

Chapter 8 BUSINESSES AND SALES

ARTICLE I. IN GENERAL

Secs. 8-1—8-18. Reserved.

ARTICLE II. PRIVILEGE LICENSES¹

Sec. 8-19. Definitions.

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

Agent means the person having the agency for the manufacturer, producer, or distributor.

Business means any business, trade, occupation, profession, avocation, or money making operation of any kind, subject, by provision of this article, to a license tax.

Engaged in business means engaged in the business as owner or operator.

Fiscal year means the period beginning with July 1 and ending with the following June 30.

Person means any person, firm, partnership, company or corporation.

(Prior Code, ch. IX, § 1)

Sec. 8-20. License tax upon trades and business operations.

In addition to the tax on property and under the power and authority conferred in the laws of the state, there shall be levied and collected annually, where provided for, a privilege license tax on trades, professions, business operations, exhibitions, and all money making operations, including all vendors in business at the annual Spring Hope Pumpkin Festival, as set out in the following sections and schedule. The fee schedule may be changed from year to year on July 1 at the beginning of a new fiscal year. All licenses shall be a personal privilege and shall not be transferable. All licenses are subject to the provisions of existing ordinances for those hereinafter enacted, and are subject specifically to the provisions of chapter 26, zoning.

(Prior Code, ch. IX, § 2)

Sec. 8-21. Unlawful to conduct business without a license.

It shall be unlawful for any person or his agent to engage in or carry on a business in the town without having first obtained the appropriate privilege license. For the purpose of this section the opening of a place of business or offering to sell, followed by a single sale or the doing of any act or thing in furtherance of the

¹State law reference(s)—Privilege license tax authority, G.S. 160A-211; prohibited for businesses licensed under pest control act, G.S. 106-65.40.

business shall be construed to be engaging in or carrying on such business. Each day that such person, firm or corporation shall engage in or carry on such business as aforesaid shall be a separate offense.

(Prior Code, ch. IX, § 3)

Sec. 8-22. Privilege license shall be active for 12 months.

All privilege licenses shall be active for 12 months beginning on July 1 and ending on June 30. Any new business wishing to open in town shall obtain a privilege license before business operations begin. Privilege licenses purchased during the middle of the fiscal year will expire June 30, therefore requiring a new privilege license to be obtained July 1 in accordance with the beginning of the new fiscal year.

(Prior Code, ch. IX, § 4)

Sec. 8-23. License required for every separate business.

Every separate business, even if operated by the same person, is required to obtain a privilege license. Businesses from out of town that do work inside the city limits are also required to obtain a privilege license and shall carry the original or a copy at all times in case of a surprise inspection.

(Prior Code, ch. IX, § 5)

Sec. 8-24. License required for every place of business.

A license issued for the privilege of conducting a business is only valid for the business conducted at the place and by the licensed name therein. Every person doing business in more than one building shall secure a separate license for each such place of business, unless such places of business are contiguous to each other, communicate directly with an opening into each other and are operated as a unit. If the business is moved, then a new license is necessary.

(Prior Code, ch. IX, § 6)

Sec. 8-25. License to be displayed at the place of business licensed.

Every license must be kept prominently displayed at the place of business of the licensee named in the license, or, if the licensee has no fixed place of business, such licensee must keep the same wherever such business is being operated and where it can be inspected at any time by the proper municipal official.

(Prior Code, ch. IX, § 7)

Sec. 8-26. No abatement of license fee.

No license fee shall be abated nor shall any refund of any part thereof be made, in any case where the licensee discontinues his business before the end of the period for which such license was issued.

(Prior Code, ch. IX, § 8)

Sec. 8-27. Schedule of annual privilege licenses.

See current fee schedule on file in the office of the town clerk. The board of commissioners determines the fee schedules on July 1 of each year at the beginning of a new fiscal year budget.

(Prior Code, ch. IX, § 9)

Sec. 8-28. Penalties for violation of any section in this article.

- (a) Any violation of any section of this article shall not constitute a misdemeanor or infraction as provided in G.S. 14-4, but instead shall subject the offender to a civil penalty in the amount of \$50.00. Violators shall be issued a written citation which must be paid within three days of issuance.
- (b) Each day's continuing violation shall be a separate and distinct offense.
- (c) Notwithstanding subsection (a) of this section may be enforced through equitable remedies issued by a court of competent jurisdiction.
- (d) The town manager or his designee, is hereby authorized to file suit on behalf of the town to collect any unpaid civil penalties.
- (e) Any person assessed a civil penalty may appeal by filing a written notice of appeal with the town clerk within 30 days of issuance of the citation. Failure to file a notice of appeal within this time period shall constitute a waiver of the right to contest the civil penalty.
- (f) Appeals shall be heard by a hearing officer through a quasi-judicial process. A hearing officer's decision on a civil penalty appeal is subject to further review in the superior court of the county by proceedings in the nature of certiorari. Any petition for a writ of certiorari shall be filed with the clerk of superior court within 30 days after the date that the hearing officer's written decision is issued.

