

**TITLE XI: BUSINESS REGULATIONS**

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**GENERAL PROVISIONS**

**§ 110.01 DEFINITIONS.**

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

**AGENT.** The person having the agency for the manufacturer, producer or distributor.

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**BUSINESS.** Any business, trade, occupation, profession, avocation or calling of any kind, subject by the provisions of this chapter to license tax.

**ENGAGED IN THE BUSINESS.** Engaged in the business as owner or operator.

**FISCAL YEAR.** The period beginning with July 1 and ending with June 30 of the next following year.

**GROSS RECEIPTS.** All earnings, receipts, fees, commissions, broker's charges, rentals and income whatsoever arising from or growing out of the conduct of the business, occupation or profession licensed under this chapter during the license tax year immediately preceding the license tax year for which the tax is being computed, without any deduction whatsoever, unless otherwise expressly provided.

**PERSON.** Any person, firm, partnership, company or corporation.  
(’82 Code, Ch. 11, Art. I, § 1) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

#### § 110.02 SCOPE OF LEVY GENERALLY.

In addition to the tax on property and other municipal taxes as otherwise provided for, and under the power and authority conferred in the laws of the state, there shall be levied and collected annually, or more often where provided for, a privilege license tax on trades, professions, agencies, business operations, exhibitions, circuses and all subjects authorized to be licensed as set out in the following sections and schedules herein. All licenses shall be a personal privilege and shall not be transferable. Nothing herein contained shall be construed to prevent the Town Council from imposing from time to time, as it may see fit, such license taxes as are not specifically herein defined, or from increasing or decreasing the amount of any special license tax, or from prohibiting or regulating the business or acts licensed, and all licenses shall be granted subject to the applicable

provisions of this code, any existing ordinances and those hereafter enacted.

(’82 Code, Ch. 11, Art. I, § 2) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-2, passed 6-6-11)

#### § 110.03 BUSINESSES NOT TO BE CONDUCTED SO AS TO CONSTITUTE A NUISANCE.

No business, whether licensed under this chapter or not, shall be so conducted or operated as to amount to a nuisance in fact.

(’82 Code, Ch. 11, Art. I, § 20) (Am. Ord. 2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11) Penalty, see § 110.99

#### § 110.04 INSPECTION OF PREMISES.

(A) Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by this code or any applicable ordinance of the town, or are reasonably necessary to secure compliance with any applicable code or ordinance provision or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to be inspected to admit thereto for the purpose of making the inspection any officer or employee of the town who is authorized or directed to make such inspection at any reasonable time that admission is requested.

(B) When an analysis of any commodity or material is reasonably necessary to secure conformance with any applicable code or ordinance provisions or to detect violations thereof, it shall be the duty of the licensee whose business is governed by such provisions to give to any authorized officer or employee of the town requesting the same sufficient samples of such material or commodity for such analysis upon request.

(C) In addition to any other penalty which may be provided, the Town Manager may revoke the license of any licensed proprietor of any licensed

business in the town who refuses to permit any such officer or employee who is authorized to make such inspection to take such sample to make the inspection, or take an adequate sample of the said commodity, or who interferes with such officer or employee while in the performance of his duty in making such inspection; provided, that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the town, stating that such inspection or sample is desired at the time it is sought to make the inspection or obtain the sample.  
(’82 Code, Ch. 11, Art. I, § 21) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11) Penalty, see § 110.99

**§ 110.05 EXEMPTIONS FROM CHAPTER—GENERALLY.**

(A) The license taxes levied by this chapter shall not apply to any business operated by any strictly religious or charitable organization when the gross income or proceeds of such business are for the exclusive benefit of such organization.

(B) Except as herein provided or as provided by state Law or in the schedule of license taxes hereinafter set forth, there shall be no exemption of any person from the payment of the license taxes levied by this chapter.  
(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.06 SAME—EXEMPTED PERSONS MUST SECURE LICENSE.**

Every person engaging in any business upon which there is levied a license tax by this chapter, but which person is, by some provisions of this chapter exempt from the payment of such license tax, shall nevertheless, secure from the Town Revenue Collector a license to engage in such business, which license shall show upon its face that the licensee is exempt from the payment of the license tax and, shall

cite the section of this chapter which is the authority therefor.  
(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**GENERAL REGULATIONS**

**§ 110.20 SCHEDULE A BUSINESSES.**

The following are types of businesses that are exempted from paying town privilege license taxes by the North Carolina General Statutes:

(A) *Alcoholic beverage businesses.* Malt beverage, brewery; unfortified wines, winery; fortified wines, winery.

(B) *Amusements—motion pictures.* Manufacture, sale, lease, furnishing, and distribution.

(C) *Dealers in various types of merchandise.* Automatic machines; burglar alarms, dealers; household appliances dealers (those involved in the sale of refrigerators, washing machines, and vacuum cleaners); office equipment dealers (those involved in the sale of cash registers, typewriters, adding or bookkeeping machines, billing machines, check protectors, addressograph machines, duplicating machines, card punching, assorting, and tabulating machines).

(D) *Occupations and professions subject to licensing boards.* Accountants; architects; attorneys; auctioneers; chiroprodists; chiropractors; dentists; embalmers; engineers, professional; healers, professional (this includes all licenses, doctors, nurses, physical therapists, licensed massage therapists, and all other licensed health professionals); land surveyors; landscape architects; massage therapists; morticians; ophthalmologists; opticians; optometrists; osteopaths; pest control applicators; photographers; physicians; private detectives; real estate agents; real estate appraisers; surgeons; veterinarians.

(E) *Utilities*. Bus companies; telephone companies; trucking companies licensed by the state.

(F) *Other businesses and occupations*. Banks; bondsmen; cooperative-marketing associations corporations (domestic and foreign, that are separate legal entities from the companies that they run); insurance companies; motor fuel, wholesale sale or distribution; credit associations; savings and loan associations; soft drinks (manufacture, production, bottling, and/or distribution); vending machines, including weighing machines.

