

# City of Tega Cay, South Carolina

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## **Regular City Council Meeting Agenda**

*Tega Cay Glennon Center - Lower Level  
15077 Molokai Drive, Tega Cay, SC*

### 7 p.m. Call to Order, Pledge of Allegiance and Moment of Silence

#### 1. Special Presentation

##### 1.a. Public Safety Recognition

#### 2. Public Comments

#### 3. Approval Of Minutes

##### 3.a. September 20, 2021 Regular Meeting

Documents:

[3A DRAFT MINUTES 9.20.21.PDF](#)

#### 4. Committee Appointments

##### 4.a. Board Of Zoning Appeals

#### 5. Committee Reports

##### 5.a. Economic Development Commission

##### 5.b. Planning Commission

##### 5.c. Tega Cay Forever Foundation

#### 6. Unfinished Business

##### 6.a. Discussion Of Potential Changes To The Land Development Code Related To The Planning Commission's Recommendations Regarding Stream Buffers And Required Open Space

Documents:

[6A1 REDLINE REVISION\\_ORD 50\\_SECTIONS 1202.2 AND 1306.PDF](#)

#### 7. New Business

##### 7.a. Bid Award For Remodeling Of Parks & Recreation Office

Documents:

[7A1 PARKS AND RECREATION BUILDING REQUEST FOR BIDS.PDF](#)

##### 7.b. Introduction And 1st Reading Of An Ordinance To Adopt A Revised Business License

Ordinance In Accordance With The Business License Standardization Act (2020 Act No. 176)

Documents:

[7B1 BL ORDINANCE.PDF](#)

8. City Manager's Report
9. Council Comments
10. Adjournment



**Regular City Council Meeting**  
**Monday, September 20, 2021**  
Philip T. Glennon Center – Council Chambers  
15077 Molokai Drive, Tega Cay, SC

**Councilmembers Present:** Mayor David O'Neal, Mayor Pro Tem Gus Matchunis and Councilmembers Alicia Dasch, Heather Overman and Ryan Richard. A quorum was present.

**Councilmembers Absent:** None.

**Staff Present:** Charlie Funderburk, City Manager; Bob McCleave, City Attorney; Susan Britt, Development Services Director; Shane Parris, Storm Water Manager; Tim Gillette, Operations Director; and Katie Poulsen, Municipal Clerk.

**The public and media were duly notified of the date, time and place of the meeting.**

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Mayor O'Neal called the regular Council meeting to order at 7:00 p.m., led the Pledge of Allegiance and held a moment of silence. He welcomed former Mayor Steve Hamilton and thanked Mayor Pro Tem Matchunis for filling in last month for his own absence due to a kidney stone.

**ITEM 1 SPECIAL PRESENTATION**

**A. Constitution Week Proclamation**

Mayor O'Neal read the proclamation and presented it to Janet Hamilton, Daughter of the American Revolution.

**ITEM 2 PUBLIC COMMENTS**

1. Barbara Wilson, 1031 Woodlake Lane, spoke regarding the deer population and aggressive behavior she has witnessed. City Manager Funderburk spoke regarding DNR's survey in 2015, DNR processes, and an upcoming survey.

**ITEM 3 APPROVAL OF MINUTES**

There were no changes to the Regular Council Meeting minutes of August 16, 2021, and they were approved.

**ITEM 4 COMMITTEE APPOINTMENT**

**A. Board of Zoning Appeals**

City Manager Funderburk noted the top nominee from Council was Jim Andrus.

**MOTION**

Councilmember Richard motioned to elect Jim Andrus to the Board of Zoning Appeals, seconded by Mayor Pro Tem Matchunis and approved unanimously.

**ITEM 5 COMMITTEE REPORTS**

**A. Economic Development Commission**

Mayor Pro Tem Matchunis noted the EDC met on August 23<sup>rd</sup> and discussed business license fees in comparison to neighboring communities, incentive programs for new businesses, a subcommittee formation for hospitality and retail options, the Donnie Shell Golf Tournament, and ARP funds in the amount of \$54 million for York County. He noted the next meeting will take place on Sept 27<sup>th</sup>.

