

## Time Is Running Out for Business License Standardization



**T**he SC Business License Tax Standardization Act, Act 176, sets January 1, 2022, as the date by which every local government across the state that levies a business license tax must begin administering that tax the same way. The compliance deadline is almost here, and time is running short for those cities and towns that haven't yet taken the necessary steps to comply with the law.

The Municipal Association of SC developed a seven-step process to simplify the standardization process that must be underway now if a city or town is to meet the compliance deadline at the end of this year.

The most time-consuming step involves rebalancing business license tax rates to ensure that the process of adopting the state-mandated business license class schedule does not result in a revenue loss or windfall for the city or town in the 2022 business license year. For more information, see the article on page 14.

Given the significant amount of work involved to rebalance each city's business license tax rates to achieve revenue neutrality, cities and towns that request rebalancing assistance from the Association must enter into a queue. The amount of time a city or town remains in the queue is growing as the end of 2021 draws closer. Therefore, jurisdictions that need the Association's assistance to rebalance must provide the required business license data to the Association no later than October 15, 2021. Cities and towns that miss this deadline might not receive assistance from the Association.

Cities and towns should also adopt the Association's model business license ordinance that complies with Act 176's numerous requirements and avoid updating their existing business license ordinances since the multiple changes needed to comply with the law could escape scrutiny. The Association has prepared adoption language that clarifies the new ordinance supersedes a municipality's existing business license ordinance. Learn more in the article on page 11.

Jurisdictions should also immediately communicate with their local business owners and operators. Complying with Act 176 will move some businesses into new rate classes, which might change the amount of business license tax they pay. Other changes mandated by Act 176, like the tax's April 30 due date, will affect every business that pays the tax. Cities and towns should notify all of their business license-holders of these and other forthcoming changes.

Finally, municipalities need to work now with the Municipal Association to begin the process of using the online Local Business License Renewal Center, which will allow businesses to renew their business license online. As with rebalancing, setting up each municipality to use the online renewal system will be a time-intensive task, and cities and towns can only get set up once they have rebalanced and adopted the new business license ordinance.

*Learn more in this issue's business licensing special section, beginning on page 10, and at [www.masc.sc](http://www.masc.sc) (keyword: business licensing).*

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President:

**Councilmember Kathy Pender,**  
Rock Hill

Executive Director:

**Todd Glover** tglover@masc.sc

Managing Editor:

**Meredith Houck** mhouck@masc.sc

Editor:

**Russell Cox** rcox@masc.sc

Editorial Assistant:

**TJ Lundeen** TLundeen@masc.sc

Contributing Writers:

**Jake Broom, Caitlin Cothran,  
Dena DiOrio, Megan Sexton,  
Eric Shytle, Scott Slatton**

## Careful Ethics Reporting Helps Officials Avoid Fines

**M**eghan Walker, executive director of the SC State Ethics Commission, counts two issues as the ones that get candidates running for office into trouble the most — failing to file Statements of Economic Interests on time, and failing to make campaign disclosures in a timely way. Once the documents become overdue, fines can start increasing daily until they hit maximum amounts.

In a year where both types of filings are due, Walker said, if a candidate does nothing, fines can reach a maximum total penalty of \$25,000.

“That is \$25,000 of your money, not campaign money, not money from your entity, so these fines get really, really steep,” she said.

Walker addressed the particulars of disclosures for candidates and elected officials in a presentation at the Municipal Association’s 2021 Annual Meeting. The initial Statement of Economic Interest form is due upon registering as a candidate in a partisan election, or before being sworn into office after a nonpartisan election. The form is due every March 30 after the initial filing for current officeholders.

A Statement of Economic Interest, as noted in SC Code Section 8-13-1120, require candidates and officeholders to disclose the “source, type, amount or value of income ... of substantial monetary value received from a governmental entity by the filer or a member of the filer’s immediate family,” such as spouses and dependent children, as well as private income for these people — but not retirement-type deferred compensation. Those filing the forms must also report real estate owned by the family, and gifts received in an official capacity, including transportation, lodging, food or entertainment.

Quarterly campaign disclosures, meanwhile, have a threshold amount of \$500 for

the initial campaign disclosure, which applies to funds raised and funds spent. Walker noted that a candidate who raised exactly \$250 and spent the entire \$250 would have reached total transactions of \$500 and would have to file the disclosure on the Ethics Commission’s reporting website within 10 days. After the initial disclosure, campaign disclosures are due the 10<sup>th</sup> of the month following the end of each quarter until the account is brought down to zero funds, at which time the candidate must file a final report. Candidates must file a pre-election report 15 days before the election showing campaign account activity as of 20 days before the election, even in cases where they have raised no money.

Those who submit filings with the Ethics Commission can amend them at any time.

“The thing that I want to stress about this the most is to please call us,” Walker said. “I see our mission as assisting those who serve the public, so we aren’t here to try to play ‘gotcha.’”

Walker discussed the importance of not using any governmental funds, property or time for campaigning, which could include things like a government-issued cell phone, email address, or a city-owned printer.

“You also can’t, for example, during a city council meeting, say, ‘Hey y’all, I’m enjoying my service on council. I hope you’re proud of the things that I’ve done for you. Remember to vote for me next Tuesday.’”

She also reviewed the ethical violations described in the law beginning with SC Code Section 8-13-700, which prohibits the use of an official position or office for financial gain for public officials or their family members. In cases where conflicts of interest arise, such as when a councilmember must take a vote, the councilmember would need to self-recuse in writing and submit the recusal to the chair of the meeting.

