

Chapter 9
LICENSES AND BUSINESS REGULATIONS

ARTICLE I. IN GENERAL

Sec. 9-1. License Required

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

Sec. 9-2. Definitions

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

"*Business*" means a calling, occupation, profession, or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly.

"*Charitable Purpose*" means benevolent, philanthropic, patriotic, or eleemosynary purpose which does not result in personal gain to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization. A charitable organization shall be deemed a business subject to a license tax unless the entire net proceeds of its operation, after necessary expenses, are devoted to charitable purposes. Compensation in any form to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

"*Classification*" means the division of businesses by major groups as provided in Appendix A. In the event that a certain business cannot be located in Appendix A, the Business License Official shall assign to it a classification.

"*Commercial Property*" is all property classified by County Assessor as commercial property, excluding homes that are used primarily as residential properties. If the same entity

owns more than one property, one license will be required with all gross rental income. Owner will be required to attach list identifying all properties.

Exemptions: Commercial properties that are owner-occupied by the same entity. Single-family homes and multi-family residential properties of four or less units will not be required to obtain a license.

Calculation for partial year license fee: (Businesses who began the previous year) In the event the amount reported is for less than a full year, the fee shall be based upon a calculation of the prior year's actual gross revenues plus a calculation on the difference between the actual and the estimated gross revenue.

"*Conference Center*" shall be a facility providing multiple accommodations for guest, including but not limited to, hotel, meeting space, restaurants, shops and retail establishments for the sale of alcohol.

"*Gross Income*" means that every person liable for the payment of a license tax under this chapter based upon gross receipts, in making application for a License, shall include and report the gross amount of all receipts from all business done in whole or in part within the City during the preceding calendar year, or in the case of fiscal year taxpayers, during the fiscal year that ended in the preceding calendar year, the amount of tax shall be computed thereon unless otherwise provided herein. No license based on gross receipts, or otherwise, shall be issued except upon oath of the applicant that the applicant's report of gross receipts, or otherwise, conforms to the books and records of the applicant's business and with the report or return of such gross receipts, or otherwise, for the corresponding period made or to be made to the Internal Revenue or the Insurance Commissioner of the State, as the case may be. In addition to the forgoing information the Application shall contain the Social Security Number and/or the Federal Employer's Identification Number.

"*Insurance Agents*" is defined as any person representing an insurance company, society or association licensed by the state, having an agent in the state and doing a business. Soliciting business, servicing business already written or making adjustments by himself or others either in a local or itinerant capacity shall obtain a business license on gross commissions.

"Insurance Companies". Except as to fire insurance, "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

Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting or 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.

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.

Gross premiums shall include all business conducted in the prior calendar year.

Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit.

Declining rates shall not apply.

Life, Health and Accident.....	0.75% of Gross Premiums
Fire and Casualty.....	2% of Gross Premiums
Title Insurance.....	2% of Gross Premiums

Notwithstanding any other provisions 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 5% of the tax due per month, or portion thereof, after the due date until paid.

Any exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed.

Gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

Pursuant to SC Code Ann. §§ 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. The agreement with the Association for administration and collection of current and delinquent license taxes from insurance companies as authorized by SC Code § 5-7-300 and administration of the municipal broker's premium tax in the form attached hereto is approved, and the Mayor is authorized to execute it.

All ordinances in conflict with this ordinance are hereby repealed.

"*Municipality*" means the City of Spartanburg, South Carolina.

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

"*Real Estate Agents*" is every person engaged in the business of selling or offering for sale, buying or offering to buy, negotiating the purchase, sale or exchange of real estate as agent of another for compensation or in the business of leasing or renting or offering to lease or rent real estate, as agent of another for compensation, or in the business of soliciting or negotiating loans on real estate as agent for another for a commission, brokerage, or other compensation, shall be held to be engaged in the business of real estate agent or agency.

"*Sexually Oriented Business*" are those businesses defined in Section 511.2 of the Zoning Ordinance of the City of Spartanburg, May 1999, as amended.

Sec. 9-3. Purpose and Duration

The business license levied by this ordinance is for the purpose of providing such regulation as may be required for the purpose of raising revenue for the general fund through a privilege tax. Each license shall expire on December 31.