('82 Code, Ch. 13, Art. I, § 23) (Ord. passed 6-1-81; Am. Ord. passed 5-2-88; Am. Ord. passed 12-6-93; Am. Ord. 94-4, passed 1-10-94; Am. Ord. 94-8, passed 12-5-94; Am. Ord. 95-2, passed 1-9-95; Am. Ord. 96-1, passed 5-6-96; Am. Ord. 99-5, passed 10-4-99; Am. Ord. 00-6, passed 6-5-00; Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. 10-01, passed 4-5-10; Am. Ord. CO-2011-02, passed 6-6-11)

#### **§ 110.21 SCHEDULE B BUSINESSES AND FEES.**

Schedule B businesses are businesses for which the town-collected privilege license taxes are limited by the State of North Carolina. These businesses and fees include:

<i>Business</i>	<i>Fee</i>
ABC - Retail (malt beverage)	
On-premises, per annum	\$15
Off-premises, per annum	\$5
ABC - Retail (unfortified wine)	
On-premises, per annum	\$15
Off-premises, per annum	\$10
Amusements, general	\$25
Automobile dealers	\$25
Automobile parts dealers	\$25
Auto/truck rentals	\$25
Barbershop (per chair)	\$2.50
Beauty shops (per chair)	\$2.50
Bicycle dealers	\$25
Bottled drinks	\$2.50

<i>Business</i>	<i>Fee</i>
Bowling alleys (per alley)	\$10
Cafes or restaurants	
	\$25
	\$42.50
Chain stores (note definition)	\$50
Check cashing business	\$100
Collection agencies	\$50
Contractors (building)	\$10
Dances	\$25
Dealers in other weapons	\$200
Dental laboratory	\$10
Dry cleaners	
	\$50

	\$100
Electricians	\$50
Electronic video games (per machine)	\$5
Elevator installation	\$100
Employment agents	\$100
Firearms dealer	\$50
Flea markets	\$100
Garage/wrecker service	\$12.50



Heating/air contractors	\$50
Hypnosis ***	
Kiddy rides	\$25
Laundries	
	\$50

	\$50
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	\$50*
Limousine service	\$15
Loan agencies	\$100
Motels	
	\$1

	\$25
Motorcycle dealer	\$12.50
Movie theaters (per screening room)	\$200
Music machines (each)	\$5
Newspaper advertising	\$50

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**Privilege License Tax**

<i>Business</i>	<i>Fee</i>
Outdoor advertising	\$35
Outdoor theater	\$100
Pawnbrokers	\$100
Peddler	
On foot	\$10
With motor vehicle (resident of state)	\$25
With motor vehicle (not a resident of state)	\$100
Pianos	\$5
Pinball machines (all)	\$25
Plumbing contractors	\$50
Pool tables (per location)	\$25
Restaurants (5 or more seats)	\$42.50
Service stations	\$12.50
Soda draft arms (each)	\$5
Sundries (sandwiches, bottled drinks and cigarettes)	\$4
Telegraph companies	\$50
Tobacco cigarettes, cigars, chewing tobacco	\$4
Trailer parks	\$12.50
Undertakers	\$50
Video/VCR tape rentals	\$25
Welders	\$10
Wholesalers	\$37.50
Wrestling and boxing (promoter)	\$25
* To comply with state fee	
** Not state restricted	
*** The state fee is \$200 (G.S. § 105-58 repealed)	

('82 Code, Ch. 13, Art. I, § 23) (Ord. passed 6-1-81; Am. Ord. passed 5-2-88; Am. Ord. passed 12-6-93; Am. Ord. 94-4, passed 1-10-94; Am. Ord. 94-8, passed 12-5-94; Am. Ord. 95-2, passed 1-9-95; Am. Ord. 96-1, passed 5-6-96; Am. Ord. 99-5, passed 10-4-99; Am. Ord. 00-6, passed 6-5-00; Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. 10-01, passed 4-5-10; Am. Ord. CO-2011-02, passed 6-6-11)

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**§ 110.22 SCHEDULE C BUSINESSES AND FEES.**

Schedule C businesses are those businesses that are not limited by the state's Schedule B, and are not charged privilege license taxes based on gross receipts (Schedule D). Instead, these businesses are charged a flat tax determined by Council.

(A)	Computer gaming establishments	\$2,000 plus \$500 (for each & every computer at the establishment)
(B)	Fortune tellers	\$500
(C)	Tattoo parlor	\$500
(D)	Lounges Without live entertainment With live entertainment	\$200 \$300
(E)	Massage business (certified massage therapists are exempt)	\$100
(F)	Day care centers 0 - 49 children 50 - 99 children 100 - 149 children 150 - 200 children 200+ children	\$50 \$100 \$200 \$300 \$400
(G)	Manufacturers	\$50
(H)	Mechanical contractors/repairmen	\$50
(I)	Taxicabs	\$25 per vehicle
(J)	Yard sales	\$5 per day

('82 Code, Ch. 13, Art. I, § 23) (Ord. passed 6-1-81; Am. Ord. passed 5-2-88; Am. Ord. passed 12-6-93; Am. Ord. 94-4, passed 1-10-94; Am. Ord. 94-8, passed 12-5-94; Am. Ord. 95-2, passed 1-9-95; Am. Ord. 96-1, passed 5-6-96; Am. Ord. 99-5, passed 10-4-99; Am. Ord. 00-6, passed 6-5-00; Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. 10-01, passed 4-5-10; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.23 SCHEDULE D BUSINESSES.**

(A) All businesses not specifically listed in Schedules A, B, or C of this subchapter will fall under the miscellaneous category of Schedule D. The rate for the privilege license tax for any Schedule D business will be based on the gross receipts of the business. The privilege license tax for a particular Schedule D business is based on the following table:

**Privilege License Tax**

<i>Gross Receipts</i>	<i>Tax</i>
Less than \$2,000,000 in sales	\$25 flat fee
\$2,000,000.01 - \$10,000,000	\$25 flat fee + \$.25 per \$1,000 over \$2,000,000 in annual sales
\$10,000,000.01 - \$15,000,000	The amount stated above, plus \$.50 per \$1,000 over \$10,000,000 in sales
Above \$15,000,000	The amount stated above, plus \$1 per \$1,000 over \$15,000 in sales

(B) Schedule D businesses shall include any **MISCELLANEOUS BUSINESS**, which is defined as a non-exempt business for which a specific tax is not listed in this subchapter specifically for that type of business.

(C) Schedule D businesses include, but are not limited to, the following:

Advertising (distributing handbills)
Antiques and gifts
Art supply dealers
Auction sales
Beach bingo
Boats, motor
Bookstores
Building materials
Car wash
Carpenter shops and cabinet shops
Ceramics
Christmas tree sales
Clothing stores
Cold storage and freezer lockers
Computer dealers
Concrete dealers
Craft shops
Demolition service
Dental laboratory
Department stores
Drugstores
Elevator repairs
Express company
Exterminators

Farm machinery
Fabrics
Feed stores
Fertilizer dealers
Fish and oysters
Florist
Furniture stores
Gas (bottled and bulk)
General business
Gift shop/gift service
Grocery stores
Hardware stores
Health club membership
Insulating companies
Janitorial service
Jewelry stores

Junk dealers
Lightning rod agents
Limousine service
Locksmiths
Machine shops
Magazine sales person
Mail orders
Metallic cartridges
Miscellaneous (not otherwise taxed and not exempt)
Moving/storage company
Nursing homes
Parking lots
Printing companies
Publishing company
Radio station advertising
Repair shops

