filed with the license official within ten (10) days after service by mail or personal service of the notice of determination, denial, or suspension and proposed revocation.
- B. A hearing on an appeal from a license denial or other determination of the license official and a hearing on a suspension and proposed revocation shall be held by the Council or its designee within ten (10) business days after receipt of a request for appeal or service of a notice of suspension and proposed revocation. The hearing shall be held upon written notice at a regular or special meeting of the Council, or, if by designee of the Council, at a hearing to be scheduled by the designee. The hearing may be continued to another date by agreement of all parties. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Council or its designee shall govern the hearing. Following the hearing, the Council by majority vote of its members present, or the designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the standards herein. The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the Municipality.

- C. Timely appeal of a decision of Council or its designee does not effectuate a stay of that decision. The decision of the Council or its designee shall be binding and enforceable unless overturned by an applicable appellate court after a due and timely appeal.
- D. For business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the Municipality may establish a different procedure by ordinance.

Section 10-1-170. Consent, franchise, or license required for use of streets.

- A. It shall be unlawful for any person to construct, install, maintain, or operate in, on, above, or under any street or public place under control of the Municipality any line, pipe, cable, pole, structure, or facility for utilities, communications, cablevision, or other purposes without a consent agreement or franchise agreement issued by the Council by ordinance that prescribes the term, fees, and conditions for use.
- B. The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be consistent with limits set by state law. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of or be credited against business license taxes unless specifically provided by the franchise or consent agreement.
- C. Electrical and gas companies operate under a consent or franchise.

Section 10-1-180. Confidentiality. Except in accordance with proper judicial order or as otherwise provided by law, no official or employee of the Municipality may divulge or make known in any manner the amount of income or any financial particulars set forth or disclosed in any report or return required under this 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. Any license data may be shared with other public officials or employees in the performance of their duties, whether or not those duties relate to enforcement of this ordinance.

Section 10-1-190. 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 in this ordinance.

Section 10-1-200. Severability and effective date. A determination that any portion of this ordinance is invalid or unenforceable shall not affect the remaining portions. To the extent of any conflict between the provisions of this ordinance and the provisions of the South Carolina Business License Tax Standardization Act, as codified at S.C. Code §§ 6-1-400 *et seq.*, the standardization act shall control. The effective date of this ordinance shall be September 21, 2021 AT 12:01 a.m.

Section 10-1-210. Local Industry License. Any person who desires to exclusively engage in the business of offering for public sale at designated locations, as determined by the town manager, farm and garden products or flowers grown on the property of such person, or flower arrangements, arts or crafts produced in the home of such person, or seafood caught by such person, shall secure from the town an annual business license, but shall be exempt from the payment of a business license tax.

Section 10-1-220. Telecommunication Companies.

- A. Notwithstanding any other provisions of the Business License Ordinance, the business license tax for "retail telecommunications services," as defined in S.C. Code § 58-9-2200, shall be at the maximum rate authorized by S.C. Code § 58-9-2220, as it now provides or as provided by its amendment. The business license tax year shall begin on January 1 of each year. The rate for the 2005 business license tax year shall be the maximum rate allowed by State law as in effect on February 1, 2005. Declining rates shall not apply.
- B. In conformity with S.C. Code § 58-9-2220, the business license tax for "retail telecommunications services" shall apply to the gross income derived from the sale of retail telecommunications services for the preceding calendar or fiscal year which either originate or terminate in the municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another municipality. The measurement of the amounts derived from the retail sale of mobile telecommunications services shall include only revenues from the fixed monthly recurring charge of customers whose service address is within the boundaries of the municipality. For a business in operation for less than one (1) year, the amount of business license tax shall be computed on a 12-month projected income.
- C. For the year 2005, the business license tax for "retail telecommunications services" shall be due on February 1, 2005, and payable by February 28, 2005, without penalty. For years after 2005, the business license tax for "retail telecommunications services" shall be due on January 1 of each year and payable by January 31 of that year, without penalty.
- D. The delinquent penalty shall be five (5) percent of the tax due for each month, or portion thereof, after the due date until paid.
- E. Nothing in this section shall be interpreted to interfere with continuing obligations of any franchise agreement or contractual agreement in the event that the franchise or contractual agreement should expire after December 31, 2003.
- F. Exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Properly apportioned gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.
- G. All fees collected under such a franchise or contractual agreement expiring after December 31, 2003, shall be in lieu of fees or taxes which might otherwise be authorized by this section.
- H. As authorized by S.C. Code § 5-7-300, the agreement with the Municipal Association of South Carolina for collection of current and delinquent license taxes from telecommunications companies pursuant to S.C. Code § 58-9-2200 shall continue in effect. Notwithstanding the provisions of the agreement, for the year 2005, the Municipal Association of South Carolina is authorized to collect current and delinquent license taxes, in conformity with the due date and delinquent date for 2005 as set out in this ordinance and is further authorized, for the year 2005, to disburse business license taxes collected, less the service charge agreed to, to this municipality on or before April 1, 2005 and thereafter as remaining collections permit.

Section 10-1-230. Insurance Companies/Brokers Premium Tax.

- A. Except as to fire insurance, “gross premiums” means gross premiums written for policies for property or a risk located within the municipality. In addition, “gross premiums” shall include premiums written for policies that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by (1) the insurance company’s office located in the municipality, (2) the insurance company’s employee conducting business within the municipality, or (3) the office of the insurance company’s licensed or appointed producer (agent) conducting business within the municipality, regardless of where the property or risk is located, provided no tax has been paid to another municipality in which the property or risk is located based on the same premium.
- B. Solicitation for insurance, receiving or transmitting an application or policy, examination of risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute conducting business within the municipality, regardless of whether or not an office is maintained in the municipality.
- C. As to fire insurance, “gross premiums” means gross premiums (1) collected in the municipality, and/or (2) realized from risks located within the limits of the municipality.
- D. Gross premiums shall include all business conducted in the prior calendar year. Declining rates shall not apply.
- E. Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit.
- F. Notwithstanding any other provision of this ordinance, license taxes for insurance companies shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be five (5) percent of the tax due per month, or portion thereof, after the due date until paid.
- G. Any exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Gross income from the interstate commerce shall be included in the gross income for every business subject to a business license tax.
- H. Pursuant to S.C. Code 1996, § 38-45-10 and 38-45-60, the Municipal Association of South Carolina is designated the municipal agent for purposes of administration of the municipal broker’s premium tax and business license taxes from insurance companies. The agreement with the association for administration and collection of current and delinquent license taxes from the insurance companies as authorized by S.C. Code 1996, § 5-7-300 and administration of the municipal broker’s premium tax is approved, and the town manager is authorized to execute it.

Section 10-1-240. Special Event Permit License and Special Event Vendor Permits.

- A. Event sponsors: A special event permit license will be issued by the town to the event sponsor or promoter once a special event permit application has been approved by the town and shall be valid solely for the time period and the specific location stated thereon. This special license must be applied for and obtained before commencement of the event for which it is to be used.
- B. Event vendors: A special event vendor permit will be issued by the town to a vendor that does not require a town business license in accordance with this ordinance. It shall be valid solely for the time period and the specific location stated thereon. This special license must

be applied for by the event sponsor on behalf of the vendor and obtained before the commencement of the event for which it is used.

- C. It is the responsibility of the special event sponsor or promoter to ensure that all participating vendors have either a town business license or a special event vendor permit for the specified event in accordance with this ordinance.
- D. Each participating vendor must be the creator of the art or craft which is to be sold. This includes any person who desires to engage in the business of offering for public sale flower arrangements or any hand-crafted item produced in the home. Goods purchased for sale or resale cannot be vended on special license.
- E. Merchants and vendors now operating under valid town business licenses shall be allowed to operate on those licenses, incorporating such gross sales in the annual gross sales to be reported on the succeeding year's business license renewal application.

Section 10-1-250. Classification and Rates.

- A. The business license tax for each class of businesses subject to this ordinance shall be computed in accordance with the current business license rate schedule, designated as Appendix A to this ordinance, which may be amended from time to time by the Council.
- B. The current business license class schedule is attached hereto as Appendix B. Hereafter, no later than December 31 of each odd year, the Municipality shall adopt, by ordinance, the latest standardized business license class schedule as recommended by the Municipal Association of South Carolina and adopted by the Director of the South Carolina Revenue and Fiscal Affairs Office. Upon adoption by the Municipality, the revised business license class schedule shall then be appended to this ordinance as a replacement Appendix B.
- C. The classifications included in each rate class are listed with NAICS codes, by sector, sub-sector, group, or industry. The business license class schedule (Appendix B) is a tool for classification and not a limitation on businesses subject to a business license tax. The classification in the most recent version of the business license class schedule adopted by the Council that most specifically identifies the subject business shall be applied to the business. The license official shall have the authority to make the determination of the classification most specifically applicable to a subject business.
- D. A copy of the class schedule and rate schedule shall be filed in the office of the municipal clerk.

**PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS ____ DAY OF
_____, 2021.**

John J. McCann, Mayor

ATTEST:

By: _____
Krista M. Wiedmeyer, Town Clerk

First Reading: _____
Second Reading: _____

APPROVED AS TO FORM:

Curtis Coltrane, Town Attorney

Introduced by Council Member: _____

BUSINESS LICENSE RATE SCHEDULE

Appendix A

<u>RATE CLASS</u>	<u>INCOME: \$0 - \$2,000</u>	<u>INCOME OVER \$2,000</u>
<u>FRACTION THEREOF</u>	<u>BASE RATE</u>	<u>RATE PER \$1,000 OR</u>
1	\$46.30	\$.75
2	\$54.00	\$1.00
3	\$61.60	\$1.10
4	\$69.40	\$1.30
5	\$77.10	\$1.40
6	\$84.80	\$1.50
7	\$92.50	\$1.70
8.1	\$61.60	\$1.10
8.2	Set by state statute-Railroad Companies	
8.3	MASC Telecommunications	
8.4	MASC Insurance	
8.51	\$12.50 + \$12.50 per machine	
8.52	\$12.50 + \$180.00 per machine	
8.6	\$61.60 plus \$5.00 -OR- \$12.50 per table	\$1.10
9.10	\$187.50	\$3.24
9.30	\$54.00	\$1.00
9.40	\$54.00	\$1.00
9.70	\$107.90	\$1.70

NON-RESIDENT RATES

Unless otherwise specifically provided, all taxes and rates shall be doubled for nonresidents and itinerants having no fixed principal place of business within the Municipality.

CLASS 8 RATES

Each NAICS number designates a separate subclassification. The businesses in this section are treated as separate and individual subclasses due to provisions of state law, regulatory requirements, service burdens, tax equalization considerations, and other factors that are deemed sufficient to require individually determined rates. In accordance with state law, the Municipality

also may provide for reasonable subclassifications for rates, described by an NAICS sector, subsector, or industry, that are based on particularized considerations as needed for economic stimulus or for the enhanced or disproportionate demands on municipal services or infrastructure.

Non-resident rates do not apply except where indicated.

8.1 NAICS 230000 – Contractors, Construction, All Types [Non-resident rates apply].

Resident rates, for contractors having a permanent place of business within the Municipality:

Minimum on first \$2,000	\$61.60 PLUS
Per \$1,000, or fraction, over \$2,000	\$1.10

Non-resident rates apply to contractors that do not have a permanent place of business within the Municipality. A trailer at the construction site or structure in which the contractor temporarily resides is not a permanent place of business under this ordinance.

No contractor shall be issued a business license until all state and municipal qualification examination and trade license requirements have been met. Each contractor shall post a sign in plain view on each job identifying the contractor with the job.

Sub-contractors shall be licensed on the same basis as general or prime contractors for the same job. No deductions shall be made by a general or prime contractor for value of work performed by a sub-contractor.

No contractor shall be issued a business license until all performance and indemnity bonds required by the Building Code have been filed and approved. Zoning permits must be obtained when required by the Zoning Ordinance.

Each prime contractor shall file with the License Official, or it’s designee, a list of sub-contractors furnishing labor or materials for each project.

For licenses issued on a per-job basis, the total tax for the full amount of the contract shall be paid prior to commencement of work and shall entitle the contractor to complete the job without regard to the normal license expiration date. An amended report shall be filed for each new job and the appropriate additional license fee per \$1,000 of the contract amount shall be paid prior to commencement of new work. Only one base tax shall be paid in a license year. Licensees holding a per-job license shall file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount.

8.2 NAICS 482 – Railroad Companies (See S.C. Code § 12-23-210).

8.3 NAICS 517311, 517312 – Telephone Companies.

With respect to “retail telecommunications services” as defined in S. C. Code § 58-9-2200, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program with the

rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to retail telecommunications services as set forth in this ordinance.

8.4 NAICS 5241, NAICS 5242 – Insurance Companies/Brokers Premium Tax:

Independent agents, brokers, their employees are subject to a business license tax based on their natural class. With respect to insurers subject to license fees and taxes as defined in S.C. Code 1996, §§38-45-10 and 38-45-60, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program with the rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to insurers and brokers are set forth in this ordinance.

8.51 NAICS 713120 – Amusement Machines, coin operated (except gambling). Music machines, juke boxes, kiddie rides, video games, pin tables with levers, and other amusement machines with or without free play feature licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(1) and (A)(2) [**Type I and Type II**]._For operation of all machines (not on gross income), pursuant to S.C. Code §12-21-2746:

Per Machine	\$12.50 PLUS
Business license	\$12.50

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.51.

8.52 NAICS 713290 – Amusement Machines, coin operated, non-payout. Amusement machines of the non-payout type or in-line pin game licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(3) [**Type III**].

For operation of all machines (not on gross income), pursuant to S.C. Code §12-21-2720(B):

Per Machine	\$180.00 PLUS
Business license	\$12.50

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.52.

8.6 NAICS 713990 – Billiard or Pool Rooms, all types. (A) Pursuant to SC Code § 12-21-2746, license tax of \$5.00 per table measuring less than 3½ feet wide and 7 feet long, and \$12.50 per table longer than that; PLUS, (B) with respect to gross income from the entire business in addition to the tax authorized by state law for each table:

Minimum on first \$2,000	\$61.60 PLUS
Per \$1,000, or fraction, over \$2,000	\$1.10

CLASS 9 RATES

9.10 NAICS 561599- All Other Travel Arrangement and Reservation Services.

Establishments primarily engaged in providing travel arrangements and reservation services (except travel agencies, tour operators, and convention and visitors bureaus).

Minimum on first \$2,000\$ 187.50 PLUS
Per \$1,000, or fraction, over \$2,000\$3.24

9.30 NAICS 441100- Automobile Dealers [Non-resident rates apply]. Establishments primarily engaged in retailing new and used automobiles and light trucks, such as sport utility vehicles, and passenger and cargo vans.

Minimum on first \$2,000\$54.00 PLUS
Per \$1,000, or fraction, over \$2,000\$1.00

9.30 NAICS 4412000- Other Motor Vehicle Dealers [Non-resident rates apply]. Establishments primarily engaged in retailing new and used vehicles (except automobiles, light trucks, such as sport utility vehicles, and passenger and cargo vans).

Minimum on first \$2,000\$54.00 PLUS
Per \$1,000, or fraction, over \$2,000\$1.00

9.40 NAICS 454390- Other Direct Selling Establishments (Peddlers). Establishments primarily engaged in retailing merchandise (except food for immediate consumption and fuel) via direct sale to the customer by means, such as in-house sales (i.e., party plan merchandising), truck or wagon sales, and portable stalls (i.e., street vendors).

Minimum on first \$2,000\$ 54.00 PLUS
Per \$1,000, or fraction, over \$2,000\$1.00

9.70 NAICS 722410- Drinking Places (Alcoholic Beverages). Establishments known as bars, taverns, nightclubs, or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate consumption. These establishments may also provide limited food services.

Minimum on first \$2,000\$107.90 PLUS
Per \$1,000, or fraction, over \$2,000\$1.70

**Business License Class Schedule by NAICS Code
Appendix B**

This appendix will be updated every odd year based on the latest available IRS statistics.

<u>NAICS SECTOR/SUBSECTOR</u>	<u>INDUSTRY SECTOR</u>	
<u>CLASS</u>		
1100	Agriculture, Forestry, Fishing and Hunting	2
1150	Support Activities for Agriculture, Animals and Forestry	2
2100	Mining, Quarrying, and Oil and Gas Extraction	4
2300	Construction	8.10
3100-3300	Manufacturing	2
4200	Wholesale Trade	1
4400-4500	Retail Trade	1
4411	Automobile Dealers	9.30
4412	Other Motor Vehicle Dealers	9.30
454390	Other Direct Selling Establishments (Peddlers)	9.40
4800-4900	Transportation and Warehousing	2
482	Rail Transportation	8.2
5100	Information	4
517311/517312	MASC Telephone Companies	8.30
5200	Finance and Insurance	7
5241/5242	MASC Insurance Companies	8.40
5300	Real Estate and Rental Leasing	7
5400	Professional, Scientific and Technical Services	5
5500	Management Companies	7
5600	Administrative and Support Services	4
6100	Educational Services	4
6200	Health Care and Social Assistance	4
7100	Arts, Entertainment and Recreation	3
713120	Amusement Machines, Coin Operated	8.51
713290	Amusement Machines, Non-Payout	8.52

713990	Billiard or Pool Rooms	8.60
7210	Accommodations	3
7220	Food Services and Drinking Places	1
722410	Drinking Places	9.70



TOWN OF HILTON HEAD ISLAND
REVENUE SERVICES
 One Town Center Court
 Hilton Head Island, SC 29928
 Phone: (843) 341-4677 Fax: (843) 341-4637
 Email: RS@hiltonheadislandsc.gov

_____ / _____

Residential or Commercial Property Rental Business License Application

ALL INCOMPLETE APPLICATIONS WILL BE RETURNED

PROPERTY OWNER NAME _____

PROPERTY OWNER MAILING ADDRESS _____

PROPERTY OWNER EMAIL (REQUIRED FOR WEB ACCESS) _____

PROPERTY OWNER CELL PHONE NUMBER _____

SOCIAL SECURITY (LAST 4 DIGITS) _____ **OR** FEDERAL EIN # _____

ADDITIONAL CONTACT INFORMATION (SHOULD BE DIFFERENT THAN ABOVE)

NAME _____ CELL PHONE NUMBER _____

EMAIL _____ RELATIONSHIP TO APPLICANT _____

HOW IS YOUR PROPERTY TITLE DEED LISTED WITH BEAUFORT COUNTY?