The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by Council.

Sec. 9-4. License fee

a) The license fee shall be due and payable on or before the last day of February of each year, except in cases where a person shall begin a new business enterprise. Then, the license fee is due and payable prior to opening.

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 license fee shall be computed on the combined gross income for the classification requiring the highest rate. A license fee based on gross income shall be computed on the gross income for the preceding calendar year, and on a twelve-month projected income based on the monthly average for a business in operation for less than one year. The fee for a new business shall be computed on the estimated probable gross income stated in the license application for the balance of the license year. The initial fee for an annexed business shall be prorated for the number of months remaining in the license year. No refund shall be made for a business that is discontinued.

c) The license fee for all nonresident business (businesses operating within the City limits, but having no permanent location within the City limits) shall be doubled.

Sec. 9-5. 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.

b) Application shall be on a form provided by the License Official which shall contain the Social Security Number and/or the Federal Employer's Identification Number, the business name as reported on the South Carolina income tax return, and all information about the applicant 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 income 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 and personal property taxes on business property due and payable to the Municipality have been paid.

d) Insurance agents and brokers shall report the name of each insurance company for whom they issue policies.

Sec. 9-6. Deductions, Exemptions, and Charitable Organizations.

a) No deductions from gross income shall be made except income from business done wholly outside of the Municipality on which a license tax is paid to some other municipality or a county, taxes collected for a governmental entity, or income which cannot be included for computation of the tax pursuant to State of federal law. 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. No person shall be exempt from this ordinance by reason of the payment of any other tax, unless exempted by State of federal law, and no person shall be relieved of liability for payment of any other tax by reason of application of this ordinance.

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

Sec. 9-7. False Application Unlawful.

It shall be unlawful for any person subject to the provisions of this ordinance to make a false application for a business license, or to give or file, or direct the giving or filing of any false information with respect to the license or fee required by this ordinance.

Sec. 9-8. 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. In instances where multiple vehicles are used by the business, copies must be made and displayed in each vehicle.

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 notify the License Official of a change of address shall invalidate the 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.

Sec. 9-9. Administration of Ordinances

The License Official shall administer the provisions of this ordinance, collect license fees, issue licenses, make or initiate investigations and audits to insure compliance, initiate denial or revocation procedures, report violations to the municipal attorney, assist in prosecution of violators, produce forms, make reasonable regulations relating to the administration of this Ordinance, and perform such other duties as may be duly assigned.

All licenses shall be subject to all ordinances and regulation of the City in effect at the time any license is issued or that may be thereafter adopted by City Council. The License Official or the City Manager, in their discretion, may temporarily revoke or suspend any license issued to any person without refund or any part of the tax paid. The license tax for any business occupation or profession not herein provided for may be fixed by the City Manager and/or License Official. This Ordinance shall remain in effect, from year to year hereunder until otherwise modified or repealed.

Sec. 9-10. 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, 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 license fee and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of license fee shall constitute a separate offense.

b) the License Official shall made systematic inspections and random audits of all businesses within the Municipality to insure 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 license taxes paid or the reported gross income of any person by name without written permission of the licensee. Statistics compiled by classifications are public records.

Sec. 9-11. Assessments, Payment under Protest, Appeal.

a) If a person fails to obtain a business license or to furnish the information required by this ordinance or the License Official, the License Official shall 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 license tax and penalties as provided herein.

b) A notice of assessment shall be served by certified mail. An application for adjustment of the assessment may be made to the License Official within five (5) days after the notice is mailed or the assessment will become final. The License Official shall establish by regulation the procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment.

c) A final assessment may be appealed to the municipal Council only by payment in full of the assessment under protest within five (5) days and the filing of written notice of appeal within ten (10) days after payment pursuant to the provisions of this ordinance relating to appeals to Council.

Sec. 9-12. Delinquent License Fees, Partial Payment.

a) For non-payment of all or any part of the correct license fee, the License Official shall levy and collect on March 1st 5%. Then, the penalty will be 15% on April 1st with the late penalty increasing five (5%) per month. Penalties shall not be waived. If any license fee remains unpaid for sixty (60) days after its due date, the License Official shall issue a municipal summons.

b) Ne businesses that do not pay a license fee prior to beginning work within the City limits shall be penalized 15% for not obtaining a license.