**B. Planning Commission**

Councilmember Dasch noted the last meeting was on September 13<sup>th</sup>, and they discussed previous recommendations for Storm Water, Accessory Dwelling units, requiring public meetings on development, and she announced the next meeting on Oct. 4<sup>th</sup>.

### **C. Tega Cay Forever Foundation**

Councilmember Overman noted the Foundation did not meet formally, but the fundraising committee did meet informally to discuss the brick and bench fundraiser for Tega Cay Forever and Catawba Park.

## **ITEM 6 UNFINISHED BUSINESS**

### **A. 2<sup>nd</sup> Reading of an Ordinance to Provide for the Budgets of the City of Tega Cay for the Fiscal Year Commencing October 1, 2021, and Ending September 30, 2022, to Provide for the Receipt and Expenditure of Funds, and Other Matters Related Hereto**

Mayor O'Neal stated this is the second and final reading of an Ordinance necessary to set the budgets for fiscal year 2021-2022 that were presented by the City Manager during the required public hearing. There is no millage increase included in the coming fiscal year.

#### **MOTION**

Councilmember Overman motioned to approve the 2<sup>nd</sup> Reading of an Ordinance to Provide for the Budgets of the City of Tega Cay for the Fiscal Year Commencing October 1, 2021, and Ending September 30, 2022, to Provide for the Receipt and Expenditure of Funds, and Other Matters Related Hereto, seconded by Councilmember Richard and approved unanimously.

### **B. Discussion Regarding Compensation and Classification Study**

Mayor O'Neal explained this item was tabled previously as there were questions regarding the survey on the Municipal Association website and whether there was a need to do this. He noted they will hear from a representative from the Archer Group who conducted our last Compensation and Classification Study. Ms. Rita Archer presented information on their recent proposal submitted and described their processes to determine appropriate compensation and classifications for the various employment positions. Mayor Pro Tem Matchunis asked how long the study would take and Ms. Archer noted approximately 20-26 weeks. Council discussion ensued on the process details. Council gave consensus to the City Manager for him to decide whether to move forward with the study.

## **ITEM 7 NEW BUSINESS**

### **A. Planning Commission Recommendations as it Relates to Storm Water Ordinance and Policy Amendments**

Mayor O'Neal stated at the August 16<sup>th</sup> Council meeting, Chris Leonard, Planning Commission Chair presented a set of recommendations regarding potential changes to the stormwater ordinance and policy direction from Council. Currently, the Commission is asking Council for their discussion and consideration of the proposed recommendations and direction as to drafting a potential ordinance amendment. He then invited Mr. Shane Parris, the City's Storm Water Manager, to speak. He noted Planning Commission's recommendations and noted how the recommendation, if implemented, would have an impact on the City and future developments.

### **B. Consideration of a Letter of Credit and Performance, Labor and Materials Surety Agreement for Windhaven, Phase 2**

Mayor O'Neal explained at a Special Meeting on July 12, 2021, the Planning Commission approved the Final Plat for Windhaven Phase 2 contingent upon approval of a Letter of Credit and Performance, Labor, and Materials Surety Agreement by Council. Included in your packet is a letter from the developer's engineer certifying certain improvements have been installed and includes an Opinion of Probable Cost to complete the required infrastructure. The required improvements are intended to be bonded by a Letter of Credit in the amount of \$1,830,722.24. The City Engineer has also submitted a letter, which is included in your packet, concurring with the amount stated in the developer's Opinion of Probable Cost.

The City Attorney has prepared and submitted a Performance, Labor and Materials Surety Agreement for Council approval.

**MOTION**

Mayor Pro Tem Matchunis motioned to approve the Letter of Credit and Performance, Labor and Materials Surety Agreement for Windhaven, Phase 2, contingent upon receipt of the LOC in the form and substance suitable to the City Attorney and authorize the City Manager to execute said PLM Surety Agreement, seconded by Councilmember Dasch and approved unanimously.

**C. Court Solicitor**

Mayor O'Neal announced the City was notified by Jennifer Colton of her decision to resign her position as Tega Cay's Court Solicitor effective September 21, 2021 as she has been appointed as a Magistrate for the County. With this appointment, practicing law is prohibited and therefore, she has resigned her position with the City. The City advertised the position and received interest from Matthew Shelton who currently serves as a Senior Solicitor of the Sixteenth Circuit Solicitor's Office. After receiving a positive recommendation from Ms. Colton for Mr. Shelton, a review of his resume with extensive experience, and an interview, staff recommends Council enter into the agreement with Mr. Matthew Shelton for the City's Court Solicitor. The agreement's initial term is through September 30, 2024 with the option to renew.

