

Article

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- ¹ Cross-reference:
Administration, Ch. 2; Town to appoint a tax collector, § 2-407; Hours of businesses selling malt beverages or wine regulated, § 3-102; Buildings and Building Regulations, Ch. 5; Cable Communications, Ch. 8; Transportation of garbage and refuse by private citizens, § 11-109; businesses to be kept in sanitary condition, § 12-103; display of goods on sidewalks restricted, § 19-302; franchises, App. D.
Statutory reference:
Authority to regulate and license businesses, trades, and the like, G.S. § 160A-194.

ARTICLE I: IN GENERAL

Section

- 6-101 Certificate of occupancy required
- 6-102 to 6-199 Reserved

§ 6-101 CERTIFICATE OF OCCUPANCY REQUIRED.

A certificate of occupancy must be obtained for any business prior to the issuance of a zoning permit. If, pursuant to the *State Building Code*, no certificate of occupancy is required, then the applicant must provide a certification from the County Building Inspector of that fact.

Cross-reference:

Building inspections generally, Ch. 5, Art. II.

§§ 6-102 TO 6-199 RESERVED.

ARTICLE II: TAXICABS

Section

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Cross-reference:

Traffic and motor vehicles, Ch. 20.

Statutory reference:

Regulation of taxis by town, G.S. § 160A-304.

DIVISION 1. GENERALLY

§ 6-201 TAXICAB DEFINED.

TAXICAB, when used in this article, shall be defined as any motor vehicle seating nine or fewer passengers, operated upon any street or highway on call or on demand, accepting or soliciting passengers indiscriminately for hire between such points along streets or highways, as may be directed by the passenger, or passengers, so being transported, and shall not include motor vehicles or motor vehicle carriers regulated by the State Utility Commission.

(Code 1976, § 10.17)

Cross-reference:

Definitions and rules of construction generally, § 1-102.

§§ 6-202 TO 6-215 RESERVED.

DIVISION 2. CERTIFICATE OF CONVENIENCE AND NECESSITY

§ 6-216 UNLAWFUL TO OPERATE WITHOUT CERTIFICATE.

It shall be unlawful for any person to operate a taxicab upon, and over, the streets of the town without first having applied for, and secured from the Town Council, a certificate of convenience and necessity, as set forth in this division.

(Code 1976, § 10.18) Penalty, see § 1-111

§ 6-217 APPLICATION REQUIRED.

Every person desiring to operate a taxicab upon, and over, the streets of the town shall file, on forms supplied by the Town Clerk, an application for certificate of convenience and necessity.

(Code 1976, § 10.19)

§ 6-218 COUNCIL ISSUES CERTIFICATE.

The Town Council shall have the authority to issue certificates of convenience and necessity for taxicabs. Such certificates shall be issued pursuant to § 6-220. If the Town Council determines that only a portion of the requested taxicab service is needed in town, it may issue a certificate authorizing a lesser amount of service than requested by the applicant.

(Code 1976, § 10.20)

§ 6-219 DURATION OF CERTIFICATE.

(A) A certificate shall constitute a franchise from the town for the operation of taxicabs within the town for two years, unless a shorter period of time is specified in the certificate.

(B) Applications for renewal shall be filed annually, and a hearing shall be conducted as provided in this division.

(Code 1976, § 10.21)

§ 6-220 DETERMINATION OF CONVENIENCE AND NECESSITY.

(A) In determining whether the public convenience, and necessity, require the franchising of such taxicab, the Council shall, among other things, take into consideration the following factors:

(1) Whether or not the public convenience, and necessity, requires such proposed, or additional, taxicab service within the town;

(2) The financial responsibility of the applicant, and the likelihood of the proposed service being permanent,

responsible, and satisfactory;

(3) The number, and condition, of vehicles and other equipment proposed to be used;

(4) If required by the Council, the schedule of proposed rates to be charged;

(5) The number of taxicabs now operated and the demand for increased service, if any, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved, and whether or not adequate provision has been made for off-street parking of such taxicabs;

(6) The experience of the applicant in the taxicab business;

(7) The names and driver's license numbers of all persons who will be, or may be, operating taxicabs; and

(8) Such other relative facts as may be deemed necessary and advisable.