Retail merchants
Secondhand merchandise
Shoe shops
Sign painting and repairing
Silver and gold (buying and selling)
Sporting goods
Supplies
Swimming pool dealers
Tanning bed salon
Tax preparers (not CPAs)
Trading stamps
Travel agency
Tree trimming/removal service
Welders
Welding supplies
Wholesale gas and oil

('82 Code, Ch. 13, Art. I, § 23) (Ord. passed 6-1-81; Am. Ord. passed 5-2-88; Am. Ord. passed 12-6-93; Am. Ord. 94-4, passed 1-10-94; Am. Ord. 94-8, passed 12-5-94; Am. Ord. 95-2, passed 1-9-95; Am. Ord. 96-1, passed 5-6-96; Am. Ord. 99-5, passed 10-4-99; Am. Ord. 00-6, passed 6-5-00; Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. 10-01, passed 4-5-10; Am. Ord. CO-2011-02, passed 6-6-11)

#### § 110.24 COMPUTATION OF TAX BASED ON GROSS RECEIPTS.

(A) Whenever this chapter levies a privilege license tax computed on the basis of gross receipts, **GROSS RECEIPTS** means the amount reported as gross receipts on a business' 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. It shall be the duty of a person applying for the license to render to the Revenue Collector or his or her designee a sworn statement of such gross receipts during the preceding year.

(B) If a business has not been in operation long enough for the information required in division (A) of

this section to be available, the Revenue Collector shall estimate gross receipts for the business on the basis of gross receipts of comparable businesses or any other information the Revenue Collector considers useful. On or before July 31 immediately after the license year, each licensee who paid the tax for the past license year based on estimated gross receipts shall submit to the Revenue Collector a sworn final report showing the amount of gross receipts for the license year.

(C) If the amount shown is more than the estimated gross receipts, the licensee shall pay the amount of the additional tax that would have been due had the estimate been accurate. If the payment shown is less than the estimated gross receipts, the town shall refund to the licensee the difference between the actual tax paid and the amount of tax that would have been due had the estimate been accurate.

(D) If a business conducts multiple business activities, with some falling under Schedule B or C (both with flat taxes) and others falling under Schedule D (gross receipts), the business may either:

(1) Purchase several licenses based on the various methods outlined; or

(2) Purchase one privilege license based on the total gross receipts of all business activities.

(E) It will be the decision of the business to choose the second option, the first option being the default. The licensee, however, may be subject to additional license taxes that the state authorizes the town to levy, depending on the licensee's business, and for which a separate license must be purchased.

(F) All affidavits or other proof of gross receipts furnished to the Revenue Collector or his or her designee pursuant to division (B) of this section shall remain privileged and confidential and shall not be disclosed.

(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)





*LICENSES*

**§ 110.35 CONDUCTING BUSINESS WITHOUT A LICENSE.**

It shall be unlawful for any person or his or her agent or servant to engage in or carry on a business in the town, for which there is required a license, without first having paid the license tax and obtained the 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 business shall be construed to be engaging in or carrying on such business; and each day that such person shall engage in or carry on such business as aforesaid shall be construed to be a separate offense.

('82 Code, Ch. 11, Art. I, § 3) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11) Penalty, see § 110.99

**§ 110.36 PERSONS SUBJECT TO LICENSE.**

Whenever in this code a license is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person shall be subject to the requirement, if by himself or herself or through his or her agent, employee or partner, he or she holds himself or herself forth as being engaged in the business or occupation; or solicits patronage therefor, actively or passively; or performs or attempts to perform any part of such business or occupation in the town.

('82 Code, Ch. 11, Art. I, § 4) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.37 LICENSE APPLICATIONS.**

Application for all licenses and permits required by this code shall be made to the town. Each application for a license required by this chapter shall furnish to the town the following information:

(A) Complete and exact name under which the business is proposed to be operated, the business address, and business phone number;

(B) If the business is proposed to be operated by an individual under any assumed name, the name of such individual, and his or her home address, and home phone number;

(C) If the business is a partnership, the name, and home address, and home phone number of each partner;

(D) If the business is a corporation, the name and home address, and home phone number of the president and of the secretary of the corporation, and the location of the principal office;

(E) Nature of the business for which license is desired;

(F) Proposed location; and

(G) In addition to the foregoing, the applicant shall furnish to the Town Revenue Collector such other information as may be required by the Town Revenue Collector in order to enable him or her to determine the proper classification of the applicant and the appropriate license tax.

('82 Code, Ch. 11, Art. I, § 5) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11) Penalty, see § 110.99

**§ 110.38 FORMS FOR LICENSES AND PERMITS.**

Forms for all licenses and permits and applications therefor shall be prepared and kept on file by the Finance Officer, if required to be in writing.

('82 Code, Ch. 11, Art. I, § 7) (Am. Ord. 00-7, passed 8-7-00; Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.39 SIGNATURE REQUIRED.**

Each license or permit issued shall bear the signature of the Town Tax Collector in the absence of any provision to the contrary.  
(’82 Code, Ch. 11, Art. I, § 8) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.40 INVESTIGATIONS.**

Upon the receipt of an application for a license or permit where this code or any other applicable ordinances of the town necessitate an inspection or investigation before the issuance of such permit or license, the Finance Officer shall refer such application to the proper officer for making such investigation within 48 hours of the time of such receipt. The officer charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within ten days after receiving the application or a copy thereof. The Health Officer shall make or cause to be made an inspection in regard to such licenses in connection with the care and handling of food, the preventing of nuisances, and spread of disease for the protection of health; the Building Inspector shall make or cause to be made any such inspections relative to the construction of buildings or other structures. All other investigations, except where otherwise provided, shall be made by the Police Chief or by some other officer designated by the Town Manager.  
(’82 Code, Ch. 11, Art. I, § 9) (Am. Ord. 00-7, passed 8-7-00; Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.41 REASONS FOR REFUSAL OR REVOCATION OF A LICENSE.**

The Tax Collector shall refuse to issue a license or shall revoke a license for either of the following reasons:

(A) The applicant misrepresents a fact relevant to the amount of tax due on his or her qualifications for a license.

(B) The applicant refuses to provide information necessary to compute the amount of tax due.

(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.42 UNQUALIFIED APPLICANTS; RIGHT TO A CONFERENCE.**

After receipt of a completed application, if the Tax Collector believes that a reason exists for refusing a license under § 110.41, the Tax Collector shall refuse to accept payment of the tax and shall not issue the license. At the applicant’s request, the Tax Collector shall give the applicant a written statement of the reason for refusing the license. The applicant may, within ten days after the day the statement is received, request a conference with the Tax Collector and Town Manager to discuss the refusal. In the request, the applicant shall specify why the application for a license should not be refused. The Tax Collector shall arrange the conference within a reasonable time.