**MOTION**

Councilmember Dasch motioned to approve the agreement with Matthew Shelton as the City's Court Solicitor and authorize the City Manager to execute the agreement, seconded by Councilmember Overman and approved unanimously.

City Manager Funderburk requested Council amend the agenda.

**MOTION**

Councilmember Overman motioned to change the agenda and flip flop 7e and 7d, seconded by Councilmember Dasch and approved unanimously.

**E. Resolution Designating an Authorized Representative and Contact Person for Purposes of the American Rescue Plan Act of 2021**

Mayor O'Neal shared the State is requiring that each Council appoint a specific contact and representative for the purposes of communication for the American Rescue Plan Act by way of resolution.

**MOTION**

Councilmember Richard motioned to adopt a resolution designating Bob Bartkin, the City's Finance Director, as the authorized representative and contact person for the purposes of the ARP Act, seconded by Mayor Pro Tem Matchunis and approved unanimously.

**D. Proposed Allocation of American Rescue Plan Act Funds**

Mayor O'Neal explained the American Rescue Plan Act went into law in March of 2021. Non-entitlement cities such as Tega Cay are to receive their allocation of the funds from the State instead of directly from the Federal Government. Tega Cay is set to receive \$5,643,061.29. The Federal Government has placed a great deal of limitations on how these funds can be spent and City Manager Funderburk presented his recommendation on the allocation of those funds. Council discussion ensued on where the funds will be spent.

**MOTION**

Councilmember Richard motioned to approve the City Manager's recommendation on the allocation of ARP funds as presented and further move to direct the City Manager to issue the one-time bonuses to all City employees in the net amount of \$1,500/employee from General Fund reserves at such time as bonuses are distributed to Public Safety employees from ARP funds, seconded by Councilmember Overman and approved unanimously.

**ITEM 8 CITY MANAGER'S REPORT**

City Manager Funderburk reported on the following: last concert of the year, a Catawba Park update, a phenomenal budget this year, Open House with Duke Energy for power upgrade project, the upcoming State of the Community Breakfast, and the Chamber hosted Candidate Forum on October 21.

**ITEM 9 COUNCIL COMMENTS**

Mayor O'Neal congratulated City Manager Funderburk and the City on being in the best financial shape it has ever been in and for being a well-run, fiscally balanced city.

Councilmember Richard thanked City Manager Funderburk and Department Heads for being willing to forgo their bonus to ensure their staff receives one but wanted to clarify the motion did read bonuses for all city employees.

Councilmember Dasch congratulated Jennifer Colton on her new position and welcomed Matthew Shelton to Tega Cay.

Councilmember Overman noted a great job to all of the coaches for a great kickoff weekend for Parks and Rec.

Mayor Pro Tem Matchunis noted the great news that there will be a candidate forum. The City budget is incredible and congratulations to staff on bonuses.

**ITEM 10 ADJOURNMENT**

**MOTION**

There being no further business, Councilmember Richard motioned to adjourn, seconded by Councilmember Overman and it was approved unanimously.

*The meeting was adjourned at 9:00 p.m.*

[SEAL]

Respectfully Submitted,

*Established 1982*

Katie Poulsen, Municipal Clerk

APPROVED:

David L. O'Neal, Mayor

APPROVAL DATE: October 18, 2021

ORD. 50- SUBDIVISION AND LAND DEVELOPMENT CODE  
REVISIONS-2021

1202.2. **WATER COURSE, ~~AND~~ DRAINAGE EASEMENTS ~~AND~~ RIPARIAN BUFFERS**

Where a proposed subdivision is traversed by a water course, drainage way, or stream, appropriate provisions shall be made to accommodate stream protection, stormwater and drainage through and from the proposed subdivision. ~~Such~~ stormwater and drainage easements shall conform substantially to the lines of said water course and be of sufficient width or construction or both as to be adequate for the purpose. However, such public easement shall not be less than 20 feet in width, ~~and shall extend downstream to the property boundary line or to a flood zone or to Lake Wylie.~~ No structure shall be built within these easements. Riparian Buffers shall be 50 feet in width measured from the top of stream bank landward. A minimum of 30 feet of the buffer shall be natural undisturbed space. Minimal disturbance to install trails and habitat viewing areas will be permitted in the remaining 20 feet.