(B) Before making any decision with respect to the issuance of a certificate of convenience and necessity, the Council, or a committee thereof, shall make a full, and complete, investigation of all facts and, if it so desires, subpoena witnesses and utilize the services of the Chief of Police, or any other officer or employee of the town.

(Code 1976, § 10.22)

§ 6-221 HEARING, NOTICES.

Each application for a certificate of convenience and necessity shall be scheduled for a hearing not later than 30 days after the same is filed, and the applicant shall be notified by the Town Clerk, by mail to the business address set forth in the application, of the date and time of such hearing. Such notification shall be sent at least ten days before the date set for the hearing. The Town Clerk shall also, within the same time, notify all persons who, at the time, hold certificates of convenience and necessity for the operation of taxicabs within the municipality of the date and time for such hearing, and the name of the applicant. In addition, the Town Clerk shall publish, at least once, in a newspaper of general circulation, at least ten days before the hearing, a notice setting forth the name of the applicant and the date and time of hearing. The cost of such publication shall be paid by the applicant.

(Code 1976, § 10.23)

§ 6-222 BURDEN OF PROOF.

The burden of proof shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the taxicab, or taxicabs, specified in his or her application, and all other facts required for the granting of a certificate.

(Code 1976, § 10.24)

§ 6-223 FAILURE TO BEGIN OPERATIONS.

If a certificate is granted to an applicant, and the applicant shall fail, in accordance with the provisions of the certificate, to begin operations within 60 days after the date of the certificate, then the certificate shall become null and void, and no refund of any amount paid by the applicant will be made by the town.

(Code 1976, § 10.25)

§ 6-224 TRANSFER.

A certificate is not transferable without the consent, and approval, of the Council. Applications for a permit to transfer shall be filed in the same manner as an application for a certificate of convenience and necessity. The proceedings upon such application for transfer shall be the same as those prescribed for the issuance of a certificate, except that the question of public convenience and necessity need not be proved.

(Code 1976, § 10.26)

§ 6-225 REVOCATION OF CERTIFICATE.

(A) The Town Council may, at any time after a public hearing, revoke any certificate issued by authority of this article for any one, or more, of the following causes:

(1) Failure to operate the taxicab specified in the certificate in such manner as to serve the public adequately and efficiently;

(2) Failure to maintain the vehicle and other equipment in good repair;

(3) Failure to carry liability insurance or bond, as required by law;

(4) Failure to pay the town taxes or license fees imposed upon such taxicabs, as set out in the fee schedule in Appendix G;

(5) Repeated and persistent violation by the taxicab drivers of local and state traffic, and safety, ordinances, or state laws relating to alcoholic beverages or prostitution;

(6) Failure to report accidents; and

(7) Willful failure to comply with any provision of this article, or other ordinances or state laws relating to the operation of taxicabs, whether such ordinances and laws be now in force, or hereafter enacted into ordinances and into laws.

(B) No certificate shall be revoked until the Council holds a public hearing to consider the matter. The owner shall receive notice of the hearing at least five days prior to the hearing by personal service or certified mail, return receipt requested, of the charges against him or her, and of the time and place of the hearing. If, after the hearing, it is found that the owner is guilty of one, or more, of the offenses listed in this section, the Council shall have the power to revoke the certificate, or to condition a revocation upon non-compliance with its order within any time fixed by it.

(Code 1976, § 10.27)

§ 6-226 SUBSTITUTION OF VEHICLES.

The person, or business, to whom a certificate has been issued may, by proper endorsement thereon by the Town Clerk, substitute another vehicle for the vehicle for which certificate was granted. In such instance, the liability insurance, or bonds, shall also be transferred to such substitute vehicle.

(Code 1976, § 10.28)

§ 6-227 NO PERSON OR BUSINESS TO HOLD MORE THAN ONE CERTIFICATE.

The Council reserves the right to issue only one such certificate to any one person, or business. The person, or business, holding such certificate shall be required to operate the taxicab himself or herself, or, in the case of a business, the operators of the taxicabs shall be employees of the business, and shall be under the direct supervision, and control, of the business.

(Code 1976, § 10.29)

§§ 6-228 TO 6-299 RESERVED.

