

Chapter 20

**LICENSES AND BUSINESS REGULATIONS\***

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\***State law references**—Taxation, G.S. Ch. 105; peddlers, itinerant merchants, etc., G.S. 160A-178; regulating and licensing businesses, trades, etc., G.S. 160A-194; privilege license taxes, G.S. 160A-211.

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**ARTICLE I. IN GENERAL**

**Sec. 20-1. Licenses or permits; refusal to issue; suspension, revocation; notice, hearing.**

(a) The town may refuse to issue a license or permit, or the licenses or permits issued pursuant to this Code, unless otherwise provided hereunder, may be suspended or revoked by the town manager or other authorized official, department, board or agency where applicable, after notice and hearing for any of the following causes:

- (1) Any fraud, misrepresentations or false statements contained in the application for permit or license;
- (2) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares, merchandise and services;
- (3) Any violation of this Code and/or any ordinance of the town;
- (4) Conviction of the applicant, licensee or permittee of any crime or misdemeanor involving moral turpitude or a violation of any act of this state, or any law of the United States having a reasonable relationship to the purpose and scope of the permit or license;
- (5) Conducting the activity under this Code and/or any ordinance of the town in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, morals or general welfare of the public.

(b) Notice of hearing for the suspension or revocation of a license or permit shall be in writing given by the town clerk, setting forth specifically the grounds of the complaint and the time and place of the hearing. Service of such notice shall be made either by personal service or by certified mail, return receipt requested, to the applicant, licensee or permittee at the last known address, at least five days prior to the date set for the hearing.

(c) In case of refusal to issue a permit or license or the suspension or revocation of a license or permit as herein provided, no portion of the application, license or permit fee shall be returned to the applicant, licensee or permittee unless otherwise provided in this Code and/or any ordinance of the town.

(d) Any suspension or revocation hereunder shall not be considered a recovery or penalty so as to bar any other penalty from being enforced.

(e) The order of the town manager or other authorized official, department, board or agency where applicable, shall be the final municipal action for the purpose of judicial review.

(Code 1976, § 1-12; Code 1982, § 11-4)

**Sec. 20-2. Pawnbrokers.**

The provisions of G.S. ch. 91A are hereby adopted.

(Code 1982, § 11-5; Ord. No. 89-69, § 1, 9-14-1989)

**State law reference**—Authority to adopt G.S. ch. 91A, G.S. 91A-12.

**Sec. 20-3. Peddlers and solicitors.**

(a) *Intent.* The purpose of this section is to regulate the door-to-door offering for sale and selling of goods, wares, merchandise, food, periodicals and services and the solicitation of orders therefor in residential areas of the town, and to thereby promote the public safety and welfare.

(b) *Permit required.* It is unlawful for any person, firm or corporation to sell, offer for sale, or solicit orders for goods, wares, merchandise, food, periodicals or services by going from door-to-door ("peddle" or "solicit") within the town without having first secured a peddler/solicitor's permit from the town as provided for in this section, unless it is done with the prior request or invitation of the residents or occupants of the premises visited. Additionally, it is unlawful to peddle or solicit unless the following requirements are met:

- (1) Such peddling/soliciting shall be permitted only between the hours of 9:00 a.m. and 6:00 p.m. during eastern daylight time and 9:00 a.m. to 5:00 p.m. during eastern standard time.
- (2) The peddler/solicitor permit issued for that person shall be carried and displayed at all times while conducting such solicitations in such a manner as to be clearly visible to a reasonable person of adequate vision.
- (3) All other permits or licenses required by law shall have been obtained, including a town privilege license of appropriate nature as required in article II of this chapter.