(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.43 PAYMENT OF FEES.**

In the absence of provisions of the contrary, fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Town Tax Collector. When an applicant has not engaged in the business until after the expiration of part of the current license year, the license fee shall be prorated by halves and the fee paid for each half or fraction thereof during which the business has been or will be conducted. Except as otherwise provided, all license fees shall become a part of the corporate fund.  
(’82 Code, Ch. 11, Art. I, § 10) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.44 AMOUNT OF TAX DISPUTED.**

If disputes arise over the amount the Tax Collector determines to be due, the applicant may either refuse to pay and request a conference with the

Tax Collector to discuss the determination or pay the amount and request a conference to discuss the right to a refund. If a conference is requested, the Tax Collector shall arrange it within a reasonable time. (Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.45 LICENSE PERIOD; EXPIRATION; PRORATION OF FEE.**

All taxes provided for and fixed in the following sections and schedules shall be for 12 months unless otherwise provided. All the licenses provided for shall date from July 1 of each and every year and shall expire on June 30 of each year; provided, that where the license is issued after January 1, then the licensee shall be required to pay one-half the tax prescribed, except where otherwise specifically provided for. ('82 Code, Ch. 11, Art. I, § 11) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.46 TERMINATION OF LICENSES.**

All annual licenses shall terminate on the last day of the license year where no provision to the contrary is made. ('82 Code, Ch. 11, Art. I, § 12) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.47 LICENSE PREREQUISITE TO CONDUCT OF BUSINESS.**

It shall be unlawful for any person or his or her agent or servant to engage in or carry on a business in the town for which there is required a license, without first having paid the license tax and obtained the 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 business shall be construed to be engaging in or carrying on such business. (Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.48 LICENSE REQUIRED FOR EACH SEPARATE BUSINESS.**

The payment of any particular tax imposed by this chapter shall not relieve the person paying the same from the payment of any other tax imposed by this chapter for any other business he or she may carry on, unless so provided by the section imposing such tax; it being the intent of this chapter that license taxes prescribed by various sections of this chapter applicable to any business shall be cumulative except where otherwise specifically provided. ('82 Code, Ch. 11, Art. I, § 13) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.49 LICENSE REQUIRED FOR EACH PLACE OF BUSINESS.**

A license issued for the privilege of conducting a business shall be valid only for the business conducted at the place and by the licensee named therein. Every person doing business in more than one mill, factory, warehouse, store or stand or other place of business shall secure a separate license for each such place of business, unless such places of business are contiguous to each other, communicate directly with and open into each other, and are operated as unit. If the business is moved or if the licensee sells to another, then a new license shall be required, unless a special permit to continue business under the original license is obtained from the Town Council. ('82 Code, Ch. 11, Art. I, § 14) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.50 CHANGE OF LOCATION.**

The location of any licensed business or occupation or of any permitted act may be changed, provided, ten days' notice thereof is given to the Finance Officer in the absence of any provision to the contrary, provided that the building, zoning and other requirements of this code are complied with. ('82 Code, Ch. 11, Art. I, § 15) (Am. Ord. 00-7, passed 8-7-00; Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.51 TRANSFERABILITY OF LICENSE.**

All licenses granted under this chapter shall be a personal privilege and shall not be transferable.  
(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.52 REPLACEMENT OF LOST OR DESTROYED LICENSE.**

Upon satisfactory evidence that any licensee has lost any license or license tag issued to him or her, or that the same has been destroyed, the Town Revenue Collector may issue to him or her a duplicate thereof upon payment of a fee of \$1.  
(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.53 NEW LICENSE REQUIRED WHEN BUSINESS IS CHANGED SO AS TO SUBJECT IT TO PAYMENT OF ADDITIONAL LICENSE TAX.**

Where the amount of license tax is determined by certain factors existent at the time such license tax is due, or issued, and, after the issuance of such license, the licensee proposes to change such factors so that his or her business will be subject, under the provisions of this chapter, to a greater license tax, he or she shall, before making such change, deliver his or her license to the Town Revenue Collector together with a written and signed statement as to the nature of such proposed change, and shall pay to the Town Revenue Collector the proper additional license tax. The Town Revenue Collector shall thereupon cancel the old license and shall issue to the licensee a new and appropriate license.  
(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

***ENFORCEMENT AND COLLECTION*****§ 110.65 DUTY TO DETERMINE WHETHER TAX DUE.**

Each person has the duty to determine whether the business he or she conducts is taxed under this chapter and if so, whether that tax has been paid for the current year.  
(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.66 TAX COLLECTOR TO INVESTIGATE.**

If the Tax Collector has reason to believe that person is conducting a business in the town in violation of this chapter, the Tax Collector shall conduct an investigation to determine the person's tax liability.  
(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.67 DUTY TO KEEP BOOKS.**

Each person who conducts a business taxed under this chapter shall keep all records and books necessary to compute the tax liability. If a person fails to keep the books and records as required, the Tax Collector shall make a determination of that person's tax liability from the information available.  
(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.68 DUTY TO PERMIT INSPECTION.**

Each person who conducts business in the town shall permit the Tax Collector to inspect the business premises during normal business hours to determine the nature of business conducted there and to examine the books and records to determine the nature and amount of business transacted.  
(Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.69 DUTY TO POST LICENSE.**

It shall be the duty of any person conducting a licensed business in the town to keep his or her license posted in a prominent place on the premises used for such business at all times.  
(’82 Code, Ch. 11, Art. I, § 16) (Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.70 LICENSE REVOCATION.**

Any license or permit for a limited time may be revoked by the Town Manager at any time during the life of such license or permit for any violation by the licensee or permittee of the provisions of this code relating to the license or permit, the subject matter of the license or permit, or to the premises occupied; such revocation may be in addition to any fine imposed.  
(’82 Code, Ch. 11, Art. I, § 17) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.71 NO ABATEMENT OF TAX.**

No license tax shall be abated, nor shall any refund of any part thereof be made in any case in which the licensee discontinues his or her business before the end of the period for which such license was issued.  
(’82 Code, Ch. 11, Art. I, § 18) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.72 BUILDING AND PREMISES TO COMPLY WITH TOWN REGULATIONS.**

No license shall be issued for the conduct of any business and no permit shall be issued for any thing or act, if the premises and building to be used for the purpose do not fully comply with the requirements of the town. No such license or permit shall be issued for the conduct of any business or performance of any act which would include a violation of any zoning code

provision or other applicable zoning ordinance of the town.  
(’82 Code, Ch. 11, Art. I, § 19) (Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.73 APPEAL PROCEDURE.**

Before a license is suspended or revoked, or if it is determined that reasonable grounds exist to deny an application for a license, the Town Manager shall cause a written notice to be sent by certified mail to the licensee affected or applicant affected, at the address stated on the license or in the application. The notice shall advise the affected party of the right to appear before the Town Council, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to the revocation or denial, and for the purpose of hearing all evidence submitted and examining or cross-examining any person providing such evidence. The decision of the Town Council shall be final; however, the licensee or applicant may thereafter appeal such decision in a court of appropriate jurisdiction.  
(Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

**§ 110.99 PENALTY.**

(A) (1) Any violation of any provision of this chapter for which this penalty applies shall subject the violator to a civil penalty in the sum of \$500 per day.