SOLE PROPRIETORSHIP CORPORATION TRUST LLC/LLP OTHER

NAME ON DEED _____

LIST ADDRESS OF ALL RENTAL PROPERTIES OWNED IN THE TOWN. PLEASE INCLUDE UNIT/APT NUMBER.

DATE YOU BEGAN RENTING PROPERTY _____

SELECT HOW YOU RENT THE PROPERTY: LONG TERM SHORT TERM BOTH COMMERCIAL

PROPERTY MANAGEMENT COMPANY VRBO AIRBNB SELF OTHER _____

DOES ABOVE PROPERTY MANAGEMENT COMPANY MANAGE 100% OF ALL RENTALS? YES NO

IF NO, WHO MANAGES THE OTHER RENTALS? _____

FOR SHORT TERM RENTALS ONLY:

IF YOU OWN RESIDENTIAL PROPERTY AND RENT FOR INTERVALS LESS THAN 90 DAYS, YOU ARE REQUIRED TO COLLECT 1% ACCOMMODATIONS TAX AND 2 % BEACH PRESERVATION FEES FROM YOUR TENANTS AND REMIT TO THE TOWN.

DOES YOUR PROPERTY MANAGEMENT COMPANY REMIT ACCOMMODATIONS TAX ON YOUR BEHALF? YES NO

IF NO, PROVIDE YOUR SOUTH CAROLINA RETAIL LICENSE NUMBER _____

A SOUTH CAROLINA RETAIL LICENSE IS REQUIRED IF YOU ARE REMITTING ACCOMMODATIONS TAX

PLEASE CHOOSE ONE: REMIT TAX QUARTERLY OR REMIT TAX MONTHLY

IF NO SELECTION IS MADE, YOUR ACCOUNT WILL DEFAULT TO QUARTERLY REMITTANCE

AS OWNER, OFFICER, PRINCIPAL OR MANAGING MEMBER OR AUTHORIZED AGENT, BY MY SIGNATURE BELOW, I AFFIRM UNDER OATH THAT ALL OF THE INFORMATION ABOVE IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, THAT I AM COMPLIANT WITH ALL TOWN, STATE AND FEDERAL REGULATORY REQUIREMENTS AND THAT I HAVE THE AUTHORITY TO MAKE THIS APPLICATION. I AFFIRM UNDER OATH THAT ALL ASSESSMENTS, TAXES, FEES, AND PERSONAL PROPERTY TAXES DUE AND PAYABLE TO THE TOWN AND COUNTY HAVE BEEN PAID. I AFFIRM UNDER OATH THAT I WILL MAINTAIN ACCURATE CONTACT INFORMATION FOR RESPONSIBLE PERSONS ON FILE WITH THE TOWN AND THE COUNTY. I UNDERSTAND THAT THE TOWN ORDINANCE PROVIDES FOR PENALTIES AND LICENSE REVOCATION FOR MAKING FRAUDULENT STATEMENTS ON THIS APPLICATION.

I HEREBY ACKNOWLEDGE THAT IF MY BUSINESS COLLECTS GROSS PROCEEDS FROM THE LEASE/RENTAL OF SLEEPING ACCOMMODATIONS TO THE SAME PERSON (S) FOR A PERIOD OF LESS THAN 90 DAYS, I WILL COLLECT AND REMIT LOCAL ACCOMMODATIONS TAX AND BEACH PRESERVATION FEE IN ACCORDANCE WITH TOWN CODE TITLE 4 CHAPTERS 12 AND 9, RESPECTIVELY.

APPLICATION MUST BE SIGNED BY OWNER, OFFICER OR PRINCIPAL MANAGING MEMBER.

BUSINESSES OPERATING WITHOUT A VALID BUSINESS LICENSE ARE SUBJECT TO PENALTIES AND FINES. A BUSINESS MAY BE ASSESSED A 5% PENALTY FOR EACH MONTH OR PORTION THEREOF FOR OPERATING WITHOUT A TOWN BUSINESS LICENSE. ADDITIONALLY, BUSINESSES MAY BE SUBJECT TO A \$1087.50 MUNICIPAL SUMMONS.

Print Name _____ Date _____

Signature _____ Date _____

ADMINISTRATIVE USE ONLY:

APPLICATION ACCEPTED BY: _____ DATE: _____

APPLICATION FEE RECEIVED: _____ NAICS: _____

BUSINESS DOCUMENTS: _____ OWNER/PRINCIPAL ID: _____

REQUIRED DOCUMENTS:

1. ENTITIES: ARTICLES OF INCORPORATION, ARTICLES OF ORGANIZATION, TRUST AGREEMENT
Not required for Sole Proprietorships ATTACHED
 2. ENTITIES: LIST OF MEMBERS, OFFICERS OR MANAGING PARTNERS ATTACHED
 3. ENTITIES: REGISTRATION WITH SC SECRETARY OF STATE
(Out of state entities will require a Certificate of Authorization from SC Secretary of State)
Contact SC SOS with questions www.scsos.com or 803-734-2158 ATTACHED
 4. SC RETAIL LICENSE
Contact SC DOR with questions www.dor.sc.gov or 803-898-5788 ATTACHED
 5. THE APPLICATION MUST BE SIGNED BY THE OWNER, OFFICER OR PRINCIPAL MANAGING MEMBER OF THE BUSINESS
(If the principal owner cannot deliver the application in person, written authorization for an agent must be provided)
 6. \$10.00 NON-REFUNDABLE APPLICATION FEE ATTACHED
Checks payable to the Town of Hilton Head Island
-



SC Business License Tax Standardization Act

New Law, New Action

For many years, businesses raised concerns with legislators about the inconsistencies and complicated processes found around the state among the local governments that collect business license taxes. Legislators came together with the business community and local jurisdictions to remedy these issues.

The process led to the General Assembly passing Act 176, SC Business License Tax Standardization Act, in September 2020. Act 176 streamlines the business license process, creating the same process for taxing jurisdictions across the state. As of January 1, 2022, all municipalities in South Carolina that levy a local business license tax must comply with the law. The standardization will require all property owners that rent their property to obtain a business license.

Details of Act 176:

- The standard due date is April 30.
- The standard license year is May 1-April 30.
- The standard calculation for business license tax using gross income will be based on prior calendar year or business fiscal year.
- The standard application will be accepted as approved by SC Revenue and Fiscal Affairs Office.
- All businesses will be listed in the standard class schedule according to their North American Industry Classification System (NAICS) code.
- Standard class schedule will be used as adopted by SC Revenue and Fiscal Affairs Office.
- A Local Business License Renewal Center, an online payment portal where businesses can renew all their local licenses at one time, will be created.



SC Business License Tax Standardization: ACT 176

What is Act 176?

The General Assembly passed Act 176, SC Business License Standardization Act, in September 2020. Act 176 streamlines the business license process, creating the same process for taxing jurisdictions across the state.

Why did the SC General Assembly pass Act 176?

For many years, businesses raised concerns with legislators about the inconsistencies and complicated processes found around the state among local governments that collect business license taxes. Legislators came together with the business community and municipalities to remedy the issues and passed Act 176.

When does Act 176 take effect?

Act 176 requires every local government with a business license tax to administer the tax in the same way across the state starting January 1, 2022.

Do I need to do anything to update my current business license to comply with the new law?

No, the Town will update your business license as required by law with the adoption of the standard business license ordinance. Town of Hilton Head Island plans to adopt the standard business license ordinance in September 2021.

Did the due date change for my business license because of Act 176?

No, the Town uses the standard due date of April 30th each year.

Do I need to report my business license income differently because of the new law?

No, the Town has always practiced the standard method for reporting business license revenue. You will continue to use your gross income from the prior calendar year or business fiscal year to calculate your business license tax.