Sec. 9-13. Notices.

The License Official may, but shall not be required to, mail written notices that license fees 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.

Sec. 9-14. Denial of License.

The License Official shall deny a license to an applicant with the application is incomplete, contains a misrepresentation, false or misleading statements, evasion or suppression of a material fact, or when the activity for which a license is sought is unlawful or constitutes a public nuisance per se. A decision of the License Official shall be subject to appeal to City Council as herein provided, Denial shall be written with reasons stated.

Sec. 9-15. Denial, Revocation or Suspension

A. Generally.

- (1) The City Manager, or his designee, shall have the authority to deny or revoke any business license under the provisions set forth in this article.
- (2) For a period of one year after a revocation of a

business license, no new license shall be granted to:

- (a) The same licensee; or
 - (b) The licensee's agent or any person who can be shown to be acting on the licensee's behalf in attempting to do business in the City.
- (3) For a period of one year after a revocation, no business license shall be granted to any applicant for the operation of the same or similar type of business in the same location without a detained report compiled from City departments with knowledge or information acquired on the new applicant and the proposed business activity. If the report supports a finding that the new applicant and proposed activity will circumvent the effect of the business license revocation, or that issuance of a new license will perpetuate the conditions giving rise to the revocation, then no new license will be issued.

B. Grounds for denial or revocation. A license application under this article may be denied, or an issued license may be suspended or revoked, upon any of the following grounds:

- (1) Any principal involved with the business who has been convicted, forfeited bond, or pled guilty or nolo contendere within the last ten (10) years for the violation of any local, state, or federal law for which there is a potential penalty of one (1) year or more in jail. Any principal involved with the business who has been convicted, forfeited bond, or pled guilty or nolo contendere within the last five (5) years, regardless of the length of potential penalty for a jail term, to the following offenses:
 - (a) Sale, possession, storage, or transportation of intoxicating liquors, wine or beer;
 - (b) Sale or possession of narcotics or other controlled substances;
 - (c) Gambling or the sale of illegal lottery

tickets;

- (d) Sale of promotion of obscenity;
- (e) Prostitution or soliciting for prostitution;
- (f) Sale or possession of weapons; or
- (g) Crime of dishonest conduct.

When the principal was convicted, forfeited bond, pled guilty or nolo contendere in another state jurisdiction or the jurisdiction within another country, then the offense shall be assessed on the potential jail sentence of the nearest comparable offense under South Carolina law.

For the purposes of this section, the term "principal involved with the business" shall include the applicant, the licensee, and any owner of five percent (5%) or more of the business, the manager of business or financial operations, or the person directly in charge of the premises. The term may also include a major financier of the business when the financing arrangement has the appearance of masking actual ownership. The disqualification for prior offenses is not automatic; however for good cause shown by the business, the denial, suspension, or revocation may be waived or withdrawn upon a finding of mitigating circumstances justifying the issuance in the public interest.

- (2) The licensee's operation of the business constitutes a public nuisance, provided the determination of the public nuisance arises from one or more of the following activities on the premises or in the immediate vicinity thereof and the licensee has actual or constructive knowledge of the activities:
 - (a) Frequent arrests of persons for crimes of violence, possession or sale or controlled substances, possession or sale of deadly weapons, the discharge of fire arms, excessive noise, disorderly conduct, prostitution, disturbance of the peace, and the illegal acts correspond with or relate to the hours of operation of the business

operations of this licensee;

- (b) The police make an unusually high number of response calls, regardless of arrests, to the business premises, or to the immediate vicinity, and the high number of response calls corresponds with or relates to the hours of business operations of the licensee;
 - (c) There are ongoing and significant deposits of litter and debris in the immediate vicinity, whether the persons making the deposits can be identified or not, when the litter and debris relate to the business operations of the licensee; and
 - (d) Material violations of property maintenance codes, environmental codes, fire code, and building codes where violations are applicable to the business premises.
- (3) Failure to provide sufficient security measures to protect people and property located on the premises and to protect people and property located in the immediate vicinity when the immediate vicinity is affected by the business operations of the licensee;
 - (4) The provision of materially false and inaccurate statements in the business license application or to a City official at the time of application;
 - (5) Failure to pay municipal taxes or fees applicable to the premises or business operations when due, including but not limited to, personal and real property taxes, hospitality taxes, accommodation fees and accommodation taxes, property assessments, sewer fees, stormwater fees, and fire alarm and false alarm fees;
 - (6) Failure of an applicant or licensee to show current compliance with applicable state laws related to the operation of business activities, including, but not limited to, any requirement to maintain sanitary kitchen facilities, to be in compliance with permitting requirements for the service of alcoholic beverages, beer and wine, or

to pay state taxes and fees related to business operations in a timely manner.