(a) A citation for said civil penalty shall be issued by the Elizabethtown Police Department.

(b) Each citation for a civil penalty must be paid within 72 hours of issuance.

(2) Each and every day that the violator continues in violation shall be a separate and distinct offense.

(B) This chapter may also be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(Ord. passed 12-6-93; Am. Ord. CO-2006-06, passed 8-7-06; Am. Ord. CO-2011-02, passed 6-6-11)

Section

§ 111.03 DEFINITIONS.

- 111.01 Title
- 111.02 Purpose
- 111.03 Definitions
- 111.04 Types of sales authorized
- 111.05 Sunday sales
- 111.06 Procedures for obtaining licenses
- 111.07 Terms of licenses
- 111.08 Public consumption
- 111.09 Consumption outside building and “curb service” consumption prohibited
- 111.10 Proximity to schools and churches
- 111.99 Penalty

**CHAPTER 111: MALT BEVERAGES AND WINE**

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

**GRADE A RESTAURANT.** That which is set forth in the rules and regulations of the State Alcoholic Beverage Control Board, §§ 2H.0101(1) and 2J.0101(8), to wit: “Regularly established places of business primarily and substantially engaged in the preparation and serving of meals, wherein food is kept, prepared and served to the public, and which have and maintain tables and appropriate equipment and furnishings for serving of complete meals to customers.” **PRIMARILY AND SUBSTANTIALLY** means 51% or more.

§ 111.01 TITLE.

This chapter shall be known as the “Elizabethtown Malt Beverage and Wine Sales System.”  
(’82 Code, Ch. 11, Art. II, § 30) (Ord. passed 6-29-76)

**ON-PREMISES.** Where consumption is hereby limited to the interior areas (including porches or other parts of the structure adjacent thereto, but not including curb service structure or apparatus) of the building or other structure for which the “on-premises” permit has been first issued by the State Alcoholic Beverage Control Board.  
(’82 Code, Ch. 11, Art. II, § 32) (Ord. passed 6-29-76)

§ 111.02 PURPOSE.

The purpose of this chapter is to establish local procedures for the sale of malt beverages and wine in the town, in addition to, but consistent with authority duty delegated to municipalities pursuant to G.S. Chapters 18B and 105.  
(’82 Code, Ch. 11, Art. II, § 31) (Ord. passed 6-29-76)

§ 111.04 TYPES OF SALES AUTHORIZED.

The following types of malt beverage and wine sales are authorized in the town pursuant to the ballot which was approved by a majority of the voters casting ballots in the special referendum held for this purpose in the town:

(A) *Malt beverage sales.* “On-premises” sales of malt beverages by Grade A hotels and restaurants only, and “off-premises” sales by other licenses.



(B) *Wine sales.* “On-premises” sales of unfortified wine by Grade A hotels and restaurants only, and “off-premises” sales by other licenses. ('82 Code, Ch. 11, Art. II, § 33) (Ord. passed 6-29-76)

#### § 111.05 SUNDAY SALES.

Pursuant to the authority granted by S.L. 2017-87, any establishment located in the corporate limits of the town and holding an ABC permit issued pursuant to G.S. 18B-1001 is permitted to sell beverages allowed by its permit beginning at 10:00 a.m. on Sundays. (Ord. 2017-02, passed 8-7-17)

#### § 111.06 PROCEDURES FOR OBTAINING LICENSES.

The procedures for obtaining licenses to sell malt beverages and unfortified wines in the town are as follows, and in the sequence hereinafter provided:

(A) *State permits.* Each prospective retailer shall first apply for and obtain all required state permits, which application and receipt is a prerequisite to applying for the town licenses.

(B) *Municipal licenses.* After first obtaining all required state permits for the type of sales to be conducted, the prospective retailer shall apply to the Town Council for such municipal licenses as are desired, on forms provided by the town, and available by mail or in person at the Finance Officer's office in the municipal building during normal business hours. After the desired applications have been completed and executed, the same shall be returned to the Finance Officer's office by the prospective retailer, and upon certification of compliance by the Town Manager and payment of all appropriate fees, the Finance Officer shall immediately issue to the prospective retailer the required municipal licenses. The town hereby reserves unto itself the right to reject any application pursuant to the authority granted in G.S. Chapters 18B and 105.

(C) *Municipal retail license tax.* The annual license taxes for the licenses shall be those prescribed from time to time in G.S. § 105-113.77, or other successor statute, as amended from time to time. A schedule of applicable license fees shall be maintained publicly available by the Finance Officer. A license for “on-premises” sales includes the license to sell “off-premises” consumption.

(D) *When sales may first commence.* Even though the municipal licenses herein provided for have been obtained, sales of any items hereby authorized may not commence until the licensee shall have also obtained licenses from the Town Council or its agent authorizing said retail sales. ('82 Code, Ch. 11, Art. II, § 35) (Ord. passed 6-29-76; Am. Ord. passed 9-7-83; Am. Ord. 00-7, passed 8-7-00)

#### *Cross-reference:*

*Schedule of license fees, see § 110.36*

#### § 111.07 TERMS OF LICENSES.

After approval by the Town Council of any application, the Finance Officer shall issue a license in accordance with the application and the Council's action, which license shall be for a term of one year as by law provided, which shall be displayed on the premises in the same manner as is required for the state permit (if any display is so required), and shall be valid during the period provided, and so long as the holder thereof shall abide by all of the laws of the state, the county and the provisions of this code and any other ordinances of the town governing the operation of such establishment, and the sale of the beverages hereby licensed to be sold and served. ('82 Code, Ch. 11, Art. II, § 36) (Ord. passed 6-29-76; Am. Ord. 00-7, passed 8-7-00)

#### § 111.08 PUBLIC CONSUMPTION.

It shall be unlawful to consume any alcoholic beverage in a public place, on or upon a public street

or highway, or on or upon any public vehicular area, whether inside or outside any vehicle. Any licensee who authorizes or permits consumption of alcoholic beverages upon any premises (whether the holder of a state sales permit and municipal and county sales licenses or not) in violation of the forgoing sentence shall be guilty of a misdemeanor. In addition, any license authorizing or permitting such consumption in violation of this section shall be liable to have his licenses for sale of beverages herein authorized revoked, or otherwise dealt with as by law provided. ('82 Code, Ch. 11, Art. II, § 37) (Ord. passed 2-3-75; Am. Ord. passed 6-29-76) Penalty, see § 111.99

**§ 111.09 CONSUMPTION OUTSIDE BUILDING AND "CURB SERVICE" CONSUMPTION PROHIBITED.**

It shall be unlawful for any licensee to authorize or permit the sale of any alcoholic beverage for "on-premises" consumption to any person outside the building or other structure approved for consumption by the State Alcoholic Beverage Control Board, or from said building or structure to any person in or

(2) A citation for said criminal penalty shall be issued by the Elizabethtown Police Department.