ARTICLE III: AMUSEMENT DEVICES AND PLACES OF AMUSEMENT

Section

Division 1. General Provisions

- 6-301 Definitions
- 6-302 Operation of amusement devices and places of amusement
- 6-303 Employees and agents of licensee
- 6-304 Exceptions
- 6-305 to 6-350 Reserved

Division 2. Enforcement

- 6-351 Inspection
- 6-352 Criminal penalties
- 6-353 Civil penalties
- 6-354 Equitable relief
- 6-355 Multiple remedies
- 6-356 Responsibility for enforcement
- 6-357 to 6-399 Reserved

Statutory reference:

Authority to regulate places of amusement, G.S. § 160A-181; authority to license and regulate forms of amusement and entertainment, G.S. § 160A-194.

DIVISION 1. GENERAL PROVISIONS

§ 6-301 DEFINITIONS.

For the purpose of this division, the following definitions shall apply unless the context clearly indicates, or requires, a different meaning.

AMUSEMENT DEVICE. Any pool, billiard, bagatelle, pigeonhole, or similar table; bowling alley; pinball machine; or mechanical, or electronic, amusement device which is, or may be, operated for, or upon, the payment of money, trade token, or slug, either directly, or indirectly, and which operates, or may be operated, by retail patrons as a game, or contest

of skill or amusement of any kind, or description, and which contains no automatic payoff device for the return of money, trade token, or slug, or for which no provision whatever is made for the return of money to the player.

MECHANICAL or ELECTRONIC AMUSEMENT DEVICE. Any machine which, upon insertion of a coin, trade token, or slug, or upon other activation for payment, or promise of payment, in money, operates, or may be operated, by retail patrons as a game, or contest of skill or amusement of any kind, or description, and which contains no automatic payoff device for the return of money, trade token, or slug, or which makes no provision whatsoever for the return of money to the player. A **MECHANICAL or ELECTRONIC AMUSEMENT DEVICE** is hereby further defined as any machine, apparatus, or contrivance which is used, or which may be used, as a game of skill and amusement, wherein or whereby the player initiates, employs, or directs any force, action, or image generated by, on, or in the machine.

OPERATION. The keeping, or maintaining, for use or play by retail patrons of an amusement device, or the maintenance or management of a place of amusement.

PLACE OF AMUSEMENT. Any premises where one, or more, amusement devices are kept, or maintained, for retail patrons.

(Code 1976, § 10.41) (Ord. 4-82, passed 9-6-1982; Ord. 23-99, passed 8-16-1999)

§ 6-302 OPERATION OF AMUSEMENT DEVICES AND PLACES OF AMUSEMENT.

(A) No play, or use, of an amusement device shall be allowed between the hours of 1:00 a.m. and 7:00 a.m. each day.

(B) No amusement device shall be operated unless the place of amusement where the device is to be located is equipped with one well-lighted and well-ventilated toilet facility, plainly lettered and marked, which the facility shall be maintained in a sanitary condition. Notwithstanding the preceding sentence, all places of amusement shall provide restroom and other sanitary facilities as required by the *State Building Code*.

(C) No amusement device shall be operated at any place at which there is suffered, or permitted, on the premises any:

(1) Gambling;

(2) Sale or use of any racing, football, or other sport or parlay cards;

(3) Gambling boards or sheets; or

(4) Attachment to, or placement on, any pool or billiard table of any keely board, keno board, or any similar board or device.

(D) No owner, operator, or employee of a place of amusement shall:

(1) Suffer, or permit, the place of amusement to become disorderly, or permit any profane, obscene, or indecent language therein; or

(2) Employ in carrying on the business any person who, within the five years next preceding the effective date of the license, has been convicted of any crime of moral turpitude, or of unlawfully possessing, selling, or using any alcoholic beverage or controlled substance.

(E) Any place of amusement shall be operated only on the ground floor of a building, and any amusement device shall be located within the place of amusement such that a clear view of the amusement device may be had from the main entrance at all times. No partitions, screens, or other obstructions forming rooms, or enclosures, where persons other than those actually playing, or using, the amusement device can congregate shall be permitted; provided, this shall not be construed so as to prohibit the maintenance of closets, or storage rooms, to which public access is prohibited, or of restrooms.

(F) No amusement device shall be operated except in a place of amusement which is in compliance with the provisions of the land use and zoning ordinances of the town, and which otherwise complies with all applicable local, county, state, and federal laws and regulations.

(G) Any place of amusement shall, whenever open, be supervised, and operated, by a person over 18 years of age.