(Ord. of 11-13-2006)

Secs. 8-29—8-78. Reserved.

ARTICLE III. PEDDLERS AND SOLICITORS²

Sec. 8-79. Definitions.

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

Peddler means any person who transports goods from place to place and sells, or offers for sale, the goods, or who, without traveling from place to place, sells or offers for sale any goods from any vehicle or device; provided, that any person who separates the acts of sale and delivery for the purpose of evading the provisions of this article shall be deemed a peddler.

Solicitor means any person who shall go in or upon any private residence or premises for the purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance, or for the purpose of requesting an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by spoken, written or printed word or by other means of communication.

²State law reference(s)—Authority to regulate, restrict or prohibit solicitation, itinerant merchants, salesmen, peddlers, etc., G.S. 160A-178; state regulation of peddlers, itinerant merchants and specialty markets, G.S. 66-250 et seq.

Transient vendor means any person who engages in a temporary business of selling and delivering goods and who, for this purpose, uses or occupies any building or premises; provided, that no person shall be relieved from complying with the provisions of this article merely by conducting a transient business in association with any permanently established merchant.

(Ord. of 12-11-2006, § 1)

Sec. 8-80. Permit required.

It shall be unlawful for any person, firm, or corporation, without first obtaining a permit as hereinafter provided, to go in or upon or permit its representatives to go in or upon any private residence or premises in the town as peddler, solicitor or transient vendor.

(Ord. of 12-11-2006, § 2)

Sec. 8-81. Application for permit.

Any person, firm, or corporation desiring to engage in the business or practices referred to in section 8-80 shall file with the chief of police an application for a permit to do so. The application shall be in writing, under oath, and shall show the applicant's name, age, fingerprints, current address, and his place of residence and nature of employment during the preceding year, the address and nature of business of his employer or principal, if any, and shall specify in detail any goods, wares, periodicals, or other merchandise to be offered for sale and shall state whether or not the applicant has been convicted of any crime and, if so, the nature of the crime and the place and time of conviction. The applicant shall also furnish, at the time of filing his application, a photograph made within one year of the date of the application. The applicant shall also give to the chief of police, at the time of filing of the application, any other information requested as may be of assistance in passing upon the qualifications of the applicant. If the application is filed by an employer, there shall also be filed a separate application for each peddler, solicitor or transient vendor, giving the information set forth in this section as to the qualifications of the peddlers, solicitors or transient vendors and the same shall be signed and sworn to by each peddler, solicitor or transient vendor and a separate permit shall be issued for each applicant.

(Ord. of 12-11-2006, § 3)

Sec. 8-82. Issuance of permit; possession and exhibition.

If, upon investigation reasonably made, the chief of police ascertains and determines that the applicant for a permit, as herein required has not been convicted of crimes of moral turpitude and proposes to engage in a lawful enterprise, the chief of police shall issue to him a permit to engage in the lawful enterprise, which permit shall contain substantially the information set forth in his application and to which shall be attached the applicant's photograph and fingerprints. The permit shall be carried at all times by the applicant to whom issued when soliciting or canvassing in the town and shall be exhibited by the applicant whenever requested to do so by any police officer or any person solicited. If the chief of police shall, upon investigation, determine that the applicant is not a person of good moral character and that he does not propose to engage in a lawful enterprise, the chief of police shall refuse to issue the permit.

(Ord. of 12-11-2006, § 4)

Sec. 8-83. Appeal from the refusal to issue permit.

Upon the refusal of the chief of police to grant a permit as hereinbefore required, the applicant thereafter may appeal to the town manager and, if the town manager shall be satisfied that the applicant and his proposed

enterprise meet the requirements herein set forth, the town manager shall direct the chief of police to issue the permit, otherwise, the same shall be refused.

(Ord. of 12-11-2006, § 5)

Sec. 8-84. Duration and renewal.

The chief of police shall determine from the application and from the facts as may be developed in connection with the application, the period for which the permit shall be approved and granted; provided however, that the period shall in no case exceed 12 calendar months. Upon the expiration of the permit, the chief of police may, upon application filed in the form and giving the information required in the original application, renew and extend the permit for additional periods not to exceed 12 calendar months for any period.