*Find more information on reporting requirements and other ethics issues at [www.ethics.sc.gov](http://www.ethics.sc.gov). Find presentation material and recordings for the Annual Meeting at [www.masc.sc](http://www.masc.sc) (keyword: 2021 Annual Meeting presentations).*



# Municipal Association Offers Cooperative Purchasing Program

City Connect Market, a new cooperative purchasing partnership between the Municipal Association of SC and HGACBuy, now allows South Carolina's cities and towns to take advantage of volume discounts for their purchases.

The partnership brings to South Carolina a purchasing program first created by the Houston-Galveston Area Council of Texas in 1975. HGACBuy staff receive bids and assist with local government purchasing around the nation. In addition to improving pricing through volume purchases, the program improves efficiency by eliminating the need for each municipality to handle all details of every competitive bid process.

Municipal Association Executive Director Todd Glover launched the program during the Association's Annual Meeting, noting that the State of South Carolina purchasing contract does not meet many typical purchasing needs for cities and towns, such as for fire trucks or roll carts.

"When you purchase from this HGACBuy contract, you have the buying power of hundreds of other local governments in the United States," he said.

HGACBuy helps with purchasing in 41 major categories of products. The category for public works equipment, for example, ranges from garbage and recycling containers to construction and maintenance tools, street maintenance and sweeping equipment, utility meters and traffic control devices, among other items.

The program handles services as well, and works with more than 800 contractors. Service categories include community planning to public relations and events, temporary staffing and hiring services, emergency planning and recovery services, sewer cleaning services and others.

## How to participate

Officials and staff can learn more at [www.masc.sc](http://www.masc.sc) (keyword: City Connect Market). The webpage has links to product listings under all of the contract categories. Users can search through the available products or services, or can contact the Municipal Association with a specific request. The Association will work with the product vendor to ensure that the municipality receives a quote using the HGACBuy pricing guidelines.

After the municipality receives and approves a quote, the Association will work directly with HGACBuy to place the order. The Association serves as a liaison that can assist the municipality throughout the purchasing process. Those cities and towns that wish to use this process should review their procurement ordinances to make sure that cooperative purchasing partnerships are an approved purchasing method.

*For more information about the City Connect Market, contact Municipal Association Chief Operating Officer Jake Broom at 803.933.1270 or [purchasing@masc.sc](mailto:purchasing@masc.sc).*



## NEWS BRIEFS

Members of the South Carolina Association of Municipal Power Systems recently elected their 2021 – 2022 board of directors. They are **President John Young**, Laurens Commission of Public Works; **Vice President Robert Faires**, City of Seneca; Members at Large **Tim Baker**, City of Newberry; **Tim Hall**, City of Abbeville; **Wade Holmes**, Orangeburg Department of Public Utilities; **Joey Meadors**, City of Clinton; and **Past President Mike Jolly**, City of Rock Hill.

Officials from around the state recently earned their Accreditation in Business Licensing designation from the Business Licensing Officials Association in June. The officials to receive their ABL designation were **Zachary Cavanaugh**, Richland County; **Stephanie Cousar**, Town of Bluffton; **Krista DuBois**, Town of Kiawah Island; **Jeremiah Jackson**, City of Clemson; **Michelle Johnson**, Horry County; **Anita Lancaster**, Municipal Association of SC; **Jennifer Lisby**, City of Orangeburg; **Gerard Maxted**, Town of Mount Pleasant; **Karen Polhemus**, Horry County; **Shemequa Pringle-Jackson**, Charleston County; **Abby Rain**, Town of Hilton Head Island; **Ashley Robinson**, Marion County; **Kimberly Shedd**, Town of Hilton Head Island; and **Devin Stevenson**, City of Lancaster. **Zachary Cavanaugh** also earned the Master in Business Licensing.

# Building Trust Through Open Communication

The law enforcement and communication officials who joined a panel on building trust between residents and police during the Municipal Association's Annual Meeting had several takeaways for their audience — never cover up bad news, keep a crisis communication plan ready and get everyone involved in communication training.

Debbie Szpanka serves as the public information officer for the Town of Bluffton. She likened her breaking-news communication approach to handling difficult incidents in private life.

"If you're ever stuck, you then ask yourself, will this work with my spouse? Will this work with my child? With my best friend? And if it won't, it won't work with the community and it won't work with the media," she said.

This can help the communicator understand, she said, that a "no comment" response would be like refusing to talk about something in a personal relationship, which escalates the emotions involved. Szpanka added that understanding what an audience needs to know about a situation is critical to preventing problems.

In a severe weather situation, she said, residents "don't need to know that 35 trees are down. They need to know what roads they're down on. They don't need to know that 'the storm wasn't so bad, we only had 500 outages.' Where are the outages? Can I go to work? Can I go grocery shopping?"

Town of Williamston Police Chief Tony Taylor advocated for public information officer training for police chiefs, elected officials and managers, and to prepare for emergencies with an agreed-upon contact for each type of incident.

"Things happen in small agencies and small towns as well as in the big cities," he said. "It's important that you prepare by educating your chiefs and getting people within that agency the proper training."

City of Columbia Police Chief Skip Holbrook spoke of the importance of



From left: Columbia Police Chief Skip Holbrook, Bluffton Public Information Officer Debbie Szpanka, Williamston Police Chief Tony Taylor and North Charleston Public Relations and Deputy Economic Development Coordinator Ryan Johnson.

handling breaking-news messaging in a timely fashion, since "we all know bad news doesn't get better with time."

The panel moderator, Ryan Johnson, who handles economic development and public information for the City of North Charleston, echoed that sentiment, advocating for the timely release of public documents.

"It's better to go and get everything out at once," he said. "Let the media have it and then deal with it accordingly."