(Code 1976, § 10.43) (Ord. 4-82, passed 9-6-1982; Ord. 22-2004, passed 8-16-2004)

§ 6-303 EMPLOYEES AND AGENTS OF LICENSEE.

The acts, conduct, and omissions of the agents, and employees, of the licensee shall be deemed to be the acts of the licensee for the purposes of this article.

(Code 1976, § 10.44) (Ord. 4-82, passed 9-6-1982)

§ 6-304 EXCEPTIONS.

(A) Nothing in this article shall apply to the state lottery, or the sale of products as part of said lottery.

(B) This article shall not prohibit amusement devices that are specifically authorized by statute or by order of a court of law, including, but not limited to, cyber sweepstakes machines and electronic gaming machines. Such machines, however, shall be considered amusement devices, and shall be subject to the requirements of this article to the extent permitted by law.

§§ 6-305 TO 6-350 RESERVED.

DIVISION 2. ENFORCEMENT

§ 6-351 INSPECTION.

Any place of amusement shall be subject to periodic inspection during regular hours of operation by officers of the Police Department, or other designee of the Town Manager, to ensure compliance with the provisions of this article.

(Code 1976, § 10.46(a)) (Ord. 4-82, passed 9-6-1982)

§ 6-352 CRIMINAL PENALTIES.

(A) Any person who shall violate this article, or any provision hereof, shall be liable for a misdemeanor and criminal penalties, as provided in § 1-111 and G.S. § 14-4.

(B) Each day, or portion thereof, during which a violation of this article occurs shall be considered a separate, and distinct, offense; likewise, the operation of each amusement device at a place of amusement in violation of this article shall be considered a separate, and distinct, offense.

(Code 1976, § 10.46(b)) (Ord. 4-82, passed 9-6-1982)

Cross-reference:

General penalty, § 1-111.

§ 6-353 CIVIL PENALTIES.

If any person shall violate this article, or any portion hereof, he or she shall be subject to a civil penalty in the amount of \$100 for each day, or portion thereof. Further, the operation of each amusement device in violation of this article shall constitute a separate, and distinct, offense. The Town Manager, or his or her designee, shall give written notice of such violations by certified mail, return receipt requested, or by personal delivery to the operator of the place of amusement, the manager thereof, or to the owner, or operator, of the amusement device. The business operator, manager, or owner or operator of the amusement device shall have five days from the date of the notice to correct the violations. If the violations are not corrected within five days, a civil penalty levied pursuant to this article may be recovered by the town in a civil action in the nature of debt.

(Code 1976, § 10.46(c)) (Ord. 4-82, passed 9-6-1982)

§ 6-354 EQUITABLE RELIEF.

Pursuant to § 1-111 and G.S. § 160A-175(d) and (e), this article may be enforced by any appropriate equitable remedy available from, and through, the General Court of Justice, Superior Court Division.

(Code 1976, § 10.46(d)) (Ord. 4-82, passed 9-6-1982)

§ 6-355 MULTIPLE REMEDIES.

The town may exercise any, or all, of the remedies available under this division to secure enforcement of this article, and the exercise, or non-exercise, of any one, or more, of the available remedies shall not preclude, or waive, the right of the town to exercise any other available remedies at any time.

(Code 1976, § 10.46(1)) (Ord. 4-82, passed 9-6-1982)

§ 6-356 RESPONSIBILITY FOR ENFORCEMENT.

The Police Department and the Town Manager, or his or her designee, are authorized to enforce the terms of this article, and specific additional authorization of the Town Council shall not be required.

(Code 1976, § 10.46(g)) (Ord. 4-82, passed 9-6-1982)

§§ 6-357 TO 6-399 RESERVED.

ARTICLE IV: PEDDLING, SOLICITING, AND ITINERANT MERCHANTS

Section

- 6-401 Peddler defined
- 6-402 Solicitors, peddlers, and the like
- 6-403 Selling merchandise on streets and sidewalks
- 6-404 Selling merchandise on private property
- 6-405 Public begging

Cross-reference:

Shouting and crying of peddlers in neighborhoods prohibited, §14-202(N); selling, peddling in parks, §16-208.

Statutory reference:

Regulation of solicitation campaigns and itinerant merchants, G.S. § 160A-178.

§ 6-401 PEDDLER DEFINED.