(Ord. of 12-11-2006, § 6)

Sec. 8-85. Transferability.

No permit approved and issued as herein provided shall be transferable.

(Ord. of 12-11-2006, § 7)

Sec. 8-86. Revocation of permit.

If, after issuing a permit as provided in this chapter, it should thereafter appear that the facts set forth in the applicant's application are untrue or if the applicant is convicted of a crime, or if he or she engages in an enterprise other than as set forth in his permit or fails to utilize the same in good faith and for the purpose issued, the permit shall be revoked by the chief of police and from the revocation the applicant may, if he desires, appeal to the town manager.

(Ord. of 12-11-2006, § 8)

Sec. 8-87. Exceptions.

The provisions of section 8-80 et seq. shall not apply to organizations or representatives of organizations, organized and operated exclusively for educational, benevolent, religious, fraternal, charitable, political or civic purposes, and not operating for profit and where the solicitation or sales are made without remuneration to the solicitor.

(Ord. of 12-11-2006, § 9)

Sec. 8-88. Hours restricted.

Under the provisions of this article, it shall be unlawful to begin peddling or soliciting prior to 9:00 a.m. and beyond 8:30 p.m.

(Ord. of 12-11-2006, § 10)

Sec. 8-89. Penalty.

The general penalties set forth in section 1-16 shall apply to any violation of the provisions of this chapter.

(Ord. of 12-11-2006, § 11)

Secs. 8-90—8-106. Reserved.

ARTICLE IV. MISCELLANEOUS SALES

DIVISION 1. GENERALLY

Secs. 8-107—8-125. Reserved.

DIVISION 2. GARAGE AND YARD SALES

Sec. 8-126. Number allowed.

No more than two yard/garage sales may be held in one calendar year by any household at any residence in Town.

Sec. 8-127. Definitions.

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

Yard/garage sales, for the purposes of this division, means an open air event at which an individual, business or educational, charitable or religious organization offers for sale a variety of articles such as those that are either homemade, homegrown, handcrafted, old, obsolete or antique. The term "yard/garage sales" shall encompass any such open air event so long as the articles offered for sale are in public view from a public street.

- (b) If any garage/yard sale occurs for more than a continuous 24-hour period, each 24-hour period or portion thereof shall constitute a separate yard/garage sale.

(Prior Code, ch. X, art. A, § 13(a); Res. of 11-21-2005)

Sec. 8-128. Permit.

- (a) Prior to conducting a yard/garage sale as defined in this division, a permit must be obtained from the town. The yard/garage sale permit shall be issued by the town manager or by any other person or business designated by the town manager.
- (b) Such yard/garage sales permits shall be issued by the town at the town hall or at any other location designated by the town manager.
- (c) The fee for a yard/garage sales permit shall be established and published by the town manager provided that such fee shall be subject to the approval of the board of commissioners. The fee shall be on file in the town clerk's office.

(Prior Code, ch. X, art. A, § 13(b)—(d); Res. of 11-21-2005)

Sec. 8-129. Further rules and regulations.

The town manager is authorized to establish any further rules and regulations relating to yard/garage sales and the issuance of yard/garage sales permits, provided that such rules and regulations are consistent with this Code and any state or federal rules and regulations and, provided that such rules and regulations shall be subject to the approval of the board of commissioners.

(Prior Code, ch. X, art. A, § 13(e); Res. of 11-21-2005)

Sec. 8-130. Penalties.

- (a) Any violation of this division shall not constitute a misdemeanor or infraction as provided in G.S. 14-4, but instead shall subject the offender to a civil penalty in the amount of \$50.00. Violators shall be issued a written citation which must be paid within three days of issuance.
- (b) Each day's continuing violation shall be a separate and distinct offense.
- (c) Notwithstanding subsection (a) of this section, this division may be enforced through equitable remedies issued by a court of competent jurisdiction.
- (d) The town manager, or his designee, is hereby authorized to file suit on behalf of the town to collect any unpaid civil penalties.
- (e) Any person assessed a civil penalty may appeal by filing a written notice of appeal with the town clerk within 30 days of issuance of the citation. Failure to file a notice of appeal within this time period shall constitute a waiver of the right to contest the civil penalty.
- (f) Appeals shall be heard by a hearing officer through a quasi-judicial process. A hearing officer's decision on a civil penalty appeal is subject to further review in the superior court of the county by proceedings in the nature of certiorari. Any petition for a writ of certiorari shall be filed with the clerk of superior court within 30 days after the date that the hearing officer's written decision is issued.

(Ord. of 11-13-2006(05))