Holbrook said that staying involved in community narratives about police work can be challenging, especially after the unrest and protests that followed the killing of George Floyd in Minneapolis in May 2020. He spoke of the importance of distributing accurate information. He pointed to the questions over whether his department would ban chokeholds of suspects, given the use of a chokehold in Floyd's death.

"We have never trained to choke people, and we had to demonstrate that through policy, through actions," he said.

The panel described ways to be proactive with messaging. Holbrook noted that officer body cameras have

become an expectation and have "lowered the temperature in the room," in terms of providing documentation of what happens in police encounters. The Williamston Police Department uses its Facebook page to describe its work and includes videos of Taylor addressing residents.

Szpanka cautioned that social media users must remember that it "is a tool, not an obsession or lifestyle." But she noted its value for the Town of Bluffton when Hurricane Matthew came in 2016. The lack of significant storms in previous years meant that some residents were unfamiliar with what to do or where to get information during a hurricane. Mayor Lisa Sulka went out several times a day in a rain jacket to shoot live hurricane update videos that were posted on the town's Facebook page.

"I think it was one of our most famous moments," Szpanka said, "because people were incredibly grateful for that real-time information."

Find presentation material and recordings for the Annual Meeting at [www.masc.sc](http://www.masc.sc) (keyword: 2021 Annual Meeting presentations).

# Association Highlight

## Municipal Officials and Legislative Directory

Every year, the Municipal Association of SC publishes a municipal directory that can help anyone seeking to contact any one of the 271 city and town governments around the state.

Beyond basic contact information, the directory lists the specific form of government for each city and town, the regular schedule of council meetings and the names of all elected officials and certain staff

positions. The directory is available in print, but it is also available as an online resource that allows users to search for municipalities based on characteristics like the county in which the municipality is located, its population, or which state representatives and state senators serve it.

Find the online directory at [www.masc.sc](http://www.masc.sc) (keyword: municipal directory).



## Test yourself monthly quiz

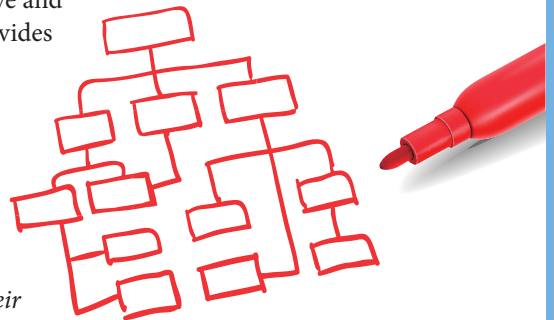
**True or False:**

In the council form of government, the administrator's duties and responsibilities are defined by state law.

**Answer: False**

The council form of municipal government is considered "government by committee" because the members of council exercise both legislative and administrative functions collectively. SC Code Section 5-7-190 provides that a council may hire an administrator and delegate all or some of its administrative authority, but is not required to do so. Since the level of delegated authority desired by councils varies by municipality, councils that want to establish an administrator position should adopt an ordinance to define the administrator's duties and responsibilities.

The Municipal Elected Officials Institute of Government offers online courses. To register for the online courses, participants should go to the Municipal Association's website at [www.masc.sc](http://www.masc.sc) and log in with their user identification number and password. Learn more about the three forms of government in the Forms and Powers of Government handbook at [www.masc.sc](http://www.masc.sc) (keyword: forms of government handbook).



# PATHS TO PROGRESS

## Trail Projects Drive Economic Development

Recreational trails are connecting cities and towns throughout the Palmetto State in more ways than one. They can drive economic development, housing projects, expand a city's footprint and cultivate healthier communities where businesses thrive.

One example of a trail adding value to its community is the Riverwalk Trail connecting the cities of West Columbia and Cayce to the Three Rivers Greenway. Opened between 2004 and 2005, the 8-mile path along the Congaree River provides ample space for walking, running and cycling.

Capitalizing on the energy that the Riverwalk brings, the City of West Columbia recently undertook its River District Redevelopment Project. Facing the challenge of revitalizing a low-density area experiencing a public parking shortage, the city worked directly with community groups, planning firms and key stakeholders to increase housing, public parking, greenspaces, public art installations, bicycle lanes and new businesses in its River District.

Mayor Tem Miles explained that the first focus of the revitalization was the Riverwalk itself.

"[When] folks found out that the Riverwalk was over here, they would come to see just how beautiful of a setting it was, which led to more energy and activity in our River District," he said.

He added that businesses and residential investments have all flourished from the revitalization activity that resulted from the Riverwalk.

To enhance connectivity, the city plans to push the energy from the River District into other areas of town. It added an Interactive Art Park and an Americans



West Columbia's Interactive Art Park connects the city's riverfront to a new brewery and the Meeting Street Artisan Market. Photos: City of West Columbia.

with Disabilities Act-compliant pathway that connects to Savage Craft Ale Works, a newer business that opened in January. The extension of the B Avenue Bike Lane also linked the River District to the Triangle City area and the Community Center.

Carroway Park was expanded to include ADA-compliant pathways and play features accessible to children of all abilities. An open-air artisan market runs every Saturday at the nearby Interactive Art Park, which was funded in part by a Hometown Economic Development Grant from the Municipal Association.

The Brookland Apartment Homes complex, recently developed in the area, brings additional vitality to the River District. Bearing West Columbia's original name, the first building of the

development opened in 2018, offering 220 apartment homes and 200 parking spaces in the adjacent garage.

In Pickens County, the City of Easley is capitalizing on the expansion of the Doodle Trail, an 8.5-mile multiuse trail. Opened in 2015, it connects Pickens with Easley along the former Pickens Railway, a historic short-line freight railroad. Easley's main trailhead at Doodle Park has a playground, exercise equipment, bicycle rentals, facilities and repurposed freight cars displaying vintage city maps. Recent expansions have connected Doodle Park to the existing path to downtown Easley.