(c) *Permit applications.* Applications for peddler/solicitor permits under this section shall be submitted to the police department during normal business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m. eastern time) on a form provided by the police department, under oath, and shall include, but not be limited to, the following information:

- (1) The full name of the applicant;
- (2) The permanent residence address of the applicant;
- (3) The applicant's temporary address in or in the vicinity of the town, if applicable;
- (4) The name and address of the applicant's employer or the organization with which the applicant is associated in connection with the sale activity or solicitation of orders;
- (5) The type(s) of goods, wares, merchandise, food, periodicals and services to be sold or offered for sale;
- (6) The period for which the application is sought, which shall not exceed 60 consecutive calendar days; provided that the permit may be renewed for sixty-day periods without limit, upon proper application therefor;
- (7) A record of any and all crimes of which the applicant has been convicted or has pleaded no contest in the ten years preceding the submittal of the application;
- (8) The age, height, weight, and any other additional information which the town may reasonably require for identification, including a copy of the document(s) used by the applicant to verify personal identification (e.g., driver's license, passport, picture I.D.);

- (9) A complete listing of and information concerning all other permits or licenses, such as privilege licenses, which were obtained by the applicant;
- (10) If an application is filed by an employer, there shall also be filed separate applications for each peddler/solicitor giving the information set forth above for each peddler/solicitor and signed and sworn to by each peddler/solicitor, and a separate permit shall be issued for each applicant.

(d) *Procedures for considering applications.*

- (1) Upon receipt of a complete application, the police chief or designee (hereafter "police chief") shall make or cause to be made such investigation as reasonably necessary to verify the information in the application and to assure compliance with the provisions of this section and shall issue a permit unless the applicant:
  - a. Has not submitted a completed application;
  - b. Is not permitted by law to engage in such activity due to age;
  - c. Has been convicted of, or has pleaded no contest to, a felony charge within the ten years preceding the submittal of the application;
  - d. Has been, within the previous five years, convicted of, or pleaded no contest to, a misdemeanor charge involving theft, fraud, forging, uttering, or other crimes of like nature or any crime involving moral turpitude;
  - e. Does not have valid driving privileges in the state in those cases where the applicant will be operating a vehicle in the course and scope of the peddling/soliciting; or
  - f. Has not obtained the necessary licenses, including privilege licenses.
- (2) The police chief shall approve or deny an application and issue a permit as soon as possible and, except in the case of extraordinary circumstances, as when a number of applications are submitted within a short period of time, should act within 72 hours of receipt of the completed application. Such issued permit shall be nontransferable.

(e) *Permit renewal.* A peddler/solicitor permit may be renewed for an unlimited number of sixty-day periods, provided an application for renewal is made on such form as provided by the police chief no later than the expiration date on the current valid permit. Applications received after that date shall be processed as new applications. The police chief shall review each application for renewal to determine that the applicant is in full compliance with the provisions of this section. If the police department finds that the application meets the above requirements, the renewal permit shall be issued.

(f) *Appeals.* The appeal of a refusal to issue a permit or the revocation of a permit shall be made to the town manager by filing a written notice of appeal, specifying with particularity the grounds upon which the appeal is made, no later than ten days from the date of the refusal to issue a permit or the revocation of a permit. The town manager or designee ("town manager") shall fix a reasonable time for the hearing of the appeal, shall give due notice to all parties, and shall render a decision within a reasonable time. As provided in section 20-1(e), the order or decision of the town manager shall be final municipal action.

(g) *Revocation of permit.* Permits issued under this section may be revoked in accordance with section 20-1. Additional grounds for revocation of a permit include, where evidence is presented, that the applicant has been arrested for a felony or a misdemeanor involving theft, fraud, forgery, moral

turpitude, criminal trespass, or a threat to the public safety during the peddling/solicitation period, or has otherwise violated the provisions of this section. A permit which has been revoked shall be immediately surrendered to the police department. Appeals of revocations may be made pursuant to the same process as for denied permits.

(h) *Exemptions.* This section shall not apply to:

- (1) The delivery of goods or services which have been ordered before delivery;
- (2) The circulation of petitions for signature or lawful distribution of advertising materials, flyers, or materials expressing views on political, social or religious matters;
- (3) The lawful promotion or expression of views concerning political, social, religious and other like matters;
- (4) The sale or offering for sale of goods, wares, merchandise, food, periodicals or services by bona fide members or representatives of charitable, religious, civic, or fraternal organizations which are exempt from the payment of privilege licenses, and who receive no compensation of any kind for their services, and such sale or offering by children under the age of 18 years who are students in a public or private school for school activities;
- (5) The solicitation of contributions or pledges thereof for bona fide nonprofit organizations;
- (6) The sale or delivery of goods to business establishments;
- (7) The sale or soliciting of orders for the sale of milk, dairy products, vegetables, poultry, eggs, and other farm and garden produce so far as the sale of such commodities named herein is now authorized by law.

