

# CHAPTER 8. FINANCIAL ADMINISTRATION AND TAXATION

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## CHAPTER 8. FINANCIAL ADMINISTRATION AND TAXATION

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**CHAPTER 8. FINANCIAL ADMINISTRATION AND TAXATION**

Editor’s Note. This chapter derives from the 1976 South Carolina Code of Laws; the 1976 Campobello Code, with amendments; and generally accepted municipal practices.

**ARTICLE I. GENERAL PROVISIONS**

- 8.101. FISCAL YEAR.

The fiscal year shall begin on the first day of the month of October and shall end on the last day of the month of the following September.

- 8.102. BUDGET AND ACCOUNTING YEAR.

The fiscal year also shall constitute the budget and accounting year.

**8.103. DEPARTMENT HEADS TO SUBMIT INITIAL ANNUAL BUDGET.**

Before the beginning of the budget year, the head of each office or department shall submit a department fund budget work program for the ensuing year to the Town Clerk, for subsequent submission to the Council.

**8.104. BUDGET. CAPITAL PROJECTS.**

Annually, the Town Clerk shall prepare a budget prior to the new fiscal year. For such purpose, the heads of each office or department, shall submit, in such detail as may be required, estimates of expenditures and such other supporting data together with estimates of all capital projects pending or which such department head believes should be undertaken within the budget year and within the next five succeeding years.

(1976 SC Code 5-1 1-40.c)

**8.105. SAME. SUMMARY.**

A budget summary shall be included in the proposed budgets and shall be in sufficient detail and summarized, as to income and expenditures, in such manner as to present to Council and taxpayers a simple and clear understanding of the budget.

**8.106. SAME. UTILITIES.**

The anticipated revenues and proposed expenditures of all utilities shall be stated in the budget. All provisions relating to the preparation and administration of the budget shall apply to the budget of the utility.

**8.107. SAME. CONTINGENT EXPENSES.**

Separate provisions may be included in the budget for contingent expenses for the administration, operation and maintenance of the city.

**8.108. SAME. TAX LEVY TO BE STATED. CLERK TO NOTIFY COUNTY.**

- a. The Council shall identify in the budget the tax rate for the ending year.
- b. It shall be the duty of the Clerk to notify the appropriate county officials of the annual tax millage rates.

**8.109. SAME. WHEN LAPSE.**

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered.

**8.110. SAME. FAILURE TO ADOPT.**

Should the Council fail to adopt a budget by ordinance for the next fiscal year, on or before its beginning, the budget as initially proposed to the Council shall be effective until a new budget for the ensuing year is finally adopted.

**8.111. SAME. EMERGENCIES.**

In the absence of un-appropriated available revenues to meet emergency appropriations, the Council may authorize by ordinance the issuance of notes, which may be renewed from time to time, but all such notes and renewals thereof shall be paid not later than the last day of the fiscal year next succeeding the budget year in which the emergency appropriation was made.

**8.112. PUBLIC INSPECTION.**

Upon final adoption, the budget shall be in effect for the budget year. The budget and all supporting schedules shall be a public record in the office of the Town Clerk and open for public inspection during regular office hours.

**8.113. PUBLIC HEARING. PUBLIC NOTICE.**

- a. Pursuant to §6-1-80 of the 1976 South Carolina Code of Laws, as amended, and prior to its adoption, the Council shall determine a place and time for a public hearing on the budget.
- b. Public notice shall be given by advertising the public hearing before the adoption of the budget in at least one (1) newspaper of local general circulation.
- c. The notice shall be given not less than fifteen (15) days in advance of the public hearing and must be a minimum of two (2) columns wide with a bold headline.
- d. The public notice shall contain all the information required by §6-1 -80 of the 1976 South Carolina Code of Laws.

(Editor's Note. Section 6-1 -80 of the South Carolina Code of Laws requires every municipality to "provide notice to the public by advertising the public hearing before the adoption of its budget for the next fiscal year in at least one South Carolina newspaper of general circulation in the

area...not less than fifteen days in advance of the public hearing.” It also provides the details of the notice which “. . . must be a minimum of two columns wide with a bold headline.”)