About 30,000 people utilize the Doodle Trail every year, said Chase Campbell, special events coordinator for Easley. When the pandemic began, many

people took to socially-distanced outdoor activities like hiking, biking and running, and so that number could be much higher. According to a Rails-To-Trails Conservancy report, 2020 saw a 51% uptick in trail use over the previous year, with the highest surge showing a 200% increase last spring.

The City of Easley recently purchased more than 40 dilapidated homes to make way for the new Trailside Affordable Housing development. Five homes have been built so far, with plans to build a total of 12. To emphasize the trail's popularity coupled with the success of special programming and events, a recent concert brought over 10,000 people to the downtown square.

"When [visitors] come for special events, they usually will stay in a hotel and go to The Doodle Trail. They'll also go to our Nalley Brown Nature Park; they'll go to the downtown, Old Market Square, and to our farmers market," Campbell said.

The city plans to extend its portion of the Doodle Trail to the new Silos District and a soon-to-be-constructed residential complex that will eventually add more than 300 apartments.

In the upstate City of Belton, the converted railroad path is known as the Bubble Gum Rail Trail, a project of the nonprofit Belton Alliance, which made use of a Hometown Economic Development Grant from the Municipal Association. The trail's name comes from stories of a conductor who would throw bubble gum to crowds of children.

Belton Mayor Eleanor Dorn described the trail as a gift for the community that has brought more traffic downtown. She drew attention to the restaurants situated along the trail, including one that opened shortly before the ribbon cutting of the trail in May.

"We have a whole package going on right now — all kind of positive things that the trail is the start of," she said.

In Mauldin, the extension of the Prisma Health Swamp Rabbit Trail became one step closer to reality when the city council recently approved a \$5 million development plan for a pedestrian bridge over Interstate 385.

"The Swamp Rabbit Trail is a recreational game-changer, and it completely revitalized some small towns," said Councilmember Taft Matney, chair of the Mauldin's economic planning and development committee. "Our hope is that we continue to extend the Mauldin [portion of the] Swamp Rabbit Trail into our downtown."

The City of Mauldin received a donation from AT&T last fall for a new trailhead at the start of the pedestrian bridge along East Butler Road. Upon completion, the new trailhead will link Mauldin High School to the elementary and middle schools, as well as to the Golden Strip Career Center and eventually to Clemson University's International Center for Automotive Research.

The extension of the Swamp Rabbit Trail and pedestrian bridge will also connect with the under-construction

BridgeWay Station development, a planned downtown-style urban center project off of Bridges Road. Boasting \$150 million in investments with more on top as additional phases build out, Matney said it is expected to be transformative for the region.

Ty Houck, director of greenways, natural and historic resources for Greenville County Parks, Recreation and Tourism, said that between 2012 and 2016 approximately \$7 million of annual tourism revenue was generated from "people coming to town to eat, drink and sleep because their visit included the [Swamp Rabbit] trail."

Houck added that additional trail data showed that every dollar invested in community infrastructure had a \$2.30 return on investment — money going straight back to the region, thanks to trail-related economic development activities.

The groundbreaking of the pedestrian bridge over I-385 is anticipated for this fall, with the East Butler Corridor Swamp Rabbit Trail extension expected to begin by 2023.

"With the original Swamp Rabbit Trail 22 miles long, [the] other 'Golden Strip' cities of Mauldin, Simpsonville and Fountain Inn would also want the trail extended as it would allow for recreational tourists to be able to travel Greenville County from north to south," councilmember Matney added.

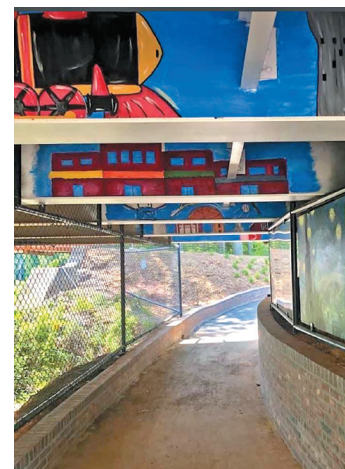
As community trails continue to grow in popularity, perhaps now is the time for cities to turn towards the great outdoors.



Mauldin has a recently completed trailhead extension for the Swamp Rabbit Trail. Photo: City of Mauldin.



Easley's Doodle Park provides an interactive trailhead for the Doodle Trail. Photo: City of Easley.



Murals now decorate the Bubble Gum Rail Trail's passage under a bridge in Belton. Photo: City of Belton.

# Telling the Stories of Local Businesses



When Brenda Perez, co-owner of El Agave Mexican Restaurant in downtown Florence, was approached by Florence's downtown development staff for an interview for their social media account, she was skeptical of it. Even so, she gave them a story of how she learned the business from her father's restaurants, rising from her start as a hostess in her teens, and carrying it all the way through to her hope that her four-year-old son might manage the restaurant one day.

The social media content proved to be a hit, and it appeared just in time to drive some extra traffic to El Agave for Cinco de Mayo, with customers talking to her about the story.

"We really have found with our [social media] stories that we're telling human interest stories from the perspectives of our business owners and communities," Hannah Davis, Florence's Development Manager, said. "They might be talking about their business, but what they're really talking about is their family, or how they got started."