(B) This chapter may also be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. (Am. Ord. 94-6, passed 11-7-94)

upon any motor vehicle or other vehicular conveyance for "on-premises" consumption. ('82 Code, Ch. 11, Art. II, § 38) (Ord. passed 6-29-76) Penalty, see § 111.99

**§ 111.10 PROXIMITY TO SCHOOLS AND CHURCHES.**

No license for "on-premises" consumption shall be granted under this chapter for any establishment located within 250 feet of any church or public school unless the provisions of state law have been complied with.

('82 Code, Ch. 11, Art. II, § 39) (Ord. passed 6-29-76; Am. Ord. 99-3, passed 8-2-99)

**§ 111.99 PENALTY.**

(A) (1) Whoever violates any provision of this chapter shall subject the violator to punishment as provided in § 10.99 of this code of ordinances.

Section

**General Provisions**

**CHAPTER 112: MASSAGE ESTABLISHMENTS**

- 112.01 Purpose; exemptions
- 112.02 Definitions
- 112.03 Massage of private parts for hire prohibited
- 112.04 Treatment of opposite sex restricted
- 112.05 Patronage by minors; hiring of minors
- 112.06 Hours of operation

**Licenses**

- 112.15 Required for all massage business operators
- 112.16 Required for massagists
- 112.17 Required for all employees
- 112.18 Posting
- 112.19 Notice; hearing
- 112.20 Annual privilege
  
- 112.99 Penalty

**GENERAL PROVISIONS**

**§ 112.01 PURPOSE; EXEMPTIONS.**

(A) To protect the public health, safety, welfare and morals, the following privilege license provisions and regulations are ordained for the privilege of carrying on the business, trades or professions commonly known as massage parlors, health salons, physical culture studios or similar establishments wherein massage or physical manipulation of the human body is carried on or practiced.

(B) The provisions of this chapter shall not apply to a regularly established and licensed hospital,

sanitarium or nursing home, nor to an office or clinic operated and regularly used by a duly qualified and licensed medical practitioner, osteopath or chiropractor, nor to an establishment in connection with the practice of medicine, chiropractic or osteopathy, nor a massage therapist certified/licensed by the American Massage Therapy Association or equivalent licensing organization.  
(Ord. 94-7, passed 12-5-94)

**§ 112.02 DEFINITIONS.**

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

**BUSINESS OR PROFESSION OF MASSAGE.** The massage or treatment of any person for a fee or in expectation of a gratuity from the person massaged.

**MASSAGE.** Manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping by hand or mechanical device.

**MASSAGE BUSINESS.**

(1) Any establishment or business wherein massage is practiced or any establishment which offers in the form of massage, exercise or similar services in combination to club members or to the public for a charge.

(2) The term does not include:

(a) Hospitals, nursing homes, medical clinics or the offices or quarters of a physician, surgeon, chiropractor, or a massage therapist licensed by the American Massage Therapy Association or equivalent licensing organization.



(b) Exercise clubs exclusively for members or clientele of one sex alone where the service without massage in any form is performed by persons of the same sex as members of the clientele.

(c) Barber shops and beauty salons.

**MASSAGIST.** Any person engaged in the business or profession of massage.

**PRIVATE PARTS.** The penis, scrotum, mons veneris, vulva or vaginal area.  
(Ord. 94-7, passed 12-5-94)

### **§ 112.03 MASSAGE OF PRIVATE PARTS FOR HIRE PROHIBITED.**

It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire.

### **§ 112.04 TREATMENT OF OPPOSITE SEX RESTRICTED.**

(A) The treatment of persons of the opposite sex under and by virtue of the granting of a license for massage parlors, health salons and related businesses shall be restricted.

(B) It shall be unlawful for any person holding a license under and by virtue of this chapter to treat a person of the opposite sex except upon the signed order of a licensed physician, chiropractor or registered physical therapist, which order shall be dated and shall specifically state the number of treatments not to exceed ten. The date and the hour of each treatment given and the name of the operator shall be entered on the order by the establishment where the treatments are given and shall be subject to inspection by the Sheriff at any reasonable time.  
Penalty, see § 112.99

### **§ 112.05 PATRONAGE BY MINORS; HIRING OF MINORS.**

(A) No person licensed as a masseur or masseuse under this chapter shall massage or treat

any person under the age of 18 years upon the licensed premises, except upon written order by a licensed physician, osteopath, chiropractor, or registered physical therapist, the order being dated and in the possession of the masseur or masseuse giving the massage or treatment. A violation of this division shall be grounds for revocation of any license issued to the violator pursuant to this chapter.

(B) No person, corporation, partnership or association licensed under this chapter shall allow, permit or condone the massage or treatment of any person under the age of 18 years upon the licensed premises, except upon written order by a licensed physician, osteopath, chiropractor or registered physical therapist, the order being dated, and a true copy of it being in the possession of the licensee before administration of any massage or treatment. A violation of this division shall be grounds for revocation of any license issued to the violator, pursuant to this chapter.

(C) No person, corporation, partnership or association licensed pursuant to this chapter shall employ any person under the age of 18 years in the operation of a massage business.  
Penalty, see § 112.99

### **§ 112.06 HOURS OF OPERATION.**

(A) No person licensed as a massagist hereof shall massage or treat any person, or engage in the business or profession of massage, before 9:00 a.m. or after 11:00 p.m., prevailing time.

(B) No person, corporation, partnership or association licensed under this chapter shall admit customers or prospective customers, or remain open for business, or allow, permit or condone any massage or treatment of any person upon the premises before 9:00 a.m. or after 11:00 p.m., prevailing time.

(C) No person in charge of managing a massage business upon the premises shall allow, permit, or condone any massage or treatment of any person before 9:00 a.m. or after 11:00 p.m. prevailing time.  
Penalty, see § 112.99

*LICENSES*

**§ 112.15 REQUIRED FOR MASSAGE BUSINESS OPERATORS.**

(6) The name and address of any massage business or other establishment owned or operated by

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(A) No person, partnership, corporation or association shall operate a massage business within the corporate limits of the town unless the person, partnership, corporation or association first has applied for and received the privilege license provided by this section.