**8.114. SAME. CHANGES.**

After the conclusion of a public hearing, the Council may insert new items or may increase, decrease or delete the items of the budget but, should the total proposed expenditures be increased, it shall also increase the total anticipated revenues by an amount at least equal to such proposed total expenditures, except for items of capital outlay to be financed through sources not listed or contained in the budget.

**8.115. CERTIFICATION. FILING.**

A permanent copy of the budget, as finally adopted and certified by the Town Clerk, shall be filed in the office of the Clerk.

**8.116. APPROPRIATIONS. SUBSEQUENT TO ADOPTION.**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

**8.117. REGULAR FINANCIAL REPORTS.**

The Town Clerk shall furnish to the Council regular financial statements of all receipts and disbursements, as provided in Chapter 2, Article V of this code.

**8.118. DISBURSEMENTS TO BE BY CHECK SIGNATURES.**

All disbursements, other than for petty cash, shall be by check and signed by the Town Clerk.

**8.119. DEPOSIT OF MONEYS.**

All municipal funds shall be deposited to the credit of the town in a local bank.

**8.120. AUDIT. REQUIREMENTS.**

- a. Prior to the end of each fiscal year, the Council shall designate a Certified Public Accountant, a public accountant or firm of such accountants who, at the end of the fiscal year, shall make an independent audit of the accounts and other evidence of financial transactions of the municipality and shall submit a report to the Council.

- b. Such accountant shall have no direct or indirect personal interest in the fiscal affairs of the municipality or of any of its officers.
- c. He shall, within specifications approved by Council, post-audit the books and documents kept by any office, department, board or agency of the municipality. (1976 SC Code §5-7-240 requires these appointments.)

**8.121. BORROWING IN ANTICIPATION OF COLLECTION OF TAXES.**

The Council may, during each calendar year, borrow money for its current expenses and pledge the taxes becoming payable during such calendar year for the payment of any moneys so borrowed.

**8.122. PAYMENT OF NOTES.**

The power and obligation of the Council to pay notes issued by it pursuant to this article shall be unlimited, and the Council may levy ad valorem taxes on all the taxable property within the corporate limits for the payment of such notes and interest thereon, without limitation of rate or amount. The full faith and credit of the municipality shall be pledged for the payment of the principal and interest on any notes issued, pursuant to this article.

**8.123. RETURNED CHECKS. FEE.**

- a. All dishonored checks payable to the town and redeemed by the maker shall have added to the principal sum a collection fee for each such check.
- b. Such fee shall be as set forth in the "Schedule of Rates and Fees" as shown on Exhibit I of this code.

**ARTICLE II. TAXATION**

Editor's Note. Section 5-7-30 of the 1976 South Carolina Code of Laws gives municipalities of this state the "...authority to levy and collect taxes on real and personal property... ". The statutory authority for property subject to municipal taxes can be found at §5-21-10.

The intent of this article is to secure uniformity in the taxation of property. (Florida Central P.R. Co. v. Columbia, 54 S.C. 266, 32 S. E. 408 (1899)).

Municipal taxes may be assessed only as authorized by the legislature. (Watson v. Orangeburg, 229 S. C. 367, 93, S. E. 2d 20 (1956)).

Section 5-7-300 of the 1976 South Carolina Code of Laws, as amended, authorizes a municipality to contract with the county in which the municipality is located, for the collection of municipal taxes, including delinquent taxes, upon such terms and conditions as may be mutually agreeable.

The town has entered into such an agreement with the County of Spartanburg wherein the county agreed to collect taxes for the town, including all items in connection therewith, as provided by law.

This article derives from the provisions of that agreement and state statutes authorizing it.

**8.201. SPARTANBURG COUNTY AUTHORIZED TO COLLECT TAXES.**

Pursuant to §5-7-300 of the 1976 South Carolina Code of Laws, the authority to collect municipal taxes, including those delinquent and those which may be put to auction for nonpayment, is hereby vested in the appropriate officials of Spartanburg County whose responsibilities include the collection of taxes.

**8.202. BASIS OF VALUE OF PROPERTY FOR TAXATION.**

The basis of value for taxation of real estate, personal property, except taxes for motor vehicles, or other taxable property shall be such assessment as levied by the Spartanburg County Auditor.

**8.203. PENALTY FOR NONPAYMENT.**

Pursuant to §5-7-300 of the South Carolina Code of Laws, a penalty is hereby imposed for nonpayment of taxes payable when the taxes become delinquent. Said penalty shall not exceed fifteen percent (15%) of the tax levies; provided, however, the cost of execution shall be added to the penalty.