The word **PEDDLER**, as used in this article, shall include any person, whether a resident of the town or not, traveling by foot, automotive vehicle, wagon, or any other type of conveyance, from place to place, offering for sale, directly or indirectly, any merchandise, goods, services, or any other type of sales. The word **PEDDLER** shall include the words **HAWKER**, **HUCKSTER**, and **ITINERANT MERCHANT**.

(Code 1976, § 10.51) (Ord. 7-77, passed 6-1-1977)

Cross-reference:

Definitions and rules of construction generally, §1-102.

§ 6-402 SOLICITORS, PEDDLERS, AND THE LIKE.

The practice of going in, and upon, private residences, and the premises thereof, by solicitors, peddlers, hawkers, itinerant merchants, and vendors of merchandise, not having been requested, or invited, to do so by the owner, or occupant, of such private residences and premises, for the purpose of soliciting orders for the sale of goods and merchandise, or the purpose of disposing of, or peddling or hawking the same, is hereby prohibited.

(Code 1976, § 10.52) (Ord. 7-77, passed 6-1-1977)

Statutory reference:

Authority to prohibit peddling and soliciting, G.S. § 160A-178.

§ 6-403 SELLING MERCHANDISE ON STREETS AND SIDEWALKS.

(A) No person shall sell, or offer for sale, merchandise, or services, of any description from the streets, sidewalks, or public property for any commercial purpose.

(B) The Chief of Police may grant concessions to this article for religious, fraternal, civic, or educational organizations that are classified by the State Department of Revenue as nonprofit organizations.

(C) It shall be a misdemeanor for any person to fraudulently offer for sale, either directly or indirectly, any merchandise, or services, under the guise of the organizations mentioned in subsection (B) above.

(Code 1976, § 10.53) (Ord. 7-77, passed 6-1-1977)

Cross-reference:

Streets, Sidewalks, and Other Public Places, Ch. 19.

§ 6-404 SELLING MERCHANDISE ON PRIVATE PROPERTY.

(A) Persons selling, or offering for sale, merchandise or services of any description from private property must first obtain a peddler's permit from the Planning Department. Organizations, as defined in § 6-403(B), are exempt.

(B) The applicant for the peddler's permit must provide written consent of the owner of the land upon which the applicant proposes to conduct business.

(C) Peddler permits are \$25 per day, and are valid for up to three days.

§ 6-405 PUBLIC BEGGING.

(A) *Intent.* The purpose of this section is to regulate, and ensure, the safety of vehicular and pedestrian traffic flow, and to promote roadway safety and sidewalk safety, and promote, protect, and preserve the health, safety, and general welfare of the people of the town, and to help regulate public begging. The provisions of this section shall not apply to bona fide members of charitable, religious, educational, civic, or fraternal organizations.

(B) *Time.* Any person who begs, or solicits, alms for his or her own personal gain after sunset, or before sunrise, is guilty of a misdemeanor. Any person who begs, or solicits, alms for his or her own personal gain in a school zone during the time of arrival of students at the beginning of the school day, and/or during the time of the departure of students at the end of the school day, is guilty of a misdemeanor.

(C) *Place.* Any person who begs, or solicits, alms for his or her own personal gain when the person is in any of the following places is guilty of a misdemeanor:

- (1) In any vehicle on the street;
- (2) On private property, unless the person has written permission from the owner of the property to beg, or solicit alms, on the property;
- (3) On any sidewalk adjacent to a restaurant, a place of business, any valid licensed vendor location, or where a line of patrons has formed;
- (4) At any road intersection or controlled access highway;
- (5) On any town-owned property during hours of operation;
- (6) Within 50 feet in any direction from an automatic teller machine, or entrance to a bank;
- (7) Within 20 feet of any crosswalk; or
- (8) While under the influence of alcohol, or after having illegally used any controlled substance, as defined in the State Controlled Substance Act, being G.S. §§ 90-86 et seq.

(D) *Manner.* Any person who begs, or solicits, alms for his or her own personal gain in any of the following manners is guilty of a misdemeanor:

- (1) By coming within three feet of the person being solicited, until that person has clearly indicated that he or she wants to make a donation;
- (2) By blocking the path of the person being solicited along a sidewalk or street;
- (3) By following the person being solicited after they have walked away;
- (4) By using profane or abusive language, either during the solicitation, or following a refusal;
- (5) By soliciting in a group of two, or more, people; or
- (6) By any statement, gesture, or other form of communication by which a reasonable person in the situation of the person solicited would perceive to be a threat.