How is my standard business license class schedule determined?

Your standard business license class schedule is determined by your North American Industry Classification System code, or NAICS code.

How is my business license rate determined?

Your business license rate is determined by the standard business license class schedule adopted by the SC Revenue and Fiscal Affairs Office every odd-numbered year. Town Council establishes the business license rates for the class schedules.

Will my business license rate change?

Yes, your business license rate will change due to the requirements of the law to standardize the business license process across the state. Your new rate will be effective for your 2022 business license renewal year.

How can I find out my business license rate for 2022?

The new business license rates will be available on the Town's website after the adoption of the business license ordinance planned in September 2021.

Do I need a business license if I own a rental property?

Yes, all property owners that rent a property will require a business license. This includes all short-term rentals and long-term rentals. The standard business license ordinance does not allow any exemptions for property owners that rent their property.

What do I need to do if I am a property owner that will require a business license in 2022?

You will need to submit a business license application to Revenue Services to obtain a business license. The business license application can be found on the Town's website at www.hiltonheadislandsc.gov/Government/FormsandApplications. Click the link for Business License/ Property Rental Application to download the PDF file. The application can be emailed to RS@HiltonHeadIslandSC.Gov or mailed to the Town of Hilton Head Island, 1 Town Center Court, Hilton Head Island, SC 29928. The Town encourages you to submit your application sooner rather than later. Additional Revenue Services staff will be dedicated to process your application in 2021 and will mail your business license payment form to you in January 2022.

What do I need to do if I am a Property Manager?

The Town encourages you to educate your property owners of the new business license requirements for 2022. To help you coordinate communication efforts with your property owners please email the Revenue Services at RS@HiltonHeadIslandSC.Gov or by calling Revenue Services at 843-341-4677.

How can I find out more information about Act 176?

You can go online to SC Legislature at www.scstatehouse.gov and search "A176" for a copy of the law.

Additional Questions?

Contact Revenue Services by phone (843) 341-4677 or email RS@HiltonHeadIslandSC.Gov



TOWN OF HILTON HEAD ISLAND

Executive Department

TO: Town Council
FROM: Marc Orlando, ICMA-CM – Town Manager
DATE: 08/03/2021
SUBJECT: Affiliated Agency Town Funding Standardization Process
CC: Joshua Gruber, Deputy Town Manager
John Troyer, Finance Director

Background:

The Town receives requests from various commercial and nonprofit entities for funding that supports a wide range of matters and with varying degrees of public purpose justification. These requests became the subject of significant Town Council discussion during the COVID-19 pandemic and ultimately resulted in Council approval of a one-time emergency General Fund distribution for the Arts Center of Coastal Carolina and the Concourse d'Elegance & Motoring festival. Following these discussions, it was requested that staff examine the legal aspects of funding outside agencies both during a declared State of Emergency and as part of its annual budget adoption process. Additionally, it was requested that staff propose a standardized process that would ensure that the awarding of Town General Funds is done in a fair and transparent manner. This Memorandum sets forth information pertaining to the legal ability for local governments in South Carolina to provide funding to commercial and nonprofit organizations as well as a recommendation to establish a formal process to review and award Town General Funds.

Recommendation:

Staff recommends that the Town Council adopt a formal policy wherein all requests for Town funding from affiliated and/or outside agencies will be submitted to the Finance and Administration Committee for review and recommendation as part of the annual fiscal budget adoption. An outline of how this process could potentially function is as follows:

1. Requesting agency submits Town funding request application form containing the following:
 - a. Identification of the organization and its background
 - b. Copies of audited financial statements
 - c. Copy of current budget identifying all anticipated revenues and expenses
 - d. Summary of previous governmental funding that has been received
 - e. Justification/proposed uses of requested funding demonstrating how this funding will provide a public function of the Town
 - f. Identification of operational metrics that will be tracked to demonstrate goal achievement
 - g. Future capital projects or changes in service delivery scope that might impact future operations or financial requests
2. Finance & Administration Committee Receives Requests and selects agencies to make presentations.

3. Selected agencies make a presentation to the Finance & Administration Committee outlining their funding request and answer any questions.
4. Finance & Administration Committee submits recommendation on affiliated agency funding requests to Town Council as part of the annual fiscal year budget adoption process.

Any requests for funding made outside of the annual fiscal budget adoption process should be discouraged and the granting of funding outside of this process should be limited to only extraordinary circumstances. Should it become necessary to take up such an extraordinary request, the review and consideration process adopted by Town Council should be utilized in a manner to similar to that of the formal annual budget adoption process identified above.

General Fund Appropriations

The South Carolina Constitution provides certain prohibitions on the expenditure of public funds which are generally inclusive of all sources of ad valorem tax revenues maintained within a jurisdiction’s General Fund. Under Title 10 Section 11 of the Constitution it states, “[t]he credit of neither the State nor of any of its political subdivisions shall be pledged or loaned for the benefit of any individual, company, association, corporation, or any religious or other private education institution except as permitted by Section 3, Article XI of this Constitution.”

The South Carolina courts as well as the South Carolina Attorney General’s Office have interpreted this provision to prohibit local governments from providing funding to non-governmental agencies unless the funds are being provided for an express “public purpose.”

Public funds may be appropriated to a private nonprofit, nonsectarian organization if the funds are to be expended in the promotion of a valid public purpose. *Op. Atty. Gen., December 18, 1979, at 1.* The appropriation of public funds to these private entities is, in effect, an exchange of value which results in the performance by those entities of a public function for the State. *Op. Atty. Gen., November 16, 1983.* Our Supreme Court has also recognized generally that where the expenditure of public funds is ‘primarily for the benefit of the State . . .’ there is no violation of Article X, § 11. *South Carolina Farm Bureau Marketing Assn. v. South Carolina State Ports Authority, 278 S.C. 198, 293 S.E.2d 854, 857 (1982).*

Therefore the central question in identifying whether or not a transfer of public funds to a private entity is constitutionally valid is dependent upon such transfer being recognized as being for the benefit of the public.

Pursuant to this justification, the Town has annually contracted with certain “affiliated agencies” to provide management, programming, oversight, support, or ongoing maintenance of services offered to the public on behalf of the Town. These services have historically been performed and carried out by nonprofit third-parties with such expenditures being stated on an individual basis within the Town’s annual adopted budget. Based upon the most recently adopted Fiscal Year 2022 budget, the following affiliated agencies received Town General Funds:

FY2022	Funding Amount	Public Services
Island Recreation Association	\$1,087,578	Offers youth and adult recreational programming on

		Town and County owned property. Manages special event rentals of certain Town owned properties.
Coastal Discovery Museum	\$180,000	Operates the Town owned Honey Horn Plantation and provides public access to the site. Funding within this category also supports the Historic Mitchelville Freedom Park.
USCB Island Ambassador Program	\$186,367	Provides certification program to become an Island Ambassador through studying Island knowledge, Island culture and Island ecology. This program was created through a partnership between the Town and USCB.
Palmetto Breeze	\$225,165	This is the local matching funds for the Town's urban and rural federal transportation grant funding.
Solicitor/Court Services	\$168,500	These services provide criminal prosecution and other judicial services for offenses occurring on Hilton Head Island.
Beaufort County Economic Development Corporation	\$25,000	This is the Town's local matching funds to be a participating member of the Beaufort County Economic Development Corporation.

South Carolina Courts have examined the question of what constitutes a “public purpose” and have also long determined that whether an act of a governmental body is for a public purpose is primarily one for the Legislature to determine and the courts will not interfere unless the determination by that body is clearly wrong. *Elliott v. McNair*, 250 S.C. at 86-87.

"The consensus of modern legislative and judicial thinking is to broaden the scope of activities which may be classes as involving a public purpose. 37 *Am.Jur.*, *Municipal Corporations*, Sec. 132. It reaches perhaps its broadest extent under the view that economic welfare is one of the main concerns of the city, state and the federal governments." *State ex rel. Jardon v. Industrial Development Authority of Jasper County*, 570 S.W.(2d) 666 (Mo. 1978)."

As such, public funding can be provided for the provision of direct public services or for the overall economic welfare of a community when there is a specific legislative funding by a governmental body that such purpose does in fact exist and that the benefit to the community from the investment of public funds will substantially justify its investment.

Pandemic Related Funding Sources

Due to the unprecedented public health crisis that has been created by the COVID-19 pandemic, several unique funding opportunities have arisen that have not previously existed due to the restrictions contained with the South Carolina Constitution. Or, that have otherwise been altered so as to provide relief to individuals that have been negatively impacted by these events without running afoul of the aforementioned limitations.