(B) Every application for the privilege license prescribed herein shall be upon a form approved by the Town Manager and shall be filed in the office of the Town Clerk. Each application shall be made under oath and shall contain the following information:

(1) If the applicant is a person, the name and residence address of the person; if the applicant is a partnership, corporation or association, the name and residence address of all persons having any legal or beneficial interest in the application; and,

(2) The address of the premises where the massage business shall be located; and,

(3) A complete statement of all convictions of any person whose name is required to be given in division (B)(1) above for any felony, prostitution or any violation of any law relative to prostitution; and,

(4) A complete statement of any revocation, by any governmental unit, of any license to operate a massage business or to engage in the business or profession of massage held by any person whose name is required to be given in division (B)(1) above; and,

(5) A complete statement of any conviction of any person whose name is required to be given in division (B)(1) above, for violation of any statute, law, ordinance or regulation of any government concerning the operation of a massage business or the business or profession of massage; and,

any person whose name is required to be given in division (B)(1) above wherein the business or profession of massage is carried on; and,

(7) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(C) The Town Manager shall transmit a copy of the application to the Police Chief for an investigative report, to the Building Inspector to determine compliance with all zoning and building regulations and ordinances and to the Fire Chief to determine compliance with any law relating to fire protection. Within 45 days, these parties shall report the results of their examinations to the Town Manager.

(D) An application in proper form, accompanied by all reports required by this section, shall be submitted to the Town Council, which shall approve the application if the Council determines:

(1) The application contains no misstatement of fact; and

(2) The applicant, or any person having legal or beneficial ownership interest in the applicant, has not been convicted of any crime involving sexual misconduct, including but not limited to G.S. § 14-177 through G.S. § 14.202.1, Art. 26 (offenses against public morality and decency) and G.S. § 14-203 through 14.208, Art. 27 (prostitution) or of any federal statute relating to prostitution, or of any violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage; and,

(3) The applicant conforms to all requirements of applicable zoning, building and fire prevention codes.

(4) The applicant or any person having a legal or beneficial ownership interest in the applicant has not, for the three-year period preceding the application, had a previously issued license revoked for engaging in the business or profession of massage.

(E) Upon approval of the application by the Town Council and upon receipt of a \$100 license fee,  
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the Tax Collector shall issue a privilege license to the applicant.

(F) A license issued pursuant to this section

shall be revoked by action of the Town Council if the Council determines:

(1) The licensee has violated any provision of this chapter, or;

(2) The licensee, or any agent of the licensee, employs or permits to be on the premises of the applicant's massage business any person practicing the business or profession of massage who has not been issued the privilege license required by this chapter or whose license under this chapter has been revoked, or;

(3) The licensee or the legal or beneficial owner of any interest in the licensee is convicted of any crime involving sexual misconduct, including, but not limited to, G.S. § 14-177 through G.S. § 14-208, Art. 27 (prostitution), or;

(4) Any employee of the licensee is convicted of any felony in connection with his or her employment or is convicted of any crime involving sexual misconduct, including but not limited to G.S. § 14-177 through G.S. § 14-202.1, Art. 26 (offenses against public morality and decency) and G.S. § 14-203 through G.S. § 14-208, Art. 27 (prostitution), or any ordinance related to the massage business.

(5) The licensee violates any zoning, building or fire prevention ordinance.

(G) A license issued pursuant to this chapter is void if the licensee moves or ceases operating a massage parlor at the location required to be stated in the application for license pursuant to this chapter. (Am. Ord. 00-7, passed 8-7-00) Penalty, see § 112.99

## § 112.16 REQUIRED FOR MASSAGISTS.

(A) No person shall engage in the business or profession of massage unless he or she first has applied for and received the privilege license provided by this section.

(B) The application for the license required by this section shall be upon a form approved by the Town Manager and shall be filed with the office of the Town Clerk. It shall be given under oath and shall contain the following information:

(1) The name, age and residence address of the applicant; and,

(2) A complete statement of the previous business or occupation of the applicant for the two years immediately preceding the date of application, including any massage establishment experience; and,

(3) A complete statement of all convictions of the applicant for a felony or misdemeanor or violation of a local ordinance.

(4) A complete statement of any revocation of any license granted by any governmental unit to the applicant to engage in the business or profession of massage.

(5) The date and place of applicant's birth, the name of the applicant's parents and the residence address or addresses of the applicant for the five years immediately preceding the date of application.

(C) (1) The applicant shall submit, as part of the application required in division (B) above, the following:

(a) Fingerprints of the applicant taken by the Police Chief; and,

(b) Two recent photographs of the applicant's head and shoulders, of a size and quality prescribed by the Town Manager; and,



(c) A medical certificate signed by a physician, licensed to practice in North Carolina, within seven days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable disease.

(2) The additional information required by this division shall be provided at the applicant's expense.

(D) The Town Manager shall transmit a copy of the application to the Police Chief for an investigative report. The Police Chief shall, within a reasonable time, not to exceed 45 days, report the results of the investigation to the Town Manager.

(E) An application, in proper form, shall be submitted to the Town Council, together with all reports required by this section. The Council shall approve the application if it determines:

(1) The applicant is at least 18 years of age.

(2) The application contains no misstatements of fact; and,

(3) The applicant has not been convicted of any crime involving sexual misconduct, including, but not limited to, G.S. § 14-177 through G.S. § 14-202.1, Art. 26 (offenses against public morality and decency) and G.S. § 14-203 through 14-208, Art. 27 (prostitution) or of any federal statute relating to prostitution, or violation of any law or ordinance of any governmental unit related to the business or profession of massage; and,

(4) The applicant, for the three-year period preceding the application, has not had revoked a previously issued license for engaging in the business or profession of massage; and,

(5) The applicant is free from communicable disease as proven by the medical certificate required herein; and,

(6) The applicant has not been convicted previously of any violation of any provision of this chapter.

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(F) Upon approval of the application by the Town Council and upon receipt of a \$50 license fee, the Town Clerk shall issue a privilege license to the applicant.

(G) (1) The Town Council shall have authority to direct any person licensed under this section to submit to a medical examination by a licensed physician approved by the Town Council.

(a) This authority shall be exercised only when the Council has reason to believe the person has contracted a communicable disease.

(b) Refusal to submit to the examination shall be grounds for revocation of the license, as provided in division (H) below.

(2) Notwithstanding the provisions of this division, every person licensed under this section shall file and continue to file with the Town Manager a new medical certificate with each application for renewal of the license prescribed by this section. Failure to file those updated certificates shall be grounds for revocation of the license, as provided in division (H) below.

(H) A license issued pursuant to this section shall be revoked by action of the Town Council if the Council determines:

(1) The licensee has violated any provision of this chapter; or,

(2) The licensee is afflicted with a communicable disease; or,

(3) The licensee has failed to be examined by a licensed physician when required by the Board of Aldermen pursuant to division (G) above or has failed to file any medical certificate required by division (C) above; or,

(4) The licensee has been convicted of a felony or any crime involving sexual misconduct, including, but not limited to, G.S. § 14-177 through § 14-202.1, Art. 26 (offenses against public morality and decency) and G.S. § 14-203 through 14-208, Art.