(E) *False or misleading solicitation.*

- (1) Any person who knowingly makes any false, or misleading, representation in the course of soliciting a donation, or begging for alms, is guilty of a misdemeanor.
- (2) False or misleading representations include, but are not limited to the following:
 - (a) Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact;
 - (b) Stating that the solicitor is from out of town and stranded, when that is not true;
 - (c) Wearing a military uniform, or other indication of military service, when the solicitor is neither a present, nor former, member of the service indicated;
 - (d) Wearing, or displaying, an indication of physical or mental disability, when the solicitor does not suffer the disability indicated;
 - (e) Use of any makeup, or device, to simulate any deformity; or
 - (f) Stating that the solicitor is homeless, when he or she is not.

(F) *Violations.* This section establishes a single offense. Evidence which establishes that the defendant violated this section is sufficient for conviction, and need not establish which division was violated. Any violation of this article shall be a misdemeanor, and may be enforced by any one, or more, of the remedies authorized by the provisions of G.S. § 14-4 or G.S. § 160A-175, with a maximum fine of \$500 for each offense.

(Ord. 22-2015, passed 10-19-2015)

§§ 6-406 TO 6-499 RESERVED.

ARTICLE V: MASSAGE PARLORS, HEALTH SALONS, AND CLUBS

Section

Division 1. Generally

- 6-501 Purpose of article
- 6-502 Definition
- 6-503 to 6-515 Reserved

Division 2. License

6-516 State license required

6-517 to 6-521 Repealed

6-522 to 6-549 Reserved

Division 3. Operation of Business

6-550 Required information

6-551 Hours of operation

6-552 Minors; unlicensed persons

6-553 Forms

6-554 Records

6-555 to 6-600 Reserved

Statutory reference:

General police power, G.S. § 160A-174; regulation of businesses, G.S. § 160A-194, regulation of massage therapists, G.S. Ch. 90, Art. 36., esp. § 90-636, and 21 N.C.A.C. Ch. 30.

DIVISION 1. GENERALLY

§ 6-501 PURPOSE OF ARTICLE.

To protect the general health, safety, and welfare, the following licensing provisions hereinafter specified are ordained for the privilege of carrying on the business, trade, or profession of masseur, or masseuse, and for the operation, or carrying on, of the businesses, trades, or professions commonly known as massage parlors, health salons, physical culture studios, clubs, or establishments, or similar establishments by whatever name designated, wherein physical culture, massage, hydrotherapy, or other physical treatment of the human body is carried on, or practiced. The provisions of this article shall not apply to a regularly established, and licensed, hospital, sanitarium, nursing home, or medical clinic, nor to the office or clinic operated by a duly qualified, and licensed, medical practitioner, osteopath, or chiropractor in connection with his or her practice or medicine, chiropractic or osteopathy; provided, however, that such office or clinic is regularly used by such medical practitioner, chiropractor, or osteopath as the principal location for his or her practice of medicine, chiropractic, or osteopathy.

(Code 1976, § 10.71) (Ord. 4-75, passed 4-21-1975)

§ 6-502 DEFINITION.

A male person who applies manual, or mechanical, massage or similar treatment to the human body, trunk, or limbs shall be deemed, within the terms of this article, a **MASSEUR**, and a female person so engaged, a **MASSEUSE**. These terms are synonymous with **MASSAGE THERAPIST**, **BODYWORK THERAPIST**, and related terms, as defined in G.S. §§ 90-622 and 90-623.

(Code 1976, § 10.72) (Ord. 4-75, passed 4-21-1975)

Cross-reference:

Definitions and rules of construction generally, § 1-102.

§§ 6-503 TO 6-515 RESERVED.

DIVISION 2. LICENSE

§ 6-516 STATE LICENSE REQUIRED.

Any person desiring to engage in a business regulated by this article shall, before beginning operations, obtain a license from the state for such work, pursuant to G.S. § 90-623.

(Code 1976, § 10.731) (Ord. 4-75, passed 4-21-1975)

§§ 6-517 TO 6-521 REPEALED.

§§ 6-522 TO 6-549 RESERVED.