1306. **DEDICATION OF LAND FOR RECREATION, PARK PURPOSES AND PUBLIC USE.**

Every subdivider who proposes a subdivision of land shall:

1. Dedicate a portion of such land, as set forth in this ordinance, to be used for public use. (See Code of Laws of South Carolina 5-23-43.)

~~1.2.~~ Dedicate a portion of such land for the protection of an essential habitat needed for the continued existence of native plants and wildlife.

~~2.3.~~ Additionally, construct a Pedestrian Trail in the subdivision. Minimum design standards for the construction of a hard surface Pedestrian Trail are shown in Appendix C-13. A soft surface trail may be considered depending upon location, topography and need. The amount of land required for the trail, including right-of-way, can be utilized to meet the amenity requirements in 1306.1 Connectivity to the City's existing pedestrian trail system shall be required.

~~3.4.~~ A density bonus of up to 10% may be considered by the Planning Commission and City Council when the dedicated land is proposed to be used by the community at large in an effort to meet identified City-wide recreational needs.

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1306.1

## AMOUNT AND NATURE OF LAND REQUIRED TO BE DEDICATED

Developments with residential uses shall incorporate recreational amenities from the list in Appendix A-2 in the following amounts:

1. Developments with 40 to 150 dwelling units shall provide at least two different amenities.
2. Developments with more than 150 dwelling units but fewer than 300 dwelling units shall provide at least three different amenities; and
3. Developments with 300 or more dwelling units shall provide at least four different amenities and the Planning Commission and City Council shall determine the ratio of additional recreational amenities based on National Recreation and Park Association standards.

The amount of land required to be dedicated shall be computed on the basis of the following formula:

Dwelling - Single family detached	<del>25</del> 30% of Gross Acreage (minimum)	<ul style="list-style-type: none"><li>• 1/3 shall be natural undisturbed open space (minimum)</li><li>• 1/3 shall be suitable for recreation, or public use purposes (minimum)</li><li>• balance shall be land use buffers</li></ul>
Dwelling - Multi-family and Single family attached	<del>34</del> 0% of Gross Acreage (minimum)	<ul style="list-style-type: none"><li>• 1/3 shall be suitable for recreation or-public use purposes (minimum)</li><li>• 1/3 shall be natural undisturbed open space (minimum)</li><li>• balance shall be land use buffers</li></ul>
Business	<del>25</del> 20% of Gross Acreage (minimum)	<ul style="list-style-type: none"><li>• <del>1/3 shall be suitable for recreation or public use purposes (minimum)</del></li><li>• 1/3 shall be natural undisturbed open space (minimum)</li><li>• balance shall be land use buffers</li></ul>

All dedicated land shall meet the following criteria.

1. **Unity.** The dedicated land shall form a single parcel of land except where it is determined by the Planning Commission that two or more parcels would be in the public interest; and in such case the Commission may require that such parcels be connected by a dedicated strip of land at least 30 feet wide.

2. **Shape.** The shape of the parcel of land dedicated for public use shall be sufficiently square or round to be usable for identified recreational amenities.
3. **Location.** The dedicated land shall be located so as to reasonably serve the recreation and open space needs of the subdivision or community at large for which the dedication was made.
4. **Access.** Public access to the dedicated land shall be provided either by adjoining street frontage or public easement at least 30 feet wide.
5. **Topography.** Slope on areas dedicated for recreation shall not exceed 5%, unless all topography dictates otherwise.
6. **Usability.** The dedicated land shall be usable for recreation or other public use. Lakes and other bodies of water shall not be included in computing dedicated land area.