Early in 2021, the downtown development technical assistance program Main Street South Carolina partnered with Phil Eich of Storyville Social to offer training on how to develop this kind of social media content for Main Street communities. When Main Street program directors from around the state shared their storytelling campaign results during a recent Main Street SC training meeting, they highlighted successes. For Downtown Florence, a couple of social media posts on El Agave reached some 95,000 people, Davis said. Those posts and others from a one-month period in the spring attracted the eyes of 169,000 unique users.

Main Street Walhalla Director Libby Imbody described the stories as something that could "kill the trolls," in that they could neutralize the temptation among some social media users to engage in ongoing negative postings about local government and its programs. The stories can replace that focus with engaging, enjoyable stories that draw in enthusiastic and positive responses, online and in person.

The social media audience "love these [stories]," she said. "Love, love, love them. And they'll share and they'll always have some sort of memory connected with it."

The Main Street directors found that the interest generated by the stories could turn into interest for their downtown development programs. Main Street Hartsville Director Lauren Baker noted that the "chatter happening around the table" meant that people who previously didn't know what Main Street Hartsville was would see the stories on locations like Crema Coffee Bar, Griggs Circle Bakery or Wild Heart Brewing and would talk about the program.

"Since then, I've had an influx of partner applications to come through," she said.

The directors discussed the techniques they used, like using photo sessions for business owners as a way to get them to loosen up as interview subjects, or making sure to use the best quote in the first 15 words of the post, so that Facebook users would see it without having to click "See More." They also discussed the heartbreak of losing a good interview when the recorder wasn't running properly, or the difficulties of using transcription software that could decode most of an interview but could not always decipher a Southern accent.

Main Street Laurens Director Jonathan Irick said he had found that interviewees could become the most relaxed at the very end of the interview and willing to give the most authentic and engaging quotes after he already felt that an interview was complete.

"Just make sure that you don't cut off your recorder until you are completely done and ready to walk out the door," he said.

Learn more about Main Street South Carolina at [www.masc.sc](http://www.masc.sc) (keyword: Main Street).



Brenda Perez of El Agave Mexican Restaurant became one of the business owners featured on Downtown Florence's social media. Photo: City of Florence.



# Supreme Court Decision Draws New Distinction Between Taxes and Fees

In a surprising decision in June, the South Carolina Supreme Court invalidated a road maintenance charge and a telecommunications charge imposed by Greenville County. This case, *Burns v. Greenville County Council*, turned on the question of whether the charges constituted taxes or fees.

Cities and towns may impose fees under SC Code Section 5-7-30, which allows them to “establish uniform service charges.” Authorization for municipal fees also comes from SC Code Section 6-1-330(a), which states that municipalities may charge “a service or user fee.” Additionally, municipal taxes are limited in part by SC Code Section 6-1-310, which states that a “local governing body may not impose a new tax after December 31, 1996, unless specifically authorized by the General Assembly.”

## How fees were previously determined to be valid

The question in the *Burns* decision was whether the road maintenance and telecommunications charges were fees that are valid under the law, or were taxes that are invalid under the law. For many years, courts have determined whether a charge is a fee or a tax under the four-part test established in the 1992 case *Brown v. County of Horry*, which stated that a fee is a uniform service charge, and therefore valid, if:

1. the revenue generated is used to benefit those who pay it, even if the general public also benefits;
2. the revenue generated is used only for the specific improvement it is intended for;
3. the revenue generated does not exceed the cost of the improvement; and
4. the fee is imposed uniformly on all those who pay it.

## Determining fee validity under *Burns*

In the *Burns* decision, the Supreme Court held the General Assembly



modified the *Brown* test by amending SC Code Section 6-1-300(6). That statute now states that a service or user fee is “a charge required to be paid in return for a particular government service or program ... that benefits the payer in some manner different from the members of the general public not paying the fee.”

Under the *Burns* test, the Supreme Court held the road maintenance charge under consideration was an invalid tax because “every driver on any road in Greenville County – whether their vehicles are registered in Greenville County, Spartanburg County, or in some other state – benefits from” the road maintenance paid for by Greenville County residents.

Similarly, the Supreme Court found that the telecommunications charge was an invalid tax because there was no proof that an enhanced telecommunications system benefitted the fee payers in a manner different from the general public.

Justice John Kittredge wrote separately to highlight the issue at stake: “I believe

today’s decision sends a clear message that the courts will not uphold taxes masquerading as ‘service or user fees.’”

## Implications of the *Burns* decision

This is an important and far-reaching decision. Municipalities must review all of their existing charges to determine if they comply with this new, more restrictive interpretation. At a minimum, municipalities should carefully investigate and document the benefit received directly by those paying a charge, and how that benefit differs from the benefit to the general public. For example, the *Burns* court suggested that the county government could have defended the telecommunications charge by proving that those properties that were subject to the fee increased in value because of the enhanced public safety communication system.

Find the text of the June 2021 *Burns v. Greenville County Council* decision at [www.sccourts.org](http://www.sccourts.org) under “Opinions.”

# What to Know About Business License Tax Administration After Act 176



Many requirements of the South Carolina Business License Tax Standardization Act, or Act 176, become effective January 1, 2022. The law requires a standard business license year among all taxing jurisdictions around the state, standard deadlines for payment due dates and refunds, acceptance of a standardized license application, a standard class schedule, appeals process, and a requirement that cities and towns accept renewals through the new Local Business License Renewal Center.

Even though cities and towns must comply with Act 176, some differences to ongoing business license policy and administration will remain at their discretion in 2022 and beyond.

## What does Act 176 mean for city or town council decisions?

After Act 176's January 1, 2022, effective date, elected councils will maintain the authority to

- enact their own business license ordinances governing how they administer the licensing in their municipality, although the Municipal Association strongly recommends use of its model business license ordinance;
- set business license tax rates and nonpayment penalty rates; and
- create license subclasses for economic development.