(Editor's Note. Section 5-7-300 of said Code of Laws provides for additional costs of execution to be added to the penalty and sets forth the details of collection. The fee represents the total cost of execution.)

**ARTICLE III. MOBILE HOMES TAXES**

Editor's Note. This section derives from the 1976 South Carolina Code of Laws, to ensure that mobile homes are placed on the tax roles either as real or personal property.

**8.301. ASSESSED.**

At such time as taxes may be levied by the Council:

1. Mobile homes shall be considered real property and shall be classified and assessed for ad valorem taxation.
2. To avoid said classification, the owner of any mobile home shall give written notice to the County Auditor that the mobile home is without permanent foundation.
3. The County Auditor shall determine the taxable classification of the mobile home.

(1976 SC Code §12-43-230)

#### **ARTICLE IV. PURCHASING**

Editor's Note. The provisions of §11-35-50 of the 1976 South Carolina Code of Laws require all municipalities in this state to develop and adopt procurement (purchasing) laws by ordinance.

Such a policy was codified as Article D of Title 5 in the 1976 Code of Ordinances.

#### **8.401. PURCHASING AGENT. SPECIFIED DUTIES.**

The department heads shall be the Purchasing Agent for their departments. He/she shall be responsible for:

1. The purchase of supplies, materials and equipment and contractual services for their department.
2. The storage and distribution of all supplies, materials and equipment required for the department.
3. Establishing written specifications, whenever practicable, for supplies, materials and equipment required for the department.

Such specifications shall be definite and certain and shall permit competition.

4. Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses.
5. Soliciting and maintaining a current list of qualified suppliers who have requested their names to be added to a "bidders list." The Purchasing Agent shall have

authority to remove the names of vendors who have defaulted on their quotations, attempted to defraud the town or who have failed to meet established specifications or delivery dates.

6. Obtaining as full and open competition as possible on all purchases, contracts.

**8.402. FORMAL CONTRACT PROCEDURE**

All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed five thousand dollars (\$5,000.00) shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting proposals. No contract or purchase shall be subdivided to avoid the contents of this section. All sales of personal property which have become obsolete or unusable, when the estimated value shall exceed five thousand dollars (\$5,000.00) shall be sold by formal written contract or at public auction to the highest responsible bidder, after due notice inviting proposals and bidders.

**8.403. BIDDING. COMPETITIVE REQUIRED. EXCEPTION.**

Before any purchases or contracts for supplies, materials, equipment or services exceeding fifteen hundred dollars (\$1500.00) are made, the Purchasing Agent shall give ample opportunity for competitive bidding. For purchases or contracts not exceeding five thousand dollars (\$5,000.00), oral bids may be accepted. All other bids shall be in writing. Competitive bidding shall be encouraged for all contracts, purchases or sales. In the event of an emergency affecting the public welfare, the health or safety of the public or town employees, however, the provisions of this section shall not apply. A full report of the circumstances of an emergency purchase shall be filed by the Purchasing Agent with the Town Council and shall be entered in the minutes of the Council. All items purchased under state contract are exempt from this section.

**8.404. ADVERTISING. WHEN REQUIRED.**

All contracts for town improvements, materials, equipment or services costing more than five thousand dollars (\$5,000.00) shall be awarded after publication in a newspaper of general circulation in the town at least five (5) days before the last day set for receipt of proposals; provided, however, that in case of professional services, this section shall not apply. The newspaper notice required herein shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured and the time and place for opening bids.

**8.405. BID DEPOSITS.**

When deemed necessary by the Purchasing Agent, bid deposits shall be prescribed in the public notices inviting bids. Upon entering into a contract, bidders shall be entitled to return of bid deposit where the Purchasing Agent has required such. A successful bidder shall forfeit any bid deposit required by the Purchasing Agent, upon failure on his part to enter into a contract within ten (10) days after the award; provided, however, that the Town in its uncontrolled discretion, may waive this forfeiture.