- (7) Failure to provide full payment to the City within ten (10) days of notice a check returned to the City for insufficient funds. Full payment means the full amount due of the original check plus costs and fees assessed to the City by its bank for the return of the check presented, as well as any return check fee otherwise assessed by the City.
- (8) Failure to provide substantiation, when asked by the City, that the actual business use of the location for which a business license has been applied for or granted, complies with what is allowed at the location under the City's zoning ordinance. Nothing in this provision shall be interpreted to abrogate or limit any variances, special exceptions, or lawful nonconforming uses, previously established under the City's zoning ordinance. In the case of authorization of signs, structures, and uses, the business owner must demonstrate that the amortization period has not expired. In instances requiring an interpretation of the zoning administrator, such interpretations may be rendered in accordance with the duties assigned to the zoning administrator under the zoning ordinance.

Sec. 9-16. Notice of Denial, Revocation or Suspension; Hearing; Appeals.

- (A) Notice. Where grounds exist to deny or revoke a license under this article, the business license administrator shall provide written notice to the licensee or applicant setting forth the grounds, revoking the license effective forty-five (45) days from the date of the notice, and advising the licensee or applicant of appeal procedures
- (B) Hearing. The applicant or licensee may, within five (5) working days from the date of the notice, request a hearing to contest the grounds or request an extension of time to close the business. The hearing shall be held within fifteen (15) days unless additional time is allowed by the City Manager. The hearing officer shall

be a supervisory employee designated by the City Manager. The licensee or applicant may be represented by an attorney and may present witnesses, affidavits and any relevant documentary evidence. The licensee may view and copy any documentary evidence prior to the hearing. Formal rules of evidence shall not apply. The hearing officer shall prepare a summarized report of the hearing, to include his findings and recommendations, which shall be submitted to the City Manager, who shall take final administrative action, notifying the licensee or applicant in writing. Unless extended in writing by the City Manager, any revocation is effective forty-five (45) days from the date of the original notice to the licensee.

- (C) Appeals. An appeal, which shall not stay the revocation, may be taken upon the written record to the City Council. Notice of such appeal shall be served upon the City Clerk within five (5) days from the final action by the City Manager, specifying the grounds for the appeal and the action requested. The record shall consist of the report of the hearing officer, any documentary evidence presented at the hearing, and the written appeal. The Council may, in its discretion hear oral arguments on the appeal.

Sec. 9-17. Permission to use streets required.

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 municipal council by ordinance which prescribes the term, fees and conditions for use.

Sec. 9-18. Consent, franchise or business license fee required.

The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be consistent with limits set by State laws. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of or be credited against business license fees unless specifically provided by the franchise

or consent agreement.

Sec. 9-19. Confidentiality.

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

Sec. 9-20. 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 the maximum amount allowed by state law or imprisonment for not more than thirty (30) day or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties and costs provided for herein.

Sec. 9-21. Separability.

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

**ARTICLE II. BANKRUPT, FIRE, WRECK AND CLOSING-OUT SALES
DIVISION 1. GENERALLY**

Sec. 9-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Inspector means the license inspector of the city.

License means a license issued pursuant to this chapter.

Licensee means any person to whom a license has been issued pursuant to this chapter.

Publish, publishing, advertisements and advertising includes any and all means of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertisement, by magazine advertisement, by handbill, by circular, by pamphlet, by written notice, by printed notice, by printed display, by billboard display, by poster, by signs or store or store windows (internal or exterior), by radio announcement, by radio program, by recordings and any and all means including oral, written or printed.