The law preserves any current agreements and provides for future agreements that cities create with a certain business for the calculation of business license tax.

Cities and towns may also continue to contract with third-party companies

to identify businesses that do not comply with business license tax ordinances, but Act 176 restricts third parties' contact with those noncompliant businesses. The June 2021 issue of *Uptown* details the restrictions now placed on third-party companies.

## What does Act 176 mean for business license staff in 2022 and afterward?

Because Act 176 likely changes many jurisdictions' business license deadlines, municipal staff should adjust their internal administrative practices.

### Applications

All taxing jurisdictions must now accept the statewide standard business license application. Municipalities may still use their own application, but must also accept the standard application.

### Class schedules and rates

When first setting up a business license, cities and towns must assign the business a six-digit North American Industry Classification System code, or NAICS code. Act 176 establishes a standard class schedule, where businesses are placed into classes using the latest edition of NAICS based on profitability. The class schedule is mandated by law and approved by the SC Revenue and Fiscals Affairs Office. In previous versions of the Municipal Association's model business license ordinance, there was a standard Class 1 through 7, with all subclasses grouped together under Class 8. Now only the business types specified by state law will fall under Class 8, and all special

subclasses established by the municipality will fall under Class 9.

Cities and towns must calculate the business license tax using the business's gross income for the previous calendar year or its previous fiscal year.

### Renewals

Business license staff must now make the Local Business License Renewal Center available as a payment option for businesses. The renewal center allows businesses to renew their licenses with every jurisdiction in the state. The entire taxpayer payment goes directly to the municipality. Businesses that pay with a credit card will be charged a small convenience fee by the credit card processor. Cities and towns can only use their own grandfathered online payment system if the software was in place before January 1, 2018.

The standard license year of May 1 to April 30 means that licensing officials should issue renewal notices in January or February — earlier than in the past. This is necessary to ensure cities and towns have their business's information to load into the renewal center software.

### Appeals

Act 176 outlines a standard appeals process which includes deadlines for appeals and responses. The appeals hearing must take place within 30 days of the city receiving the appeal form. Businesses may appeal decisions made by the city or town only to the Administrative Law Court.

Learn more about Act 176 at [www.masc.sc](http://www.masc.sc) (keyword: standardization).

# Repeal and Replace:

## Adopt the Model Business License Ordinance

Standardizing license years, due dates, class schedules and other elements of the business licensing process, the SC Business License Standardization Act, also known as Act 176, creates many new requirements for cities and towns to help make doing business around the state easier. Part of the way that municipalities can make sure that they are fulfilling all of the new law's requirements is by adopting the 2022 version of the model business license ordinance.

This version of the model ordinance represents a complete overhaul of past versions. Municipal Association of SC staff and several attorneys carefully researched the new model ordinance to address the requirements of Act 176. Cities and towns that passed any earlier version of the model ordinance, including the version released for 2019 before the new law's passage, will have outdated ordinances beginning in 2022.

The Municipal Association strongly encourages city and town councils to avoid redlining and altering their existing ordinances. The complexities of Act 176 make repealing the existing ordinance and replacing it with the 2022 model ordinance a better option to avoid missing any of the specific requirements.

### Provisions of the 2022 ordinance

The new model ordinance provides the current standard class schedule, required by Act 176. Model ordinances in future years will update the class schedule as needed. The 2022 ordinance also includes the standard definition of a business's gross income, as required by the law.

The model ordinance addresses many common elements of business license operations:



- The ordinance's applicability to those businesses without an established location inside the municipality
- Requirements for businesses to display a license, or sellers to carry a license
- Inspections
- Audits
- Assessments
- Penalties for nonpayment
- Appeals
- Denials, suspensions and revocation of licenses
- Violations

### Preparing for the model ordinance

The Association has created a seven-step process to help cities and towns comply with all aspects of Act 176, with each step building on the previous steps.

Repealing and replacing the ordinance comes as Step 5 in the compliance process. Before adopting the ordinance, officials should complete earlier steps such as converting to the standard license year and class schedule, and rebalancing rates. For those who have not already completed Steps 1 through 4, time is quickly running out, and immediate action is required. Learn more about the process and find assistance at [www.masc.sc](http://www.masc.sc) (keyword: standardization).

The Association is releasing a copy of the 2022 model ordinance to each city or town upon request. After a municipality has completed the earlier steps for a standard license year transition and begun the process of rebalancing tax rates as required by the law, it should contact Melissa Harrill, research and legislative liaison, at [mharrill@masc.sc](mailto:mharrill@masc.sc) for a copy of the 2022 model ordinance.



# A Day in the Life of a

## Business Licensing Official

Taxes collected through business licenses can play an important role in the financial health of a municipality, and making sure the process is explained and implemented correctly is a key function for office staff. There are also a few perks that come with the job.

“We get to meet just about everyone opening a new business, and the ideas people have for a business are amazing,” said Tami Fralick, director of the Charleston County Department of Revenue Collections, whose office collects business licenses for seven municipalities in the county. “Plus, we know about every new restaurant before it opens.”

With passage of the SC Business License Tax Standardization Act in 2020, all municipalities in the state must follow the same process for administering the business license tax and they must update their license ordinances to comply by January 1, 2022. For the officials responsible for handling business licenses, the standardization of practices highlights the importance of keeping up with the changing regulations and nuances of the field.

In addition to managing fee collection for various county departments and municipalities, Fralick also assists the municipalities of James Island, Folly Beach, North Charleston, McClellanville, Awendaw, Lincolville and Rockville in complying with state laws and regulations regarding business licensing, accommodations and hospitality taxes.