#### **8.406. SEALED BID PROCEDURES.**

Procedure for sealed bids shall be as follows:

1. Sealing. Bids shall be submitted to the Purchasing Agent securely sealed in an envelope and shall be identified on the envelope in accordance with bid instructions.
2. Opening. Bids shall be opened in public at the time and place stated in the public notices.
3. Tabulation. A tabulation of all bids received shall be available for public inspection.
4. Rejection of bids. The Purchasing Agent shall have the authority to reject all bids, parts of bids or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.
5. Bidder in default to city. The Purchasing Agent shall not accept the bid of a contractor or vendor who is delinquent in payment of taxes, license or other moneys due the city.
6. Award of Contract:
  - (a) Authority in agent. The Purchasing Agent shall have the authority to award contracts within the purview of this article;
  - (b) Lowest responsible bidder. Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder," in addition to price, the Purchasing Agent shall consider:
    - (1) The ability, capacity and skill of the bidder to perform the contract and provide the service required;
    - (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
  - (4) The quality of performance of previous contracts or services;
  - (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
  - (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
  - (7) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
  - (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract and
  - (9) The number and scope of conditions attached to the bid.
7. Award to other than low bidder. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the Purchasing Agent and filed with the papers relating to the transaction and held for a period of no less than twelve (12) months.
  8. Tie bids, local vendors. If all bids received are the same total amount or unit price, quality and service are equal, the contract shall be awarded to the local bidder. If two (2) or more of such bids are submitted by local bidders, the Purchasing Agent shall award the contract to one of the local bidders by drawing lots in public. If local bidders are not involved in tie bids, the Purchasing Agent shall award the contract to one of the outside tie bidders by drawing lots in public. The Purchasing Agent, local bidders and vendors should bear in mind, however, that to award a contract to a local vendor where he is not the lowest responsible bidder, or where price, quality and service are not equal, is to give preference to one minute segment of the citizenry against the best interest of the community as a whole.
  9. Performance bonds. The Purchasing Agent shall have the authority to require a performance bond, before entering into a contract, in such form and amount as he shall find reasonably necessary to protect the best interest of the town.

10. Bonds. The Purchasing Agent may require a Payment Bond and a Labor and Material Bond, before entering into a contract, in such form and amount as he shall find reasonably necessary to protect the public interest of the town.

**8.407. MATERIALS TESTING.**

The Purchasing Agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries, which are necessary to determine their quality and conformance with the specifications. In the performance of such test, the Purchasing Agent shall have the authority to make use of laboratory facilities of any agency of the town government or any outside laboratory.

**8.408. FINANCIAL INTEREST OF CITY OFFICIALS AND EMPLOYEES PROHIBITED.**

- a. No member of Council or any other officer or employee of the city shall have a financial interest in any contract or in the sale to the city or to a contractor supplying the city of any land or rights or interests in any land, materials, supplies or services except when a majority of the Council determines such exception in the best interest of the city. No member of Council whose interest is involved shall vote on the question.
- b. Any willful violation of this section shall constitute malfeasance in office.
- c. Any officer or employee of the town found guilty thereof shall forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the town shall render the contract voidable by the Town Council.

**8.409. RECORDS OF OPEN MARKET ORDERS AND BIDS.**

The Purchasing Agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall also be open to public inspection.

**8.410. STOCK REPORTS.**

All offices, departments or agencies of the city government shall submit to the Purchasing Agent, at times and in such form as he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn-out or scrapped.

**8.411. SURPLUS STOCK.**

The Purchasing Agent shall have authority to transfer surplus stock to other offices, agencies or departments of the town government.

**8.412. SUPPLIES UNSUITABLE FOR PUBLIC USE, SALE OR EXCHANGE.**

The Purchasing Agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade-in the same on, new supplies. Such sales shall be made to the highest bidder, unless otherwise authorized by the Council. All moneys received from such sales shall be paid into the appropriate fund of the town.

**ARTICLE V. BUSINESS AND PROFESSIONAL LICENSES**

Editor's Note. Due to its complexity and length, the Business and Professional License Ordinance is not included herein, and is neither amended nor rescinded by this code. (See Enacting Ordinance, this code.)

Any questions relating to the ordinance or amendments to it should be addressed to the Police Chief.