CDBG Grant Process through Community Foundation of the Lowcountry

The Town sought approval from the United States Department of Housing and Urban Development to utilize its unspent allocation of Community Development Block Grant funding from the Fiscal Year 2020 budget as well as those funds received for the Fiscal Year 2021 to create grants to local nonprofit organizations that have been supporting residents who were impacted by the COVID-19 pandemic. The Town received such approval and partnered with the Community Foundation of the Lowcountry to distribute a total of \$730,833.00 to various local nonprofits that provided assistance to Hilton Head Island residents that needed support in the areas of rental and utility assistance, mortgage assistance, child care expenses, food insecurities, and more. A full listed of the entities who received Town funding under this program is as follows:

U.S. Department of Housing and Urban Development (HUD) Community Development Block Grants (CDBG)			
Organization	No. of Awards	Total Award Amount	Purpose of Grant
Boys & Girls Club of Hilton Head Island	3	\$79,739.00	1.Scholarship for Distance Learning Program 2.Cleaning Expenses, PPE
Foundation for Educational Excellence	2	\$61,000.00	Tutoring programs at HHI public schools, educational materials
Hilton Head Island Recreation Association	1	\$3,000.00	Virtual Learning Program
HH Regional Habitat for Humanity	1	\$25,000.00	Emergency Housing Assistance
Lowcountry Legal Volunteers	1	\$51,000.00	Workshops to help educate people facing potential housing evictions
Mental Health America (MHA) of Beaufort -Jasper	1	\$25,000.00	Scholarships for MHA group therapy assistance
Native Island Business & Community Affairs Association	1	\$25,000.00	Emergency Housing Assistance
Neighborhood Outreach Connection	2	\$79,500.00	1.Living Expenses for Clients 2. Program operation expenses
Sandalwood Community Food Pantry	4	\$40,500.00	Food and PPE for distribution to clients
Second Helpings	1	\$12,000.00	Food purchase for distribution
Society of St. Vincent de Paul Holy Family Conference	1	\$25,000.00	Rent and utility assistance for HHI clients
The Children's Center	3	\$87,094.00	1. Remediation and Sanitation Expenses 2. PPE, Safety Supplies, Remediation Expenses 3.Tuition assistance for families
The Hilton Head Island Deep Well Project	3	\$116,000.00	Emergency housing, rent and utilities

The Literacy Center	1	\$25,000.00	Technology & Instruction Cost for Distance Learning Service
Volunteers in Medicine Hilton Head Island	2	\$76,000.00	1. PPE for patients, staff, volunteers 2. Isolation boxes/lodging for COVID-19 positive individuals
Total	27	\$730,833.00	

Recently, the South Carolina Attorney General's Office was asked to examine the appropriateness of an emergency grant funding program that was being proposed by Lancaster County. *Op. Atty. Gen., April 29, 2020*. This grant program was predicated on the fact that an applicant had applied for, and exhausted, all federal relief funds that were available to the applicant business. The grant program also required that the applicant demonstrate a direct financial hardship as a result of the COVID-19 pandemic. The grant program was also not restricted to any particular category of business but were open to all and limited in eligibility only on the basis of the number of employees at the business.

In response to this inquiry, the Attorney General's Office stated that in order for such a program to be constitutionally authorized, the governing body of Lancaster County would need to find that the creation of such a grant program would serve a public purpose. The opinion went on to provide four specific factors that should be used when determining if an action serves a public purpose. Those are as follows:

1. **Is there an ultimate goal or benefit intended to the public by virtue of the project?**
2. **Will public or private parties be the primary beneficiary?**
3. **How speculative in nature is the project?**
4. **On balance, what is the probability that the public interest will ultimately be served and to what degree?**

Therefore, if the Town Council desires that a formalized process be created for providing grants from the Town's General Fund to entities on the Island or to entities that have been impacted by the COVID-19 Pandemic, then such action should first be precipitated by a formal legislative action of the Town Council that undertaking such action would serve a public purpose specifically addressing such items in the manner outlined above.

Conclusion:

The South Carolina Constitution and subsequent judicial jurisprudence has established clear restrictions on the types of activities or services that can receive a local government's General Fund financial support. In order to remain in compliance with these restrictions and to ensure a fair, equitable, and transparent review of the appropriation process, staff is recommending that Town Council develop a formal policy wherein the Finance and Administration Committee would receive and review all requests for funding from affiliated/outside agencies. It would then make award recommendations to Town Council as part of the annual fiscal budget adoption process. Any request for funding made outside of the annual fiscal budget adoption process would be discouraged and the granting of funding outside of this process would be limited to only extraordinary circumstances. Should it become necessary to take up such an extraordinary request, the review and consideration process adopted by Town Council would be utilized in a manner to similar to that of the formal annual budget adoption process identified above. A draft Affiliated Agency Funding Request Application as outlined within this Memorandum has been enclosed as an attachment for consideration.



TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

Fiscal Year 2023 Affiliated Agencies Funding Request Application

All applications must be fully completed and submitted electronically to the Town of Hilton Head Island no later than 4:30 p.m. on Monday, February 28, 2022.

This application package includes the following:

1. Guideline for Applications
2. Affiliated Agency Funds Application
3. Application Submission

Applications will first be reviewed by Town Finance Staff and Senior Staff. The Finance & Administration Committee will review the received requests and will select agencies to make presentations outlining their funding request and answer any questions that may arise. Each applicant will be notified by email (please make sure to provide a valid email address) of the time scheduled for its presentation. The Finance & Administrative Committee will submit a recommendation on affiliated agency funding requests to Town Council as part of the annual fiscal year budget and adoption process.

The Committee requests each applicant to adhere strictly to the guidelines and requirements provided herein.

Failure to correctly complete the application in its entirety, may disqualify what may be an otherwise qualifying application.

GUIDELINES FOR APPLICATIONS FOR AFFILIATED AGENCIES FUNDS

NOTES REGARDING THE APPLICATION

1. Summary of Requesting Agency

- a. Identification of the organization, its mission and background
- b. Provide the full name, postal mailing address, email address and telephone number of a primary contact person, given the authority and responsibility to represent the application before the Committee, must be included in this section.
- c. List the organization's total annual budget and its fiscal year 2023 requested amount.

2. Description of Operations

- a. Describe the organization purpose/uses of requested funding and demonstrate how funding will provide public function to the Town and its overall operation.
- b. The description must state what is intended to be accomplished by the Affiliated Agency funds, and the source and amount of other funds to be committed to the operations.
- c. Describe the impact to the organization should it not be fully funded for the fiscal year 2023 request.
- d. What are the future capital projects or changes in the service delivery scope that might impact future operations or financial requests.

3. Funding

- a. Provide a brief description on how the organization is currently funded.
- b. Please provide a summary current and previous governmental funding applied for, or received, for fiscal year 2021, 2022 and fiscal year 2023.
- c. Copies of Fiscal Year 2020 and 2021 audited financial statements
- d. Provide a copy of the current budget identifying all anticipated revenues and expenses.

5. Measuring Effectiveness:

- a. Please identify the project/operation objectives and budget
- b. Please identify how operational metrics will be tracked to demonstrate goal achievement.
- c. Please identify how the metrics establish a public benefit
- d. Please identify your service area and provide statistics of clients served
- e. Please identify your partner agencies
- f. Please identify a proposed/expected timeline to achieve objectives
- g. Please identify any partners/contractor comments

h. Please identify any other sources of funding requested or received.

6. Submission Requirements:

a. All funding requests are to be submitted electronically by February 28, 2022 to:

Town of Hilton Head Island
Finance & Administrative Committee
c/o Cindaia Ervin
1 Town Center Court
Hilton Head Island, SC 29928
cindaiae@hiltonheadislandsc.gov
(843) 341-4646

DRAFT

2022

AFFILIATED AGENCY FUNDS REQUEST APPLICATION

For Office Use Only	Time Received:	By:
Date Received:		

Applications will not be accepted if submitted after 4:30 P.M. on February 28, 2022

A. Summary of Grant Request:

ORGANIZATION NAME: _____

Contact Name: _____ Title: _____

Address: _____

Email Address: _____ Contact Phone: _____

Total Budget: _____ **Grant Amount Requested:** _____

Provide a brief summary on the intended use of the grant and how the money would be used. (100 words or less)

B. DESCRIPTION OF OPERATIONS:

1. For reporting purposes, give a brief description of the organization. (250 words or less)

2. **Describe in detail how the requested grant funding would be used?** (250 words or less)

3. **What impact would partial funding have on the activities, if full funding were not received? What would the organization change to account for partial funding?** (100 words or less)

4. **What is the expected economic impact and benefit to the Island's people or environment?** (100 words or less)

5. **Additional comments** (250 words or less)

C. FUNDING:

1. Please describe how the organization is currently funded. (100 words or less)

2. Please also estimate, as a percentage, the source of the organization's total annual funding.

_____ Government Sources

_____ Private Contributions, Donations & Grants

_____ Corporate Support, Sponsors

_____ Membership Dues, Subscriptions

_____ Ticket Sales, or Sales & Services

_____ Other

3. Please provide a summary of previous governmental funding applied for, or received, for fiscal year 2022 and fiscal year 2023. (100 words or less)

4. Please provide a summary of other sources of funding sought or secured for this initiative. (250 words or less)

D. FINANCIAL INFORMATION:

Fiscal year disclosure: Start Month: _____ End Month: _____

Financial Statement Requirements:

1. The upcoming year's operating budget for the organization.
2. The previous two years and current year profit and loss reports for the organization.
3. The previous two years and current year balance sheets.