“We initially started collecting for the smaller municipalities, beginning in 1988. They didn’t have the resources to administer a business license, so the county contracted to do so on their behalf. It was also meant to be helpful for contractors,



Town of Pendleton Administration Supervisor Amyee Rogers counts business licensing among her duties. Photo: Town of Pendleton.

as they were the most likely to have multiple licenses across jurisdictions,” she said. “The towns and cities are still responsible for approving new businesses in their jurisdiction. They will set up and issue a business’s initial license. The county administers and collects renewals, delinquent collections and we audit accounts.”

She said her office is in the process of upgrading its business license software that will enable municipalities to download their own reports and allow customers to more easily manage their accounts.

In the Town of Pendleton, Amyee Rogers is the administration supervisor, meaning that she is responsible for business licensing along with finances, personnel and payroll. She is also the vice

president of the SC Business Licensing Officials Association, an affiliate of the Municipal Association which provides training, accreditation and networking opportunities for business license officials.

She and her staff help businesses fill out an application and determine the North American Industry Classification System code, or NAICS code, to classify each business.

Rogers, who has worked for the town of Pendleton for 23 years, said she enjoys the interaction with customers and being able to answer questions from the public and her coworkers.

“Pendleton is growing, we have a lot of construction. And with that construction, you have contractors and subcontractors who all need to get business licenses.

We have to keep up with that, because a subcontractor might be working on 30 houses in a subdivision,” she said.

Business license managers point to the importance of cross training, professional development and succession planning as keys to keeping the office running smoothly. Efforts to comply with the new business license standardization law are a major project for 2021.

“It’s important, especially for the people in my office working closest with me on [standardization,] that we send them to training so they can stay up to date,” Rogers said. “When they go through training, the lightbulb goes off. They’ll start asking a lot of questions. So that training really helps.”

Sonya Lee is responsible for the business license process for the Town of Lexington, which includes entering and processing business license applications, renewals and reminder notices as well as preparing business license reports for the town’s website and finance department.

She said juggling business license duties with other responsibilities can be a challenge, but she has coworkers who assist with helping walk-in customers.

“No two days are alike so you have to learn to adjust — back up and punt, as I like to put it. I try to prioritize the things I need to get done in a day so the most important, urgent things are taken care of first,” Lee said. “I have been in this position for over 20 years and I definitely have to multitask.”

Lee said ongoing professional development is important, citing Councils of Governments and Municipal Association of SC meetings as great learning opportunities.

“The quarterly COG meetings allow people to bring up topics that they are experiencing in their jurisdiction and see how others in their area are handling them. Spring and annual [Municipal Association] training are very beneficial because we hear about legislative updates, have our peers leading sessions that deal with the things we experience on a daily basis and also have professional development speakers that share insightful



*As director of the Charleston County Department of Revenue Collections, Tami Fralick manages the office that handles business licensing for seven municipalities. Photo: Charleston County.*

information,” she says. “With the passage of Act 176, keeping up-to-date on all business license information — things like NAICS, IRS statistical data, class ratings — will be even more important in the future and these meetings are a great way to get that information.”

Fralick agreed, and stressed the importance of succession planning.

“I was the beneficiary of succession planning, and know that having someone ready to step in and run the department with no catch-up time is crucial to the operation of a department as busy as ours. It is important to identify and prepare the people with the right skill sets to be able to step in and keep a department running, should something unexpected happen and you need someone to fill a role immediately,” Fralick said. “Business licensing is vital to a community, and at the end of the day it is so local. You want to help the businesses in your community be in compliance and succeed. That benefits everyone.”

### The SC Business Licensing Officials Association

The SC Business Licensing Officials Association helps its members address the issues associated with administering and enforcing the local business and professional license ordinances. BLOA offers the BLOA Training Institute, which is designed to improve the professional and administrative skills of business licensing officials. Graduates of the institute who pass an exam receive the Accreditation in Business Licensing designation. Those with this designation may then pursue a Master in Business Licensing designation by completing BLOA’s Advanced Academy.

BLOA also hosts a Joint Academy with the SC Municipal Finance Officers, Clerks and Treasurers Association to explore topics relevant to both groups.

Learn more about the opportunities available through BLOA at [www.masc.sc](http://www.masc.sc) (keyword: BLOA).

# Rebalance Business License Rates Before 2022

The SC Business License Tax Standardization Act, Act 176, created several tasks for cities and towns to complete before January 1, 2022, with the process of rebalancing business license tax rates coming as perhaps the largest single task.

The law specifies that cities and towns cannot receive a revenue windfall as a result of the business license standardization process. “Rebalancing” means that a municipality must adjust its business license tax rates to ensure that business license revenue collected in the 2022 – 2023 license year does not exceed the revenue collected from the same businesses in the 2020 license year. If a city or town projects it might lose revenue as a result of rebalancing, it may adjust its rates to ensure that does not happen.

## Before rebalancing

The various steps needed to comply with Act 176 build upon one another, and rebalancing should not be the first action taken. First, a city or town council should adjust its business license year to the new standard license year, May 1 through April 30.

Next, city and town staff must assign each of their business license records a correct, six-digit 2017 North American Industry Classification System code, or NAICS code. NAICS codes bundle individual businesses into similar industry groups. Staff should then ensure that each business is assigned to the correct, state-mandated rate class using the 2021 Class Schedule. Cities and towns can obtain the standard class schedule by contacting their business license standardization liaison at the Municipal Association of SC.