Sales means the sale or an offer to sell to the public, goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller that such sale is anticipatory to the termination, closing liquidation, revision, windup, discontinuance, conclusion or abandonment of the business in connection with such sale. It also includes any sale advertised, either specifically or in substance to be a fire sale, smoke and water damage sale, adjustment sale, creditor's sale, trustee's sale, bankrupt sale, save us from bankruptcy sale, insolvent sale, insurance salvage sale, mortgage sale, assignee's sale, adjustor's sale, loss-of-lease sale, receiver's sale, forced-out-of-business sale, removal sale, and any and all sales advertised in such a manner as to reasonably convey to the public that upon the disposal of the stock of goods on hand, the business will cease and be discontinued.

Secs. 9-42--9-60. Reserved.

DIVISION 2. LICENSE

Sec. 9-61. Required.

No person shall publish or conduct any sale pursuant to this article without a license therefor.

Sec. 9-62. Application; inventory as part of application.

- (a) Application for a license under this article shall be made to the inspector on a form to be approved by the city council, and shall be in writing and verified by the applicant. Such application shall contain a description of the place where such sale is to be held, the nature of the occupancy, whether by ownership, lease or sublease, and the effective date of termination of such occupancy, the means to be employed in publishing such sale, together with the proposed language contained in any advertisements. Such

application shall further contain, as part thereof, an itemized list of goods, wares and merchandise to be offered to sale, why such goods, wares and merchandise are to be sold under such descriptive name or title, and in what manner such name is truthfully descriptive of such sale, the place where such stock was purchased or acquired, and if not purchased, the manner of such acquisition and when acquired, and also, the date of delivery thereof to the applicant. After commencement of the sale, no further goods or merchandise shall be added to the inventory.

- (b) All goods included in such inventory shall have been purchased by the applicant for resale on bona fide orders without cancellation privileges and shall not comprise goods purchased on consignment.
- (c) Such inventory shall not include goods ordered in contemplation of conducting a sale regulated under this article. Any unusual purchase, or additions to the stock of goods of the business hereby affected within fifteen (15) days before the filing of an application hereunder shall be deemed to be of such character. Upon receipt of such application and payment of the fee prescribed in this division, the city council shall cause the application examined and investigated.

Sec. 9-63. Issuance.

If, upon investigation, the facts as represented by the application for a license under this chapter are found to conform to the representations thereof, and the advertising proposed to be used truly represents such facts and is not fraudulent or misleading to the public, the inspector shall issue a license permitting the publication and conduct of such sale.

Sec. 9-64. Duration.

Each license under this chapter shall be for a period not exceeding thirty (30) days, and shall be renewable for one (1) additional thirty-day period upon repayment of fees prescribed in this division.

Sec. 9-65. Fees.

Upon filing an original application for a license to advertise or conduct a sale or special sale under the provisions of this article, an applicant shall pay, if he shall bring or cause to be brought into the city goods or merchandise for the

purpose of such sale valued at five thousand dollars (\$5,000.00) or less, a fee of one thousand dollars (\$1,000.00). In addition, he shall pay a fee of one hundred dollars (\$100.00) for each one thousand dollars (\$1,000.00) worth of merchandise over and above the original five thousand dollars (\$5,000.00). If an applicant purchases or causes to be purchased a business or stock of goods presently within the city for the purpose of such sale, he shall pay a fee of five (5) percent of the cost value of the business or stock of goods or merchandise purchased. If any application is disapproved, one-half of such payment shall be forfeited to the city council as and for the cost of investigating the statements in such application or renewal application.

Sec. 9-66. Powers and duties of the license inspector.

The inspector is hereby authorized and empowered to supervise or regulate sales or special sales pursuant to this division and to issue appropriate licenses therefor upon proper application.

Sec. 9-67. Fraudulent or misleading advertising; adding goods to inventoried stock.

It shall be unlawful for a licensee to advertise or cause to be advertised goods, wares or merchandise for a sale pursuant to this division which do not conform to the representations of the advertisement. It shall be unlawful for a licensee to publish or cause to be published advertising falsely representing the reason for a sale. It shall be unlawful for any person conducting such a sale to add any goods to the inventoried stock thereof or to sell any goods, except those in the original inventory while representing the same by advertising, inference or otherwise, as being a part of the goods advertised for sale.