City of  
**Tega Cay, South Carolina**

www.tegacaysc.org

7725 Tega Cay Drive  
Tega Cay, SC 29708

Phone: 803.548.3512  
Fax: 803.548.1400

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To: Perspective Bidders  
From: City of Tega Cay  
Subject: Parks & Recreation Building Remodel  
Date: September 3<sup>rd</sup>, 2021

The City of Tega Cay is accepting bids from commercially licensed general contractors to remodel the existing Parks & Recreation Building in the City of Tega Cay. All bids must be submitted in a sealed envelope and delivered to City Hall at 7725 Tega Cay Dr. Tega Cay, SC 29708 no later than 2:00 pm on Friday, October 1<sup>st</sup>, 2021. No bids will be accepted after 2:00 pm on October 1<sup>st</sup>. Any bids arriving after that time will be returned unopened.

Two copies of the bid submissions should be submitted. Bids must include a schedule of values for each category listed below and include a total amount.

**Building Specifications:**

- Remove existing siding and replace with painted hardie board plank siding. The color to be specified consistent with existing city facility colors.
- Install stacked stone on the façade of the building to a height of 34 inches in height, consistent with the Tega Cay Police Department (7705 Tega Cay Dr) and Fire Station 1 (1195 Stonecrest Dr).
- Remove existing soffits and replace with white soffits.
- Replace existing upstairs door with window.
- Convert existing dining area into an office to include: replacing existing lighting with LED strip lighting, enclosing kitchen opening, installing door to main area and painting as specified by owner.

Bid submissions must also include a proposed start date and estimated number of days to substantially complete the project.

The City reserves the right to reject any and all bids for any reason, in its sole discretion, or no reason at all. All questions must be submitted in writing to Joey Blethen, [jblethen@tegacaysc.gov](mailto:jblethen@tegacaysc.gov) 803-548-3512.



**FIRST READING:** \_\_\_\_\_  
**SECOND READING:** \_\_\_\_\_

*Enacted this \_\_ day of \_\_\_\_\_, 2021, by a majority vote of the duly elected City Council of the City of Tega Cay, South Carolina.*

**SIGNED:**

**CITY OF TEGA CAY**

[SEAL]

\_\_\_\_\_  
David L. O’Neal, Mayor

\_\_\_\_\_  
Gus Matchunis, Mayor Pro Tempore

\_\_\_\_\_  
Alicia Dasch, Council Member

\_\_\_\_\_  
Heather Overman, Council Member

\_\_\_\_\_  
Ryan Richard, Council Member

**ATTEST:**

\_\_\_\_\_  
Charlie Funderburk, City Manager

*Certificate of Adoption*

*I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the City Council of the City of Tega Cay, South Carolina, held on the \_\_\_\_ day of \_\_\_\_\_, 2021.*

*Katie Poulsen*

\_\_\_\_\_  
*Municipal Clerk*

## 2022 MODEL BUSINESS LICENSE ORDINANCE

**Section 1. License Required.** Every person engaged or intending to engage in any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, in whole or in part within the limits of the City of Tega Cay, South Carolina, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided.

**Section 2. Definitions.** The following words, terms, and phrases, when used in this ordinance, shall have the meaning ascribed herein. Defined terms are not capitalized when used in this ordinance unless the context otherwise requires.

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

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

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

“*Classification*” means that division of businesses by NAICS codes subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by the Council.

“*Council*” means the Council of the City of Tega Cay, South Carolina.

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

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

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

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

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

“*Municipality*” means the City of Tega Cay, South Carolina.

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

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

**Section 3. Purpose and Duration.** The business license required by this ordinance is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. Except as set forth below for business licenses issued to contractors with respect to specific construction projects, each yearly license shall be issued for the twelve-month period of May 1 to April 30. A business license issued for a construction contract may, at the request of the licensee, be stated to expire at the completion of the construction project; *provided*, any such business license may require that the licensee file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by the Council.