DIVISION 3. OPERATION OF BUSINESS

§ 6-550 REQUIRED INFORMATION.

Before the town may issue a business privilege license or a zoning permit to any business regulated by this article, the business shall file the following information with the Town Manager:

(A) The names and state license numbers of each masseur, or masseuse, that will be working for the business. The

business shall be under a continuing obligation to provide the names and state license number of each new masseur, or masseuse, hired by the business after it obtains all required licenses, and approvals, from the town; and

(B) Proof that the business maintains a minimum of \$50,000 in professional liability insurance.

§ 6-551 HOURS OF OPERATION.

No masseur, or masseuse, or any person or party engaging in any of the businesses regulated by this article, shall engage in such business, trade, profession, occupation, or calling except within, and between, the hours of 8:00 a.m. and 10:00 p.m.; nor shall any operator of a massage parlor or establishment, or business above enumerated and not specifically excepted hereunder, operate the same except within, and between, the aforesaid hours.

(Code 1976, § 10.78) (Ord. 4-75, passed 4-21-1975)

§ 6-552 MINORS; UNLICENSED PERSONS.

(A) *Restricted.* It shall be unlawful for any person under the age of 18 years to patronize any massage parlor, or similar establishment, licensed hereunder unless such minor shall first present express written authorization for such treatment signed by both parents or general guardian, or adult person having authority over the minor.

(B) *Duty of operator.* It shall be the duty of the operator of such massage parlor, or similar establishment, licensed under this article to determine, and have verification, of the age of the person patronizing such establishment, and violation of this article shall be grounds for the revocation of the license of the establishment.

(Code 1976, § 10.79) (Ord. 4-75, passed 4-21-1975) Penalty, see §1-111

§ 6-553 FORMS.

The written forms required by this article shall contain, as a minimum, the following (consent to treat a minor):

CONSENT

We, the undersigned _____,

(Parent, guardian, etc.)

do hereby give our permission for _____

(name of minor)

to receive massage treatment(s) at the _____,

(place of business)

this the ___ day of _____, 20__.

Parent/guardian

Parent/guardian

(Code 1976, § 10.80) (Ord. 4-75, passed 4-21-1975)

§ 6-554 RECORDS.

(A) The operator of a business regulated by this article shall be required to maintain, on file at the physical location of the business, for at least 90 days, records of treatments which shall include, at a minimum: date of treatment; name of customer; name of masseur/masseuse; treatment rendered; and length of treatment. Such records must be made available for inspection by the Town Manager, or his or her designated representative, and must be maintained subject to civil process by a customer in the event of injury. To the extent these records are deemed to be medical records, the business shall comply with all state and federal laws pertaining to the privacy, and confidentiality, of said records.

(B) The operator of a business regulated by this article shall also keep on file at the physical location of the business, a copy of his or her current professional liability insurance policy, which must be kept available for inspection by the Town Manager, or his or her designee.

(Code 1976, § 10.81) (Ord. 4-75, passed 4-21-1975)

§§ 6-555 TO 6-600 RESERVED.

ARTICLE VI: SEXUALLY-ORIENTED BUSINESSES

Section

6-601 to 6-622 Repealed

§§ 6-601 TO 6-622 REPEALED.

Repealed, transferred to Chapter 17.

**ARTICLE VII: RETAIL SHORT-TERM LEASE OR
RENTAL OF VEHICLES**

Section

6-701 Tax on gross receipts from retail short-term lease or rental of vehicles

Statutory reference:

Gross receipts tax on short-term leases or rentals, G.S. § 160A-215.1.

§ 6-701 TAX ON GROSS RECEIPTS FROM RETAIL SHORT-TERM LEASE OR RENTAL OF VEHICLES.

(A) *Definitions.* For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CUSTOMER. Any person that leases, or rents, a vehicle on a short-term lease, or rental, basis.

GROSS RECEIPTS. The amount that is, or would be, reported as **GROSS RECEIPTS** on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed, and are not included in **GROSS RECEIPTS**.

LEASE or RENTAL. A transfer, for consideration, of the use, but not the ownership, of property to another for a period of time.

LONG-TERM LEASE or RENTAL. A lease or rental made under a written agreement to lease, or rent, property to the same person for a period of a least 365 continuous days.