Sec. 9-68. Weekly reports to inspector.

At the conclusion of each week of such sale or the continuation thereof the permittee shall report to the license inspector the approximate proportion of the original inventory of the goods sold, and shall furnish him with a revised inventory thereof.

Sec. 9-69. Bond required.

Before a license shall be issued by the city council under application for a license under this article, the applicant shall execute and deliver to the city a bond in the penal sum of five thousand dollars (\$5,000.00) signed by such applicant and also signed by a surety company duly authorized to transact business

in the state, which bond shall be conditioned upon the faithful observance of the provisions of this chapter, and also conditioned to reimburse and indemnify any purchaser at any such sale duly held by such licensee for any loss incurred or damage sustained by such purchaser by reason of misrepresentation or fraud in the sale of any such goods, wares or merchandise.

Sec. 9-70. Display of license; availability of stock list, merchandise, etc., for inspection; requirements for manner of advertising.

Upon commencement of any sale pursuant to this article, the license issued by the city council shall be prominently displayed near the entrance to the premises. A duplicate or original of the application and stock list, pursuant to which such license was issued, shall at all times be available to the city council or to the inspector. The licensee shall permit such inspector to examine all merchandise in the premises for comparisons with such stock list at any and all times during the period of such sale. All advertisements or advertising and the language contained therein, shall be in accordance with the purpose of the sale as stated in the application pursuant to which a license was issued, and the wording of such advertisement shall not vary from the wording as indicated in the application. Such advertising shall contain a statement in these words: "Sale held pursuant to Permit No. _____ of the License Inspector, granted the _____ day of _____ 19_____" and in such blank spaces shall be indicated the permit number and the requisite dates. Books and records of the sale shall be kept by the licensee and shall at all times be available to the inspector.

Sec. 9-71. Exemptions.

The provisions of this chapter shall not apply to or affect:

- (1) Persons acting pursuant to an order or process of a court of competent jurisdiction;
- (2) Persons acting in accordance with their powers and duties as public officers such as sheriffs, bailiffs or marshals;
- (3) Duly licensed auctioneers, selling at auction;
- (4) Executors, guardians, assignees of insolvent debtors, bankrupts and other persons required by law to sell such property.

Secs. 9-72--9-90. Reserved.

**ARTICLE III. BILLIARDS AND POCKET BILLIARDS* Article III deleted
by Ordinance dated January 30, 2006**

ARTICLE IV. BINGO*

Sec. 9-121. Definitions.

For the purpose of this article, the operation of a bingo game shall have the same definitions as set out in the state statutes.

Sec. 9-122. Requirements.

- (a) The game of bingo shall not be conducted within the boundaries of the city unless the:
 - (1) Organization has been chartered by the state as a charitable not for profit organization and has been granted a tax exemption as a tax exempt organization by the internal revenue service;
 - (2) Organization applying for a permit shall have a permanent facility in the city and conduct regular meetings within its membership according to the bylaws of that organization;
 - (3) Names of the officers of the charitable organization and location of the organization must be properly filed with the secretary of state. The officers thereof shall certify in writing to the city that no nonmembers participated in the decision to operate a bingo game and that the members themselves will be responsible for the supervision of such game;
 - (4) Game of bingo shall be played in the regular meeting place of the organization and at no other location unless an alternate location is approved by city council;
 - (5) Organization files an application under oath with the city signed by the appropriate officer stating that no outside promoter will be involved in any way in the operation of the bingo game; provided, however, city council may grant special permission to an organization for the game to be conducted by a person not a member of the organization; that no portion of the proceeds

derived from the playing of bingo will be paid to any person or other organization; and that all proceeds derived from the playing of bingo will go to charity, with the exception of the payment of reasonable operating costs;

(6) Organization will furnish to the city manager such documents as will show that the organization intending to conduct bingo is a legitimate and bona fide charitable organization.

(b) No more than one (1) organization shall be permitted to conduct bingo games at any one (1) location unless approved by the city manager.

Sec. 9-123. Inspections and reports.

The city manager shall inspect each bingo operation and make periodic written reports to the city council. The city manager may require that the organization provide any information, affidavit or other documentation as may be needed in order to ensure compliance with this article and the laws of this state.

Sec. 9-124. Number to be operated.