27 (prostitution) or under any federal statute relating to prostitution or for violation of any law or ordinance of any governmental unit related to the business or profession of massage.  
(Am. Ord. 00-7, passed 8-7-00)  
Penalty, see § 112.99

#### § 112.17 REQUIRED FOR ALL EMPLOYEES.

No person, corporation, partnership or association licensed under this chapter shall allow or permit any person to massage or treat any person upon the premises operated by the licensee unless the person giving the massage or treatment has complied with all requirements of licensing under this subchapter, including periodic medical examinations by a licensed physician. Violation of this section shall be grounds for revocation of the license.  
Penalty, see § 112.99

#### § 112.18 POSTING.

(A) Every massagist shall post the license required by this chapter in his or her work area.

(B) Every person, corporation, partnership or association licensed under this chapter shall display the license in a prominent place.  
Penalty, see § 112.99

#### § 112.19 NOTICE; HEARING.

Before the Town Council revokes a license issued pursuant to this chapter, or if the Council determines reasonable grounds exist to deny an application for a license pursuant to this subchapter, it shall cause a written notice to be sent by certified mail to the licensee affected or applicant affected, at the address stated in the license or application. The notice shall advise the affected party of a right to appear before the Town Council, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to the revocation or denial, and for the purpose of hearing all evidence submitted and

examining or cross-examining any person providing such evidence.  
Penalty, see § 112.99

#### § 112.20 ANNUAL PRIVILEGE.

The licenses required under this subchapter are annual privilege licenses. They shall be due and payable in the same manner and as prescribed for other privilege licenses issued by the town.  
Penalty, see § 112.99

#### § 112.99 PENALTY.

Any person convicted of violating any provisions of this chapter shall be punished by a fine or imprisoned as provided by G.S. § 14-4 (see § 10.99(A) of this code of ordinances).

Section

- 113.01 Permit required
- 113.02 Application for permit
- 113.03 Investigation
- 113.04 Granting of permit; bond
- 113.05 Revocation of permit
- 113.06 Display of permit
- 113.07 Rates to be displayed
- 113.08 License required
- 113.09 Appeal procedure

**CHAPTER 113:**

**§ 113.03 INVESTIGATION.**

The Chief of Police is hereby charged with the duty of investigating the facts stated in said applications and shall report his findings and recommendations to the Town Council.  
(’82 Code, Ch. 19, Art. II, § 22)

**§ 113.04 GRANTING OF PERMIT; BOND.**

The Town Council will grant the permit if it finds that the applicant has not been convicted of a felony; a violation of any federal or state statute relating to the use, possession or sale of intoxicating liquors; any federal or state statute relating to prostitution; any federal or state statute relating to the use, possession or sale of narcotic drugs; and that the applicant is a citizen of the United States and is not a habitual user of intoxicating liquors or narcotic drugs; and has not been a habitual violator of traffic laws; and has delivered to the Finance Officer a bond in the sum not less than that prescribed by G.S. § 20-280, executed by a corporate surety company authorized to do business in the state to indemnify any person for damages to person or property by any act of negligence resulting from the operating of a taxicab by the person to whom a permit is granted under this chapter.  
(’82 Code, Ch. 19, Art. II, § 23) (Am. Ord. 00-7, passed 8-7-00)

**§ 113.01 PERMIT REQUIRED.**

No person shall drive any taxicab carrying passengers for hire from place to place within the corporate limits, or to points not incorporated, within a radius of five miles from the boundary line of the town, unless that person shall have first applied to and secured from the Town Council a permit to operate a taxicab.  
(’82 Code, Ch. 19, Art. II, § 20) Penalty, see § 10.99

**§ 113.02 APPLICATION FOR PERMIT.**

The application for a permit to drive a taxicab shall be made upon blanks furnished by the town for such purposes and shall, among other things, state the name, address, physical condition, physical description, former employers, court record and state chauffeur's license number of the applicant. Such application shall be signed and worn to by the applicant. The applicant shall further appear at the office of the Police Department for the purpose of having his fingerprints taken and photograph made, both of which shall constitute a part of his application.  
(’82 Code, Ch. 19, Art. II, § 21)

**§ 113.05 REVOCATION OF PERMIT.**

At any time after the issuance of a permit to any person to drive a taxicab, the Town Council may revoke the permit if the person holding such permit is convicted of a felony; a violation of any federal or state statute relating to the use, possession or sale of intoxicating liquors; a violation of any federal or state statute relating to the use, possession or sale of

narcotic drugs; repeated violations of traffic laws or ordinances; a violation of this chapter; a violation of any state or federal statute relating to prostitution; or becomes an habitual user of intoxicating liquors or narcotic drugs.

('82 Code, Ch. 19, Art. II, § 24)

#### **§ 113.06 DISPLAY OF PERMIT.**

The driver of every taxicab shall, at all times while operating said taxicab, prominently post and display in such taxicab, so as to be visible to the passenger therein, his permit to drive a taxicab. ('82 Code, Ch. 19, Art. II, § 25) Penalty, see § 10.99

#### **§ 113.07 RATES TO BE DISPLAYED.**

Every taxicab operated within the corporate limits or within the town limits specified in § 113.01 shall have at all times prominently posted and displayed in said taxicab, so as to be visible to the passengers therein, the rates and/or fares for the use of such cab.

licensee affected or applicant affected, at the address stated on the license or in the application. The notice shall advise the affected party of the right to appear before the Town Council, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to the revocation or denial, and for the purpose of hearing all evidence submitted and examining or cross-examining any person providing such evidence. The decision of the Town Council shall be final; however, the licensee or applicant may thereafter appeal such decision in a court of appropriate jurisdiction.

Section

114.01 Cable Communications Ordinance adopted by reference

#### **§ 114.01 CABLE COMMUNICATIONS ORDINANCE ADOPTED BY REFERENCE.**

The Cable Communications Ordinance, as from time to time amended, is hereby adopted by reference, as fully as thought set forth herein, as the Cable Communications Code for the town. (Ord. 97-1, passed 2-3-97)

('82 Code, Ch. 19, Art. II, § 26) Penalty, see § 10.99

#### **§ 113.08 LICENSE REQUIRED.**

Every person, before operating any taxicab or taxicabs within the corporate limits of the town or within the limits specified in § 113.01, shall apply to and secure from the Tax Collector an annual license for the privilege of operating such taxicab, and shall pay for such annual license a tax in the sum fixed in § 110.36 for each taxicab operated.

('82 Code, Ch. 19, Art. II, § 27) Penalty, see § 10.99

#### **§ 113.09 APPEAL PROCEDURE.**

Before a license is suspended or revoked, or if it is determined that reasonable grounds exist to deny an application for a license, the Town Council shall cause a written notice to be sent by certified mail to the

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## **CHAPTER 114: CABLE COMMUNICATIONS**

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