## Rebalancing

The rebalancing process requires some potentially intensive data analysis that can be performed by municipal staff or with



assistance from the Municipal Association. Cities and towns that seek help from the Association must export their business license data in a specific format provided by the Association, which will help during this rebalancing process. The purpose for exporting the records is to ensure the data within each of the records is accurate. After exporting their data, municipal staff should ask these questions:

- Does each record have a six-digit 2017 NAICS code?
- Are the gross income amounts correct?
- Is each business assigned to a rate class?
- Are there data formatting errors?
- Are there tax calculation errors?

Once the data is deemed accurate, staff should begin reviewing the license tax rate for each class and suggest changes

to the rates, if necessary to achieve a revenue-neutral result.

## Remember: time is running out

Municipal Association staff have been working with business licensing officials in each city or town to adjust tax rates appropriately. Given the significant amount of work involved to rebalance business license tax rates, the cities and towns now requesting rebalancing assistance are going into a queue. The cities and towns that need the Association’s assistance to rebalance must provide the required data to the Association no later than October 15, 2021. Those that miss this deadline might not receive assistance from the Association.

*Learn more and find a city or town’s business license standardization liaison at [www.masc.sc](http://www.masc.sc) (keyword: standardization).*

# Act 176 Allows Some Economic Development **FLEXIBILITY**

Cities and towns throughout South Carolina regularly seek ways to promote economic development projects that can enhance residents' quality of life, using a variety of state and local tools to attract and retain businesses. For some cities and towns, specific economic development tools are out of reach. For most, however, the business license tax can serve as an economic development incentive. The enactment of the South Carolina Business License Tax Standardization Act, or Act 176, in 2020 affirmed and protected the use of the business license tax as an incentive.

While Act 176 created a standard business license rate class schedule that all cities and towns must use, it also contains three subsections that provide cities and towns flexibility to use their business license tax to address a variety of economic development scenarios.

SC Code Section 6-1-400(g)(2) allows a city, town or county to deviate from the standard rate class schedule and create subclassifications of businesses "based upon the particularized considerations as needed for economic stimulus or the

enhanced or disproportionate demands by specific business[es]" on municipal services.

For example, in a coastal city where tourists create higher service demands than permanent residents, that city could create a standalone classification for tourist-related industries and apply a unique tax rate to it. The same holds true if a town wanted to incentivize certain types of industries to locate within its borders.

Though Act 176 standardizes business licensing across the state, it recognizes that cities and towns have for years made local decisions to address local circumstances that might contradict provisions found in the new law. To that end, SC Code Section 6-1-400(h)(1) preserves special business license agreements that cities and towns may have in place prior to Act 176's effective date of January 1, 2022. Specifically, any ordinance, formal or informal agreement, flat fee or unique calculation of any business's license tax enacted before January 1, 2022, will be unaffected by the new law. Importantly, this provision ensures continuity for both the local business and the city as the new law goes into effect.

Finally, SC Code Section 6-1-400(h)(2) affirms municipalities' authority to continue to address unique circumstances through their business license tax systems. The law states that a city or town may deviate from the standard rate class schedule in the future with an "ordinance passed for economic stimulus, an annual flat fee, or any formal or informal agreement ... regarding the calculation of business license taxes." Preserving this economic development tool is vital for cities and towns as they seek to take advantage of opportunities that can benefit their communities.

Act 176 is a sweeping law that is presenting new opportunities for cities and businesses to grow together. The law will make doing business easier in cities and towns primarily by standardizing the licensing process. Just as importantly, it has also ensured local leaders' authority to continue to attract business and address unique circumstances in their efforts to build strong South Carolina cities and towns.

*Learn more about Act 176 at [www.masc.sc](http://www.masc.sc) (keyword: standardization).*



1411 Gervais Street | PO Box 12109  
Columbia, South Carolina 29211  
Tel: 803.799.9574 | Fax: 803.933.1299  
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# Calendar

*Scheduled in-person meetings are subject to change based on the Municipal Association's COVID-19 restrictions in place at the time of the meeting. Information about events and how members can access the virtual events will be updated on the Association's website.*

## OCTOBER

**6 SC Utility Billing Association Customer Service Training and Networking Luncheon.** Cooperative Conference Center, Columbia.

**7 SC Community Development Association Fall Meeting.** Seawell's, Columbia.

**13 Advanced Municipal Elected Officials Institute.** Marriott, Columbia.

**13 Advanced Municipal Elected Officials Institute – Advanced Continuing Education: Fall Session.** Marriott, Columbia.

**19 – 22 SC Municipal Finance Officers, Clerks and Treasurers Association and SC Business Licensing Officials Association Joint Academy.** Hyatt Regency, Greenville.

**20 Retail Recruitment Training: Session 5 & 6.** Location to be determined.

## NOVEMBER

**4 South Carolina Association of Stormwater Managers Fourth Quarter Meeting.** Seawell's, Columbia.

**9 Risk Management Services Annual Members Meeting.** DoubleTree, Columbia.

**17 – 19 SC Municipal Human Resources Association Annual Meeting.** Hyatt House, Charleston.

## DECEMBER

**3 SC Municipal Attorneys Association Annual Meeting and Continuing Legal Education Seminar.** Marriott, Columbia.

**8 SCMIT/SCMIRF Public Works/Utilities Risk Management Training.** Cooperative Conference Center, Columbia.

## 2022 FEBRUARY

**1 Hometown Legislative Action Day.** Marriott, Columbia.

**2 Municipal Elected Officials Institute of Government.** Marriott, Columbia.

## MARCH

**3 SC Association of Stormwater Managers First Quarter Meeting.** Cooperative Conference Center, Columbia.

**14 – 16 SC Utility Billing Association Annual Meeting.** SpringHill Suites Greenville Downtown.

**24 Municipal Technology Association of SC Spring Meeting.** Cooperative Conference Center, Columbia.