No organization shall operate more than one (1) bingo game. Any subdivision or auxiliary chapter of such organization cannot take advantage of the organization's permit with the city except with the written permission of the city manager. No subdivision or auxiliary chapter of an organization may operate any bingo game at the same time the organization operates such a game.

Sec. 9-125. Permit fees.

The city council shall have the authority to establish appropriate permit fees for the operation of bingo games to cover the administrative cost of enforcing the provisions of this article.

Secs. 9-126--9-145. Reserved.

ARTICLE V. JUNK DEALERS AND SECONDHAND DEALERS*

Sec. 9-146. Definitions.

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

section, except where the context clearly indicates a different meaning:

Junk dealer means and includes any person buying and selling old castings, iron or other metals, rope, rags, cloth, old cotton or any article usually found in junk shops; provided, that this article shall not apply to the purchasers of bones and old rubber.

Secondhand dealer means any person buying coins, guns, camera equipment or power operated devices including but not limited to televisions, compact disk players, video cassette recorders, radio or sound equipment, electronic equipment and yard or garden equipment from any entity not having a South Carolina Tax Commission license and reselling same.

Sec. 9-147. Location of business and building to be approved by city council.

It shall be unlawful for any person to secure a license for dealing in junk or waste in the city, without first obtaining from the city council its approval as to the location proposed to be used and the building to be occupied or constructed.

Sec. 9-148. Cancellation of license.

Any license granted to a junk dealer or secondhand dealer may be cancelled at any time by the city manager or the mayor, upon the written request of the director of public safety, for reasons stated therein, which must, however, satisfy the city manager or the mayor that the dealer whose license he cancels has violated the spirit of this article. The action of the city manager or the mayor shall be subject to review by the city council.

Sec. 9-149. Transaction records.

Every junk dealer or secondhand dealer, doing business in the city, shall record in a book kept for that purpose a sufficient description of each article purchased by such dealer, together with the date of such purchase and the name, age and residence of the seller, and the party to whom the junk or secondhand goods are sold.

Sec. 9-150. Inspection of records and goods.

It shall be the duty of every junk dealer or secondhand dealer doing business within the city to admit the director of public safety or any officer of the city to his place of business

at any time admittance may be demanded to inspect his books or stock of goods.

Sec. 9-151. Inspection by fire and health departments.

All persons dealing in junk, waste material or secondhand goods shall keep their places of business open daily, except on Saturdays and Sundays, for inspection by the fire and health departments of the city, if, to these departments, the inspection is deemed necessary.

Sec. 9-152. Article not to be disposed of for five days.

Every article purchased by a junk dealer or secondhand dealer shall remain at his place of business, open to inspection, for a period of at least five (5) days before being removed or otherwise disposed of.

Sec. 9-153. Purchases from minors.

It shall be unlawful for any junk dealer or secondhand dealer doing business within the city to purchase any junk or secondhand goods from any person under eighteen (18) years of age.

Sec. 9-154. Storage of materials that collect water.

It shall be unlawful for any person dealing in junk or waste material to leave in the open any tires, tin cans, scrap metal or any other junk or waste capable of acting as a receptacle for water. All such waste material shall be stored or placed in an approved shed or building within twelve (12) hours after receipt.

Sec. 9-155. Storage of inflammable materials.

It shall be the duty of all persons dealing in junk or waste material to store all wastepaper, rags or any other inflammable waste in an approved building within twelve (12) hours after receiving the material.

ARTICLE VI. PAWNBROKERS*

Sec. 9-176. License and bond required.

No person shall engage in business as a pawnbroker within the city without first obtaining and paying for a license and giving bond with two (2) good and approved sureties in the sum of three thousand dollars (\$3,000.00), conditioned to make good all

damages sustained by the carelessness, neglect or unfair dealings of such licensee.

Sec. 9-177. Identification of pawner required.

The pawnbroker shall be required in establishing ownership of the pawned article to have each pawner identified sufficiently by requiring a valid South Carolina identification card.

Sec. 9-178. Tickets to be furnished to pawner.

It shall be the duty of every pawnbroker to deliver to the pawner, at the time of the pawning, a certificate or ticket numbered and corresponding with the number and description of the article kept by him in his books.