E. MEASURING EFFECTIVENESS:

1. **List any award amounts received in fiscal year 2021 and/or 2022? How were those funds used? To what extent were your objectives achieved? (200 words or less)**

2. **What impact does this have on the success of the organization and how did it benefit the community? (200 words or less)**

3. **How does the organization measure the effectiveness of both the overall activity and of individual programs? (200 words or less)**

G. Executive Summary:

Provide an executive summary using the Effectiveness Measurement spreadsheet provided or your own format. If creating your own format, please refer to the Effectiveness Measurement sample spreadsheet and use the criteria as a guideline. (1300 words or less)



**AFFILIATED AGENCIES FUNDING REQUEST
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA**

APPLICATION FINAL CHECKLIST

(Complete and return this list with the application)

- The application is being filed by the **February 28, 2022, 4:00 PM** deadline.
- We have reviewed and followed the application guidelines.
- We have supplied the requested Financial Data.
- We will be prepared to make a verbal presentation to the Committee and answer questions when we are scheduled to do so.

Please contact Cindaia Ervin at 843-341-4646

or email

cindaiae@hiltonheadislandsc.gov

if you have any questions or concerns.

NOTE: A Town Council quorum may result in the event four or more Council members attend this meeting.



TOWN OF HILTON HEAD ISLAND

Executive Department

TO: Town Council
FROM: Marc Orlando, ICMA-CM – Town Manager
DATE: 08/10/2021
SUBJECT: American Rescue Plan Funding Appropriations
CC: John Troyer, Finance Director

Background:

Congressional House Resolution 1319, better known as the American Rescue Plan, was signed into law on March 11, 2021. This piece of legislation provides funding to local governments in order to assist in responding to the COVID-19 public health emergency. Based on guidance that has been provided from the United States Department of the Treasury, the Town is anticipated to receive a cumulative total of \$5,227,178.00 in Coronavirus State and Local Fiscal Recovery Funds. The Town has recently received the first round of funding under this appropriation of approximately \$2.6 million and expects to receive the remaining 50% of its allocation sometime around May of 2022.

The United States Department of Treasury has also issued some preliminary guidance on how these funds may be potentially utilized. A “Fact Sheet” issued by the United States Department of the Treasury on May 10, 2021 is attached to this Memorandum.

The stated goals that have been outlined under this program are to address concerns within the following areas:

- Support urgent COVID-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control;
- Replace lost public sector revenue to strengthen support for vital public services and help retain jobs;
- Support immediate economic stabilization for households and businesses; and,
- Address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic on certain populations

Additional guidance has also been recently published that helps to further understand how the funds received under this program may be authorized in order to address the concerns highlighted above. The following are a list of categories that have been initially identified as being eligible uses:

- **Support public health expenditures**, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- **Address negative economic impacts caused by the public health emergency**, including economic harms to workers, households, small businesses, impacted industries, and the public sector;

- **Replace lost public sector revenue**, using this funding to provide government services to the extent of the reduction in revenues experienced due to the pandemic;
- **Provide premium pay for essential workers**, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Treasury's guidance in expending these funds has also stated that there are certain expenditures that will not be eligible with these funds. Those include using the funding to directly offset or to reduce/cut taxes or to make a deposit to a pension fund.

It is important to note that timing requirements have been incorporated into this legislation as well. A recipient of funding under this program must obligate 100% of the funding that it has received by December 31, 2024 and must have 100% of these funds expended by December 31, 2026. The covered period for any activity to be deemed eligible must have taken place or will take place between March 3, 2021 and December 31, 2024.

Staff Recommendations:

Based upon the guidance that has been issued thus far by the United States Department of the Treasury, conversations with the South Carolina Municipal Association, the International City/County Managers Association, the Government Finance Officers Association, and a review of potential/planned expenditures from other similar South Carolina jurisdictions, staff would submit the following expenditure recommendations for Town Council consideration:

I. Address negative economic impacts caused by the public health emergency,

- \$1,000,000 – Community Foundation of the Lowcountry Pandemic Impact Grants
 - \$500,000 in FY22 and \$500,000 in FY23

II. Replace lost public sector revenue and target funds to the following:

- \$400,000 – Home Repair-Structural Safety/Removal of Unsafe and Uninhabited Structures Program
 - \$200,000 in FY22 and \$200,000 in FY23
- \$1,000,000 – Town Hall Security and Technology Improvements
 - \$1,000,000 in FY22 and \$0.00 in FY23
- \$1,000,000 – Patterson Tract Development/Infrastructure
 - \$500,000 in FY22 and \$500,000 in FY23

III. Invest in water, sewer, and broadband infrastructure

- \$200,000 – Lateral Sanitary Sewer Connection Grants
 - \$100,000 in FY22 and \$100,000 in FY23
- \$1,627,178 – Public Infrastructure
 - \$300,000 in FY22 and \$1,327,178 in FY23

Total = \$5,227,178

A brief overview of how the funding within each of these areas is as follows:

- Community Foundation of the Lowcountry Pandemic Impact Grants

One of the primary focuses of the American Rescue Plan is to provide funding that directly responds to needs created by the COVID-19 pandemic particularly within communities and populations that have been hardest hit by the national health crisis. The Town would provide this funding to the Community Foundation of the Lowcountry thereby allowing them to administer a grant award program to local groups and organizations that were directly impacted. These funds could be utilized to support housing assistance, childcare and education, rent and utility assistance, and food insecurities among other pandemic related impacts.

- Home Repair-Structural Safety/Removal of Unsafe and Uninhabited Structures Program

For households located on Hilton Head Island whose income qualifications would be at 60% or less of the Area Median Income (AMI), this program would allow them to apply for grant funding to used towards leaking roofs, unstable or unsafe floors, failing septic tanks, inaccessible private roads, removing broken or unwanted items from a resident's property, removing unsafe and unoccupied structures from a resident's property, ensuring local emergency services have an official address to a resident's property, and providing assisting in obtaining proper paperwork for heirs' property.

- Town Hall Security and Technology Improvements

Funding under this item would be utilized to secure the Town Council chambers through the use of electronic locks, magnetometers, security cameras and other safety/security related infrastructure. Other areas of Town Hall to include public entrances and common hallways would also be improved utilizing this same technology in order to provide a uniform system of security throughout the entire facility. Additionally, new technology within the Town Council chambers would be installed and existing technology upgraded in order to enhance live streaming capabilities of Town Council meetings and meetings of other public bodies.

- Patterson Tract Development/Infrastructure

The Town owns a 3.27 acre tract of land located at 23 Marshland Road. Funding under this item would be utilized to install public recreational amenities consistent with a neighborhood park and infrastructure necessary to support a neighborhood park. Additionally, the Town may consider a public-private partnership to develop workforce housing on portion of this property. Funding under item could therefore also be used to support the road, water, sewer and/or utility infrastructure necessary to facilitate the creation of such workforce housing development on this property.

- Public Infrastructure

Funding under this section would be utilized to accomplish various capital improvement projects that are not otherwise funded within the Town's adopted Capital Improvement Plan or could otherwise be used to supplement already identified funding to facilitate project enhancement. Additionally, funding under this section could be utilized to satisfy the Town's potential participation in regional workforce housing initiatives should the Town Council ultimately decide to participate in such a program.

- Lateral Sanitary Sewer Connection Grants

The funding under this section would facilitate the creation of a grant program whereby those property owners living on the Island who have not yet connected to existing sanitary sewer systems due to financial limitations or otherwise would be eligible to receive funding that would facilitate such connection. Existing programs such as Project Safe could also be further supported financially in their efforts to connect all Hilton Head Island residents to an existing sewer system. Funding under this program could also be used to potentially pay for some or all of the costs that might not otherwise be covered under the existing Project Safe grant funding. Examples of these services could include plumbing connection services, inspections costs and new connection fees that may represent a financial barrier to establishing a new sewer connection.