**Section 4. Business License Tax, Refund.**

- A. The required business license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the due date of the 30th day of April in each year, except for those businesses in Rate Class 8 for which a different due date is specified. Late payments shall be subject to penalties as set forth in Section 12 hereof, except that admitted insurance companies may pay before June 1 without penalty.
- B. A separate license shall be required for each place of business and for each classification or business conducted at one place. If gross income cannot be separated for classifications at one location, the business license tax shall be computed on the combined gross income for the classification requiring the highest rate. The business license tax must be computed based on the licensee's gross income for the calendar year preceding the due date, for the licensee's twelve-month fiscal year preceding the due date, or on a twelve-month projected income based on the monthly average for a business in operation for less than one year. The business license tax for a new business must be computed on the estimated probable gross income for the balance of the license year. A business license related to construction contract projects may be issued on a per-project basis, at the option of the taxpayer. No refund shall be made for a business that is discontinued.
- C. A licensee that submits a payment greater than the amount owed may request a refund. To be considered, a refund request must be submitted in writing to the Municipality before the June 1 immediately following the April 30 on which the payment was due and must be supported by adequate documentation supporting the refund request. The Municipality shall approve or deny the refund request, and if approved shall issue the refund to the business, within thirty days after receipt of the request.

**Section 5. Registration Required.**

- A. The owner, agent, or legal representative of every business subject to this ordinance, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year; *provided*, a new business shall be required to have a business license prior to operation within the Municipality, and an annexed business shall be required to have a business license within thirty (30) days of the annexation. A license for a bar (NAICS 722410) must be issued in the name of the individual who has been issued the corresponding state alcohol, beer, or wine permit or license and will have actual control and management of the business.
- B. Application shall be on the then-current standard business license application as established and provided by the Director of the South Carolina Revenue and Fiscal Affairs Office and shall be accompanied by all information about the applicant, the licensee, and the business deemed appropriate to carry out the purpose of this ordinance by the license official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross receipts and gross revenue figures.
- C. The applicant shall certify under oath that the information given in the application is true, that the gross income is accurately reported (or estimated for a new business) without any unauthorized deductions, and that all assessments, personal property taxes on business property, and other monies due and payable to the Municipality have been paid.

- D. The Municipality shall allow application, reporting, calculation, and payment of business license taxes through the business license tax portal hosted and managed by the South Carolina Revenue and Fiscal Affairs Office, subject to the availability and capability thereof. Any limitations in portal availability or capability do not relieve the applicant or Licensee from existing business license or business license tax obligations.

**Section 6. Deductions, Exemptions, and Charitable Organizations.**

- A. No deductions from gross income shall be made except income earned outside of the Municipality on which a license tax is paid by the business to some other municipality or county and fully reported to the Municipality, taxes collected for a governmental entity, or income which cannot be included for computation of the tax pursuant to state or federal law. Properly apportioned income from business in interstate commerce shall be included in the calculation of gross income and is not exempted. The applicant shall have the burden to establish the right to exempt income by satisfactory records and proof.
- B. No person shall be exempt from the requirements of the ordinance by reason of the lack of an established place of business within the Municipality, unless exempted by state or federal law. The license official shall determine the appropriate classification for each business in accordance with the latest issue of NAICS. No person shall be exempt from this ordinance by reason of the payment of any other tax, unless exempted by state law, and no person shall be relieved of liability for payment of any other tax or fee by reason of application of this ordinance.
- C. Wholesalers are exempt from business license taxes unless they maintain warehouses or distribution establishments within the Municipality. A wholesale transaction involves a sale to an individual who will resell the goods and includes delivery of the goods to the reseller. It does not include a sale of goods to a user or consumer.
- D. A charitable organization shall be exempt from the business license tax on its gross income unless it is deemed a business subject to a business license tax on all or part of its gross income as provided in this section. A charitable organization, or any affiliate of a charitable organization, that reports income from for-profit activities or unrelated business income for federal income tax purposes to the Internal Revenue Service shall be deemed a business subject to a business license tax on the part of its gross income from such for-profit activities or unrelated business income.
- E. A charitable organization shall be deemed a business subject to a business license tax on its total gross income if (1) any net proceeds of operation, after necessary expenses of operation, inure to the benefit of any individual or any entity that is not itself a charitable organization as defined in this ordinance, or (2) any net proceeds of operation, after necessary expenses of operation, are used for a purpose other than a charitable purpose as defined in this ordinance. Excess benefits or compensation in any form beyond fair market value to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

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

**Section 8. Display and Transfer.**

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

**Section 9. Administration of Ordinance.** The license official shall administer the provisions of this ordinance, collect business license taxes, issue licenses, make or initiate investigations and audits to ensure compliance, initiate denial or suspension and revocation procedures, report violations to the municipal attorney, assist in prosecution of violators, produce forms, undertake reasonable procedures relating to the administration of this ordinance, and perform such other duties as may be duly assigned.