PERSON. Any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

SHORT-TERM LEASE or RENTAL. Any lease, or rental, of a vehicle that is not a long-term lease or rental.

TAX COLLECTOR. The individual appointed by the Town Council pursuant to G.S. § 105-349, and the provisions of the municipal charter, to collect taxes on behalf of the town, and any other person authorized to carry out the duties, and functions, of such individual.

TAX PAYER. Any person liable for the taxes imposed by this article.

VEHICLE.

- (a) A motor **VEHICLE** of the private passenger type, including a passenger van, minivan, or sport utility vehicle;
- (b) A motor **VEHICLE** of the cargo type, including a cargo van, pick up truck, or truck with a gross vehicle weight of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight, and that does not require the operator to possess a commercial driver's license; or
- (c) A trailer or semi-trailer with a gross weight of 6,000 pounds or less.

(B) *Levy of tax.* A tax is hereby imposed, and levied, in an amount equal to 1.5% of the gross receipts derived from the short-term lease, or rental, of vehicles at retail to the general public. This tax on gross receipts is in addition to the privilege taxes.

(C) *Collection of the tax.* Every person engaged in the business of the short-term lease, or rental, of vehicles at retail to the general public shall collect, at the time of the lease or rental, the tax herein levied, place the tax so collected in a segregated account, and thereafter remit such tax to the tax collector in accordance with the provisions of this article. The taxpayer shall include a provision in each retail short-term lease, or rental agreement stating that the percentage amount enacted by this article of the total lease, or rental, price, excluding highway use tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease, or rental, and shown separately on the taxpayer's records. The tax shall be paid by the customer to the taxpayer as trustee for, and on account of, the town. The taxpayer shall be liable for the collection thereof, and for his or her payment to the tax collector, and the taxpayer's failure to charge, or to collect, said tax from the customer shall not affect the liability.

(D) *Report and payment of tax.* Taxes levied under this article are due, and payable, when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the tax collector on the form prescribed by the tax collector. A return must be signed by the taxpayer, or the taxpayer's agent. Returns of taxpayers are due to the tax collector each month on, or before, the fifteenth day of the month following the month in which the tax accrues. As provided in G.S. § 160A-208.1, a return shall not be considered a public record, and information contained in a return may be disclosed only in accordance therewith.

(E) *Taxpayer to keep records.* The taxpayer shall keep, and preserve, suitable records of the gross receipts received by such taxpayer in the conduct of business, and such other books, or accounts, as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this article. It shall be the duty of the taxpayer to keep, and preserve, for a period of three years all such records of gross receipts, and other books and accounts described. All records, books, and accounts herein described shall be open for examination at all reasonable hours during the day by the tax collector, or his or her duly authorized agent.

(F) *Tax collector to provide forms.* The tax collector shall design, prepare, print, and make available to all taxpayers operating within the municipal boundaries of the town forms, and instructions, for filing returns to ensure a full collection of, and an accounting for, taxes due. The failure of any taxpayer to obtain, or receive, forms shall not relieve such taxpayer from the payment of the tax at the time, and in the manner, provided.

(G) *Situs.* The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle.

(H) *Penalties and remedies.* The provisions, with respect to remedies and penalties applicable to G.S. Chapter 105, Subchapter VIII ("Local Government Sales and Use Tax"), apply to a tax levied under this article. The Town Council may exercise any power the Secretary of Revenue may exercise in collecting local sales, and use, taxes.

(I) *Interest.* In addition to penalties for late filing and/or late payment of this tax, interest will be charged in accordance with G.S. § 105-241.21.

(J) *Administration.* The tax levied by this article shall be collected by the town, but otherwise shall be administered in the same manner as the tax levied under G.S. § 105-164.4.(a)(2).

(Ord. 18-2000, passed 6-19-2000)

Statutory reference:

Related provisions, G.S. §§ 105-164.3(17), 105-187.1(a)(3a) and (a)(4), 160A-215.1(e)(2), 160A-215.1(b), 160A-215.1(d), 160A-215.1(e)(2), 160A-215.1(f).

ARTICLE VIII: FARMERS' MARKET

Section

6-801 Farmers' market defined

§ 6-801 FARMERS' MARKET DEFINED.

[Reserved]

(Ord. 8-2009, passed 4-20-2009)

Editor's note:

This ordinance expired on November 1, 2009 and was not re-adopted.