FACT SHEET: The Coronavirus State and Local Fiscal Recovery Funds Will Deliver \$350 Billion for State, Local, Territorial, and Tribal Governments to Respond to the COVID-19 Emergency and Bring Back Jobs

May 10, 2021

Aid to state, local, territorial, and Tribal governments will help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery

Today, the U.S. Department of the Treasury announced the launch of the Coronavirus State and Local Fiscal Recovery Funds, established by the American Rescue Plan Act of 2021, to provide \$350 billion in emergency funding for eligible state, local, territorial, and Tribal governments. Treasury also released details on how these funds can be used to respond to acute pandemic response needs, fill revenue shortfalls among these governments, and support the communities and populations hardest-hit by the COVID-19 crisis. With the launch of the Coronavirus State and Local Fiscal Recovery Funds, eligible jurisdictions will be able to access this funding in the coming days to address these needs.

State, local, territorial, and Tribal governments have been on the frontlines of responding to the immense public health and economic needs created by this crisis – from standing up vaccination sites to supporting small businesses – even as these governments confronted revenue shortfalls during the downturn. As a result, these governments have endured unprecedented strains, forcing many to make untenable choices between laying off educators, firefighters, and other frontline workers or failing to provide other services that communities rely on. Faced with these challenges, state and local governments have cut over 1 million jobs since the beginning of the crisis. The experience of prior economic downturns has shown that budget pressures like these often result in prolonged fiscal austerity that can slow an economic recovery.

To support the immediate pandemic response, bring back jobs, and lay the groundwork for a strong and equitable recovery, the American Rescue Plan Act of 2021 established the Coronavirus State and Local Fiscal Recovery Funds, designed to deliver \$350 billion to state, local, territorial, and Tribal governments to bolster their response to the COVID-19 emergency and its economic impacts. Today, Treasury is launching this much-needed relief to:

- Support urgent COVID-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control;
- Replace lost public sector revenue to strengthen support for vital public services and help retain jobs;
- Support immediate economic stabilization for households and businesses; and,
- Address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic on certain populations.

The Coronavirus State and Local Fiscal Recovery Funds provide substantial flexibility for each jurisdiction to meet local needs—including support for households, small businesses, impacted industries, essential workers, and the communities hardest-hit by the crisis. These funds also deliver resources that recipients can invest in building, maintaining, or upgrading their water, sewer, and broadband infrastructure.

Starting today, eligible state, territorial, metropolitan city, county, and Tribal governments may request Coronavirus State and Local Fiscal Recovery Funds through the Treasury Submission Portal. Concurrent with this program launch, Treasury has published an Interim Final Rule that implements the provisions of this program.

FUNDING AMOUNTS

The American Rescue Plan provides a total of \$350 billion in Coronavirus State and Local Fiscal Recovery Funds to help eligible state, local, territorial, and Tribal governments meet their present needs and build the foundation for a strong recovery. Congress has allocated this funding to tens of thousands of jurisdictions. These allocations include:

Type	Amount (\$ billions)
States & District of Columbia	\$195.3
Counties	\$65.1
Metropolitan Cites	\$45.6
Tribal Governments	\$20.0
Territories	\$4.5
Non-Entitlement Units of Local Government	\$19.5

Treasury expects to distribute these funds directly to each state, territorial, metropolitan city, county, and Tribal government. Local governments that are classified as non-entitlement units will receive this funding through their applicable state government. Treasury expects to provide further guidance on distributions to non-entitlement units next week.

Local governments should expect to receive funds in two tranches, with 50% provided beginning in May 2021 and the balance delivered 12 months later. States that have experienced a net increase in the unemployment rate of more than 2 percentage points from February 2020 to the latest available data as of the date of certification will receive their full allocation of funds in a single payment; other states will receive funds in two equal tranches. Governments of U.S. territories will receive a single payment. Tribal governments will receive two payments, with the first payment available in May and the second payment, based on employment data, to be delivered in June 2021.

USES OF FUNDING

Coronavirus State and Local Fiscal Recovery Funds provide eligible state, local, territorial, and Tribal governments with a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. Within the categories of eligible uses, recipients have broad flexibility to decide how best to use this funding to meet the needs of their communities. Recipients may use Coronavirus State and Local Fiscal Recovery Funds to:

- **Support public health expenditures**, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- **Address negative economic impacts caused by the public health emergency**, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
- **Replace lost public sector revenue**, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- **Provide premium pay for essential workers**, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Within these overall categories, Treasury’s Interim Final Rule provides guidelines and principles for determining the types of programs and services that this funding can support, together with examples of allowable uses that recipients may consider. As described below, Treasury has also designed these provisions to take into consideration the disproportionate impacts of the COVID-19 public health emergency on those hardest-hit by the pandemic.

1. Supporting the public health response

Mitigating the impact of COVID-19 continues to require an unprecedented public health response from state, local, territorial, and Tribal governments. Coronavirus State and Local Fiscal Recovery Funds provide resources to meet these needs through the provision of care for those impacted by the virus and through services that address disparities in public health that have been exacerbated by the pandemic. Recipients may use this funding to address a broad range of public health needs across COVID-19 mitigation, medical expenses, behavioral healthcare, and public health resources. Among other services, these funds can help support:

- **Services and programs to contain and mitigate the spread of COVID-19, including:**
 - ✓ Vaccination programs
 - ✓ Medical expenses
 - ✓ Testing
 - ✓ Contact tracing
 - ✓ Isolation or quarantine
 - ✓ PPE purchases
 - ✓ Support for vulnerable populations to access medical or public health services
 - ✓ Public health surveillance (e.g., monitoring for variants)
 - ✓ Enforcement of public health orders
 - ✓ Public communication efforts
 - ✓ Enhancement of healthcare capacity, including alternative care facilities
 - ✓ Support for prevention, mitigation, or other services in congregate living facilities and schools
 - ✓ Enhancement of public health data systems
 - ✓ Capital investments in public facilities to meet pandemic operational needs
 - ✓ Ventilation improvements in key settings like healthcare facilities

- **Services to address behavioral healthcare needs exacerbated by the pandemic, including:**
 - ✓ Mental health treatment
 - ✓ Substance misuse treatment
 - ✓ Other behavioral health services
 - ✓ Hotlines or warmlines
 - ✓ Crisis intervention
 - ✓ Services or outreach to promote access to health and social services
- **Payroll and covered benefits expenses** for public health, healthcare, human services, public safety and similar employees, to the extent that they work on the COVID-19 response. For public health and safety workers, recipients can use these funds to cover the full payroll and covered benefits costs for employees or operating units or divisions primarily dedicated to the COVID-19 response.

2. Addressing the negative economic impacts caused by the public health emergency

The COVID-19 public health emergency resulted in significant economic hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote education, and travel declined precipitously, over 20 million jobs were lost between February and April 2020. Although many have since returned to work, as of April 2021, the economy remains more than 8 million jobs below its pre-pandemic peak, and more than 3 million workers have dropped out of the labor market altogether since February 2020.

To help alleviate the economic hardships caused by the pandemic, Coronavirus State and Local Fiscal Recovery Funds enable eligible state, local, territorial, and Tribal governments to provide a wide range of assistance to individuals and households, small businesses, and impacted industries, in addition to enabling governments to rehire public sector staff and rebuild capacity. Among these uses include:

- **Delivering assistance to workers and families**, including aid to unemployed workers and job training, as well as aid to households facing food, housing, or other financial insecurity. In addition, these funds can support survivor’s benefits for family members of COVID-19 victims.
- **Supporting small businesses**, helping them to address financial challenges caused by the pandemic and to make investments in COVID-19 prevention and mitigation tactics, as well as to provide technical assistance. To achieve these goals, recipients may employ this funding to execute a broad array of loan, grant, in-kind assistance, and counseling programs to enable small businesses to rebound from the downturn.
- **Speeding the recovery of the tourism, travel, and hospitality sectors**, supporting industries that were particularly hard-hit by the COVID-19 emergency and are just now beginning to mend. Similarly impacted sectors within a local area are also eligible for support.
- **Rebuilding public sector capacity**, by rehiring public sector staff and replenishing unemployment insurance (UI) trust funds, in each case up to pre-pandemic levels. Recipients may also use this funding to build their internal capacity to successfully implement economic relief programs, with investments in data analysis, targeted outreach, technology infrastructure, and impact evaluations.

3. **Serving the hardest-hit communities and families**

While the pandemic has affected communities across the country, it has disproportionately impacted low-income families and communities of color and has exacerbated systemic health and economic inequities. Low-income and socially vulnerable communities have experienced the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000.