**WHEREAS**, in September 2020 the South Carolina General Assembly adopted the South Carolina Business License Tax Standardization Act (2020 Act No. 176), now codified at S.C. Code Sections 6-1-400 to 6-1-420 (the "Act");

**WHEREAS**, the Act requires all municipalities and counties that impose a business license tax to adopt a standard business license year of May 1 through April 30;

**WHEREAS**, the Act requires all municipalities and counties that impose a business license tax to utilize the Act's standardized business licensing requirements and class schedule;

**WHEREAS**, the Act requires all municipalities and counties to update their business license class schedules every odd year based on the latest available IRS statistics; and

**WHEREAS**, in order to comply with the requirements of the Act, the Town of Campobello (the "Municipality") has prepared the attached 2022 Business License Ordinance, which is incorporated herein by reference;

**NOW, THEREFORE**, be it ordained by the Mayor and Council of the Town of Campobello, South Carolina, that:

1. The attached 2022 Business License Ordinance is hereby adopted and shall become effective beginning with the business license period commencing on May 1, 2022.

2. All prior ordinances of the Municipality related to business licensing which are in effect at the time of this enactment are hereby repealed and replaced in their entirety with the 2022 Business License Ordinance; provided that any prior ordinances of the Municipality related to collections programs administered by the Municipal Association of South Carolina, including without limitation the Insurance Tax Collection Program (ITCP), the Brokers Tax Collection Program (BTCP), the Telecommunications Tax Collection Program (TTCP), and Setoff Debt Collection Program, shall remain in full force and effect in accordance with their terms except to the extent specifically amended by the 2022 Business License Ordinance.

DONE AND RATIFIED IN COUNCIL DULY ASSEMBLED, BY POSITIVE MAJORITY, THIS 7th DAY OF September, 2021.

First Reading August 2, 2021

Final Reading September 7, 2021

#### **8.501. BUSINESS LICENSE ORDINANCE.**

**Section 1. 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 Campobello, South Carolina, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided.

**Section 2. 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 Campobello.

*“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.

*“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 Campobello, 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 3. 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. 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 4. 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 5. 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.
- D. 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.

**Section 6. 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 7. False Application Unlawful.** It shall be unlawful for any person subject to the provisions of this ordinance to make a false application for a business license or to give or file, or direct the giving or filing of, any false information with respect to the license or tax required by this ordinance.

**Section 8. 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 9. 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.

**Section 10. 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.

**Section 11. 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.
- 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.

**Section 12. 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. Penalties shall not be waived. 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.
- 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 13. 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.

**Section 14. 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 15. 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 16. 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 17. 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.

**Section 18. 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 19. 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 20. Severability.** 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.

**Section 21. 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.

**APPENDIX A: BUSINESS LICENSE RATE SCHEDULE**

| <b>RATE CLASS</b> | <b>INCOME: \$0 - \$2,000</b> | <b>INCOME OVER \$2,000</b>                  |
|-------------------|------------------------------|---|
|                   | <b>BASE RATE</b>             | <b>RATE PER \$1,000 OR FRACTION THEREOF</b> |
| 1                 | \$15.00                      | \$.15                                       |
| 2                 | \$20.00                      | \$.25                                       |
| 3                 | \$25.00                      | \$.35                                       |
| 4                 | \$30.00                      | \$.45                                       |
| 5                 | \$35.00                      | \$.55                                       |
| 6                 | \$40.00                      | \$.65                                       |
| 7                 | \$45.00                      | \$.75                                       |
| 8.1               | \$25.00                      | \$.25                                       |

**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.

**DECLINING RATES**

Declining Rates apply in all Classes for gross income in excess of \$1,000,000, unless otherwise specifically provided for in this ordinance.

| <b><u>Gross Income in \$ Millions</u></b> | <b><u>Percent of Class Rate for each additional \$1,000</u></b> |
|---|---|
| 0 - 1                                     | 100%  |
| 1 - 2                                     | 90%   |
| 2 - 3                                     | 80%   |
| 3 - 4                                     | 70%   |
| OVER 4                                    | 60%   |

**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 .....\$ \_\_\_\_\_ PLUS  
Each additional 1,000.....\$ \_\_\_\_\_

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 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.