**Section 10. Inspection and Audits.**

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

**Section 11. Assessments, Payment under Protest, Appeal.**

- A. Assessments, payments under protest, and appeals of assessment shall be allowed and conducted by the Municipality pursuant to the provisions of S.C. Code § 6-1-410, as amended. In preparing an assessment, the license official may examine such records of the business or any other available records as may be appropriate and conduct such investigations and statistical surveys as the license official may deem appropriate to assess a business license tax and penalties as provided herein.

- B. The license official shall establish a uniform local procedure consistent with S.C. Code § 6-1-410 for hearing an application for adjustment of assessment and issuing a notice of final assessment; provided that for particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the Municipality, by separate ordinance, may establish a different procedure and may delegate one or more rights, duties, and functions hereunder to the Municipal Association of South Carolina.

**Section 12. Delinquent License Taxes, Partial Payment.**

- A. For non-payment of all or any part of the correct business license tax, the license official shall impose and collect a late penalty of five (5%) percent of the unpaid tax for each month or portion thereof after the due date until paid. Penalties shall not be waived. If any business license tax remains unpaid for sixty (60) days after its due date, the license official shall report it to the municipal attorney for appropriate legal action.
- B. Partial payment may be accepted by the license official to toll imposition of penalties on the portion paid; *provided*, however, no business license shall be issued or renewed until the full amount of the tax due, with penalties, has been paid.

**Section 13. Notices.** The license official may, but shall not be required to, mail written notices that business license taxes are due. If notices are not mailed, there shall be published a notice of the due date in a newspaper of general circulation within the Municipality three (3) times prior to the due date in each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or grounds for waiver of penalties.

**Section 14. Denial of License.** The license official may deny a license to an applicant when the license official determines:

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

- G. The license for the business or for a similar business of the licensee in the Municipality or another jurisdiction has been denied, suspended, or revoked in the previous license year.

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

**Section 15. Suspension or Revocation of License.** When the license official determines:

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

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

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

**Section 16. Appeals to Council or its Designee.**

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

designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the standards herein. The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the Municipality.

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

**Section 17. Consent, franchise, or license required for use of streets.**

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

**Section 18. Confidentiality.** Except in accordance with proper judicial order or as otherwise provided by law, no official or employee of the Municipality may divulge or make known in any manner the amount of income or any financial particulars set forth or disclosed in any report or return required under this ordinance. Nothing in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns. Any license data may be shared with other public officials or employees in the performance of their duties, whether or not those duties relate to enforcement of this ordinance.

**Section 19. Violations.** Any person violating any provision of this ordinance shall be deemed guilty of an offense and shall be subject to a fine of up to \$500.00 or imprisonment for not more than thirty (30) days or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties, and costs provided for in this ordinance.

**Section 20. Severability.** A determination that any portion of this ordinance is invalid or unenforceable shall not affect the remaining portions. To the extent of any conflict between the provisions of this ordinance and the provisions of the South Carolina Business License Tax Standardization Act, as codified at S.C. Code §§ 6-1-400 *et seq.*, the standardization act shall control.

**Section 21. Classification and Rates.**

- A. The business license tax for each class of businesses subject to this ordinance shall be computed in accordance with the current business license rate schedule, adopted annually by City Council as part of the budget and kept on with the Municipal Clerk.
- B. The City of Tega Cay does hereby adopt the most current business license class schedule as published and recommended by the Municipal Association of South Carolina and adopted by the Director of the South Carolina Revenue and Fiscal Affairs Office.
- C. The classifications included in each rate class are listed with NAICS codes, by sector, sub-sector, group, or industry. The business license class schedule is a tool for classification and not a limitation on businesses subject to a business license tax. The classification in the most recent version of the business license class schedule adopted by the Council that most specifically identifies the subject business shall be applied to the business. The license official shall have the authority to make the determination of the classification most specifically applicable to a subject business.
- D. A copy of the class schedule and rate schedule shall be filed in the office of the municipal clerk.