Coronavirus State and Local Fiscal Recovery Funds allow for a broad range of uses to address the disproportionate public health and economic impacts of the crisis on the hardest-hit communities, populations, and households. Eligible services include:

- **Addressing health disparities and the social determinants of health**, through funding for community health workers, public benefits navigators, remediation of lead hazards, and community violence intervention programs;
- **Investments in housing and neighborhoods**, such as services to address individuals experiencing homelessness, affordable housing development, housing vouchers, and residential counseling and housing navigation assistance to facilitate moves to neighborhoods with high economic opportunity;
- **Addressing educational disparities** through new or expanded early learning services, providing additional resources to high-poverty school districts, and offering educational services like tutoring or afterschool programs as well as services to address social, emotional, and mental health needs; and,
- **Promoting healthy childhood environments**, including new or expanded high quality childcare, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

Governments may use Coronavirus State and Local Fiscal Recovery Funds to support these additional services if they are provided:

- within a Qualified Census Tract (a low-income area as designated by the Department of Housing and Urban Development);
- to families living in Qualified Census Tracts;
- by a Tribal government; or,
- to other populations, households, or geographic areas disproportionately impacted by the pandemic.

4. **Replacing lost public sector revenue**

State, local, territorial, and Tribal governments that are facing budget shortfalls may use Coronavirus State and Local Fiscal Recovery Funds to avoid cuts to government services. With these additional resources, recipients can continue to provide valuable public services and ensure that fiscal austerity measures do not hamper the broader economic recovery.

Many state, local, territorial, and Tribal governments have experienced significant budget shortfalls, which can yield a devastating impact on their respective communities. Faced with budget shortfalls and pandemic-related uncertainty, state and local governments cut staff in all 50 states. These budget shortfalls and staff cuts are particularly problematic at present, as these entities are on the front lines of battling the COVID-19 pandemic and helping citizens weather the economic downturn.

Recipients may use these funds to replace lost revenue. Treasury's Interim Final Rule establishes a methodology that each recipient can use to calculate its reduction in revenue. Specifically, recipients will compute the extent of their reduction in revenue by comparing their actual revenue to an alternative representing what could have been expected to occur in the absence of the pandemic. Analysis of this expected trend begins with the last full fiscal year prior to the public health emergency and projects forward at either (a) the recipient's average annual revenue growth over the three full fiscal years prior to the public health emergency or (b) 4.1%, the national average state and local revenue growth rate from 2015-18 (the latest available data).

For administrative convenience, Treasury's Interim Final Rule allows recipients to presume that any diminution in actual revenue relative to the expected trend is due to the COVID-19 public health emergency. Upon receiving Coronavirus State and Local Fiscal Recovery Funds, recipients may immediately calculate the reduction in revenue that occurred in 2020 and deploy funds to address any shortfall. Recipients will have the opportunity to re-calculate revenue loss at several points through the program, supporting those entities that experience a lagged impact of the crisis on revenues.

Importantly, once a shortfall in revenue is identified, recipients will have broad latitude to use this funding to support government services, up to this amount of lost revenue.

5. Providing premium pay for essential workers

Coronavirus State and Local Fiscal Recovery Funds provide resources for eligible state, local, territorial, and Tribal governments to recognize the heroic contributions of essential workers. Since the start of the public health emergency, essential workers have put their physical well-being at risk to meet the daily needs of their communities and to provide care for others.

Many of these essential workers have not received compensation for the heightened risks they have faced and continue to face. Recipients may use this funding to provide premium pay directly, or through grants to private employers, to a broad range of essential workers who must be physically present at their jobs including, among others:

- ✓ Staff at nursing homes, hospitals, and home-care settings
- ✓ Workers at farms, food production facilities, grocery stores, and restaurants
- ✓ Janitors and sanitation workers
- ✓ Public health and safety staff
- ✓ Truck drivers, transit staff, and warehouse workers
- ✓ Childcare workers, educators, and school staff
- ✓ Social service and human services staff

Treasury's Interim Final Rule emphasizes the need for recipients to prioritize premium pay for lower income workers. Premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers.

In addition, employers are both permitted and encouraged to use Coronavirus State and Local Fiscal Recovery Funds to offer retrospective premium pay, recognizing that many essential workers have not yet received additional compensation for work performed. Staff working for third-party contractors in eligible sectors are also eligible for premium pay.

6. Investing in water and sewer infrastructure

Recipients may use Coronavirus State and Local Fiscal Recovery Funds to invest in necessary improvements to their water and sewer infrastructures, including projects that address the impacts of climate change.

Recipients may use this funding to invest in an array of drinking water infrastructure projects, such as building or upgrading facilities and transmission, distribution, and storage systems, including the replacement of lead service lines.

Recipients may also use this funding to invest in wastewater infrastructure projects, including constructing publicly-owned treatment infrastructure, managing and treating stormwater or subsurface drainage water, facilitating water reuse, and securing publicly-owned treatment works.

To help jurisdictions expedite their execution of these essential investments, Treasury's Interim Final Rule aligns types of eligible projects with the wide range of projects that can be supported by the Environmental Protection Agency's Clean Water State Revolving Fund and Drinking Water State Revolving Fund. Recipients retain substantial flexibility to identify those water and sewer infrastructure investments that are of the highest priority for their own communities.

Treasury's Interim Final Rule also encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions.

7. Investing in broadband infrastructure

The pandemic has underscored the importance of access to universal, high-speed, reliable, and affordable broadband coverage. Over the past year, millions of Americans relied on the internet to participate in remote school, healthcare, and work.

Yet, by at least one measure, 30 million Americans live in areas where there is no broadband service or where existing services do not deliver minimally acceptable speeds. For millions of other Americans, the high cost of broadband access may place it out of reach. The American Rescue Plan aims to help remedy these shortfalls, providing recipients with flexibility to use Coronavirus State and Local Fiscal Recovery Funds to invest in broadband infrastructure.

Recognizing the acute need in certain communities, Treasury's Interim Final Rule provides that investments in broadband be made in areas that are currently unserved or underserved—in other words, lacking a wireline connection that reliably delivers minimum speeds of 25 Mbps download and 3 Mbps upload. Recipients are also encouraged to prioritize projects that achieve last-mile connections to households and businesses.

Using these funds, recipients generally should build broadband infrastructure with modern technologies in mind, specifically those projects that deliver services offering reliable 100 Mbps download and 100

Mbps upload speeds, unless impracticable due to topography, geography, or financial cost. In addition, recipients are encouraged to pursue fiber optic investments.

In view of the wide disparities in broadband access, assistance to households to support internet access or digital literacy is an eligible use to respond to the public health and negative economic impacts of the pandemic, as detailed above.

8. Ineligible Uses

Coronavirus State and Local Fiscal Recovery Funds provide substantial resources to help eligible state, local, territorial, and Tribal governments manage the public health and economic consequences of COVID-19. Recipients have considerable flexibility to use these funds to address the diverse needs of their communities.

To ensure that these funds are used for their intended purposes, the American Rescue Plan Act also specifies two ineligible uses of funds:

- **States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue due to a change in law from March 3, 2021 through the last day of the fiscal year in which the funds provided have been spent.** The American Rescue Plan ensures that funds needed to provide vital services and support public employees, small businesses, and families struggling to make it through the pandemic are not used to fund reductions in net tax revenue. Treasury's Interim Final Rule implements this requirement. If a state or territory cuts taxes, they must demonstrate how they paid for the tax cuts from sources other than Coronavirus State Fiscal Recovery Funds—by enacting policies to raise other sources of revenue, by cutting spending, or through higher revenue due to economic growth. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be paid back to the Treasury.
- **No recipient may use this funding to make a deposit to a pension fund.** Treasury's Interim Final Rule defines a "deposit" as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability. While pension deposits are prohibited, recipients may use funds for routine payroll contributions for employees whose wages and salaries are an eligible use of funds.

Treasury's Interim Final Rule identifies several other ineligible uses, including funding debt service, legal settlements or judgments, and deposits to rainy day funds or financial reserves. Further, general infrastructure spending is not covered as an eligible use outside of water, sewer, and broadband investments or above the amount allocated under the revenue loss provision. While the program offers broad flexibility to recipients to address local conditions, these restrictions will help ensure that funds are used to augment existing activities and address pressing needs.



Town of Hilton Head Island
Town Council
Calendar Year 2022
Proposed Meeting Dates

Regular meetings of Town Council shall be held on the first and third Tuesday of each month at 4:00 p.m. in the Benjamin M. Racusin Council Chambers, unless changed by a majority vote of the members present at any regular or special meeting

January 4	July 5 CANCEL
January 18	July 19
February 4 CANCEL	August 2 CANCEL
February 15	August 16
March 1	September 6 CANCEL
March 15	September 20
April 5	October 4
April 19	October 18
May 3	November 1
May 10 - BUDGET WORKSHOP	November 15
May 17	December 6
June 7	December 20
June 21	--

Recommendations:

February 1st: Cancel the meeting due to the scheduling conflict with the Municipal Association's Hometown Legislation Action Day.

July 5th: Cancel the meeting due to the Independence Day Holiday the day before.

August 2nd: Cancel the meeting as the month of August traditionally has had only one meeting.

September 6th: Cancel the meeting due to the Labor Day Holiday the day before.