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

| NAICS<br>Sector/Subsector | Industry Sector  | Class |
|---------------------------|--|-------|
| 11                        | Agriculture, forestry, hunting and fishing                               | 2.00  |
| 21                        | Mining   | 4.00  |
| 31                        | Manufacturing  | 2.00  |
| 32                        | Manufacturing  | 2.00  |
| 33                        | Manufacturing  | 2.00  |
| 42                        | Wholesale trade  | 1.00  |
| 44                        | Retail trade   | 1.00  |
| 45                        | Retail trade   | 1.00  |
| 48                        | Transportation and warehousing   | 2.00  |
| 49                        | Transportation and warehousing   | 2.00  |
| 51                        | Information  | 4.00  |
| 52                        | Finance and insurance  | 7.00  |
| 53                        | Real estate and rental and leasing                                       | 7.00  |
| 54                        | Professional, scientific, and technical services                         | 5.00  |
| 55                        | Management of companies  | 7.00  |
| 56                        | Administrative and support and waste management and remediation services | 4.00  |
| 61                        | Educational services   | 4.00  |
| 62                        | Health care and social assistance  | 4.00  |
| 71                        | Arts, entertainment, and recreation                                      | 3.00  |
| 721                       | Accommodation  | 3.00  |
| 722                       | Food services and drinking places  | 1.00  |
| 81                        | Other services   | 5.00  |
|                           |  |       |
| <b>Class 8</b>            | <b>Mandatory or Recommended Subclasses</b>                               |       |
| 23                        | Construction   | 8.10  |
| 482                       | Rail Transportation  | 8.20  |
| 517311                    | Wired Telecommunications Carriers  | 8.30  |
| 517312                    | Wireless Telecommunications Carriers (except Satellite)                  | 8.30  |
| 5241                      | Insurance Carriers   | 8.40  |
| 5242                      | Insurance Brokers for non-admitted Insurance Carriers                    | 8.40  |

|               |  |      |
|---------------|--|------|
| <b>713120</b> | Amusement Parks and Arcades                                    | 8.51 |
| <b>713290</b> | Nonpayout Amusement Machines                                   | 8.52 |
| <b>713990</b> | All Other Amusement and Recreational Industries ( pool tables) | 8.60 |

**Ordinance No. 8.502 – LOCAL HOSPITALITY TAX**

WHEREAS, the General Assembly of the State of South Carolina amended Title 6, Chapter 1, of the 1976 Code to provide for a Local Hospitality Tax, effective July 1, 1997:

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Town of Campobello duly assembled, pursuant to Section 6-1-700, et. seq. of the Code as follows:

Section 1. There is hereby imposed a Local Hospitality Tax of two (2) percent on the gross proceeds of the sale of prepared meals and beverages in establishments within the Town of Campobello. Payment of the hospitality tax established hereby shall be the liability of the customer.

Section 2. The tax imposed by this ordinance shall be collected from the customer when payment for meals and/or beverages is tendered and shall be held in trust for the benefit of the Town until remitted as provided in Section 3 below.

Section 3. Payment of the hospitality tax established herein shall be remitted by the vendor to the Town of Campobello on a monthly basis, along with such return or form as may be established by the Town for such purposes, not later than the twentieth day of the month and shall cover the tax due for the previous month. Any tax not timely remitted shall be subject to a penalty of five (5) percent of the sum owed for each month or portion thereof until paid. The failure to collect from the customer the tax imposed by this ordinance shall not relieve the vendor from making the required remittance.

Section 4. The failure of any vendor subject to this ordinance to remit to the Town the tax imposed by the provisions of this ordinance shall constitute a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for up to thirty (30) days or both.

Section 5. There is hereby established a special account to be known as the Local Hospitality Tax Account into which the taxes remitted shall be credited by the Town and used solely for the purposes provided by law.

Section 6. This ordinance is subject to the constitution and the laws of the State of South Carolina. If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed

separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 7. This ordinance shall become effective January 1, 2008.

DONE AND RATIFIED IN COUNCIL DULY ASSEMBLED, BY POSITIVE MAJORITY, THIS 4th DAY OF September, 2007.

First Reading August 22, 2007

Final Reading September 4, 2007

**8.503. ADMINISTRATION.**

The responsibility for administering said ordinance is hereby vested in the Police Chief.

**ARTICLE VI. PENALTIES**

**8.601. PENALTY**

Any violation of this chapter shall be deemed a misdemeanor, punishable by the Municipal Court, with all court assessment fees added at the rate applicable at the time of court.

(1976 SC Code §5-7-30, §14-25-65)