Sec. 9-179. Amount of loan; time limits on redemption.

Upon all articles pawned the pawnbroker may advance such sum and for such time as may be agreed upon with the pawner and upon the failure of the pawner to redeem the articles or things pledged at the time agreed upon, then, and after the expiration of ninety (90) days, the pawnbroker may sell such articles. The pawner shall have the privilege of redeeming such articles or things up to the time of such sale.

Sec. 9-180. Transaction records.

Every pawnbroker doing business within the city shall record in a book kept for that purpose a sufficient description of each article pawned, the amount loaned, the date of the transaction, the name, age and residence of the pawner and the party to whom the pawned article was sold upon failure to redeem

Sec. 9-181. Inspection of records and goods.

It shall be the duty of every pawnbroker doing business within the city to submit to an inspection of his books and stock of goods by the director of public safety without the formality of a search warrant.

Sec. 9-182. Information to be furnished to director of public safety upon demand.

It shall be the duty of every pawnbroker, upon the demand of the director of public safety, to furnish a complete list of all articles pawned, together with names of the pawners and the names of the parties who identified such pawners on any business day or during any specified period.

Sec. 9-183. Purchases from minors.

It shall be unlawful for any pawnbroker doing business within the city to receive any pledge or transact any business with any person under the age of eighteen (18) years, knowing or having reason to know he is under age.

Sec. 9-184. Receiving suspicious articles.

It shall be unlawful for any pawnbroker to receive any goods, articles or things from any thief, knowing or having reason to believe him to be such.

ARTICLE VII. TEMPORARY VENDOR LICENSE--CAROLINA PANTHERS CAMP*

***Editor's note--**Ord. No. 1895, adopted June 12, 1995, amended the Code by the addition of Art. VII, which provisions have been designated at the discretion of the editor as §§ 9-201--9-206.

Sec. 9-201. Temporary business license required.

The temporary business licenses shall be required by tenants and property owners desiring to sell souvenir, novelty or similar goods or food items (as approved by the South Carolina Health Department and appropriate regulations) near the Wofford College Campus during the operation of the Carolina Panthers Summer Training Camp.

Sec. 9-202. When valid.

The temporary license shall be known as "Temporary Vendor License--Carolina Panthers Camp." The license shall be valid during the dates established from time to time by the city manager of the City of Spartanburg.

Sec. 9-203. Amount of tax for temporary license.

The tax for the temporary license shall be twenty-five dollars (\$25.00) annually to be payable on application regardless of gross receipts.

Sec. 9-204. Area of issuance.

Temporary business license may be issued regardless of zoning classification in the confines of the City of Spartanburg bounded by Pine Street on the east, railroad on the south, Church Street on the west and Evins and Cummings Streets on the north. The Wofford College Campus is excluded from this article. A map of this area is on file in the office of the city license inspector.

Sec. 9-205. Issuance of license; parcels.

The licenses shall be issued to the owner or tenant for any parcel within the defined area. Parcels shall be deemed to be determined by the current tax map sheets of Spartanburg County. Only one such temporary license shall be issued for each parcel. In the event of a conflict between the owner of the property and the tenant, the tenant shall have the prevailing right for a temporary license unless a written lease agreement provides otherwise. Owners may prohibit, by written lease agreement, tenants from procuring temporary licenses for the leased parcel.

Sec. 9-206. Nonassignability of license.

Licenses are not assignable. In the event of vacant property, the owner of the property shall be the only person entitled to hold a temporary license.

ARTICLE VII. VIDEO GAMES

Sec. 9-300. Permit required.

- (a) Every person who maintains for use or permits the use of on a place or premises occupied by him must pay a license fee for a video game with a free-play feature operated by a slot which is deposited a coin or thing of value. The fee shall be in an amount of one hundred eighty dollars (\$180.00) per year to be due and payable on or before July 1 of each year. The "free-play feature" on a machine as described includes video poker machines.
- (b) The per year license fee is the liability of the person occupying the premises.
- (c) Subparagraph 45A, "Coin Operated Machines" paragraph (d) "Video Poker and Amusement Machines Licensed Pursuant to S.C. Code Ann. § 12-21-2720(A) (3)" of Section 18-21 of this code is repealed.