(i) *Peddling/soliciting from rights-of-way.* Peddling or soliciting from rights-of-way is prohibited in accordance with G.S. 20-175 except that the distribution of newspapers on the non-traveled portions of a street is allowed, provided that the distribution does not impede the normal movement of traffic.

(j) *Penalty.* Peddling or soliciting without a permit or otherwise in violation of any of the provisions of this section, including failing to surrender a revoked permit, shall constitute a criminal misdemeanor.

(Code 1976, § 5-4; Code 1982, § 11-3; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 96-003, § 1, 3-14-1996; Ord. No. 96-004, § 1, 4-11-1996; Ord. No. 02-001, § I, 1-10-2002; Ord. No. 2010-Code-02, 3-10-2010)

**State law reference**—Peddling or soliciting from right-of-way, G.S. 20-175.

**Secs. 20-4—20-24. Reserved.**

## ARTICLE II. PRIVILEGE LICENSE TAXES

### Sec. 20-25. Definitions.

The following words, whenever they are used in this article, shall be deemed to have the following meanings:

*Business:* Any trade, occupation, profession, business, franchise or calling of any kind.

*Engaged (or engaging) in business within this town:* Engaging in business activity of any type, either as owner or operator of such business:

- (1) By maintaining a business location within the town;
- (2) By soliciting business within the town; or
- (3) By picking up or delivering merchandise or performing services within the town.

*Person:* Any individual, trustee, executor, other fiduciary, corporation, association, partnership, company, firm or other legal entity or agent thereof.

*Seasonal in nature:* A business taxed by this article on an annual basis but operated within the town for less than six months of the year.

*Town manager:* The town manager of the town or his or her designee.  
(Code 1982, § 11-16; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 90-19, § 2, 2-22-1990)

**Sec. 20-26. Exemptions.**

(a) Any person who engages in business within the town for religious, educational or charitable purposes shall be exempt from paying any privilege license tax levied by this article.

(b) Any person selling farm, nursery or craft products produced by them [shall be exempt from paying any privilege license tax levied by this article].  
(Code 1982, § 11-17; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 97-012, 2-27-1997)

**Sec. 20-27. Levied.**

(a) Except as limited by, state law, the town hereby levies an annual privilege license tax on the privilege of engaging in business within this town. The privilege license taxes shall be set forth in a schedule of privilege license taxes ("schedule") which shall be adopted each year and made a part of the annual operating budget ordinance of the town.

(b) Whenever the schedule provides for a license tax computed on the basis of gross receipts, "gross receipts" means the amount 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.

(c) If a business has not been in operation long enough for the information required in subsection (b) above to be available, the gross receipts for the business shall be estimated in good faith by the applicant.

(d) Any person so engaged in business shall be responsible for making certain that the applicable license tax is paid.  
(Code 1976, § 5-1; Code 1982, § 11-18; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 97-012, 2-27-1997)

**Sec. 20-28. Conducting business without license.**

(a) It shall be unlawful for any person to engage in a business within this town upon which a privilege license tax is imposed by this article without:

- (1) Having paid the license tax specified in the schedule;
- (2) Having a valid license issued in accordance with this article; and
- (3) Having posted the license in compliance with this article. Violation shall constitute a misdemeanor, punishable as provided in G.S. 105-109. Each day that a person conducts business in violation of this article is a separate offense.

(b) The town may seek an injunction against any person engaging in business in violation of this article.

(c) A conviction under this section does not relieve a person of his liability for the license tax or taxes imposed by this article.

(Code 1982, § 11-19; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 97-012, 2-27-1997)

**Sec. 20-29. Town manager; duties.**

(a) The town manager is hereby designated as the proper town official to collect license taxes and to issue privilege licenses.

(b) The town manager may make any investigation necessary to determine the tax liability of persons engaged in business within the town. A business shall maintain books and records, which term includes copies of filed tax returns, and, if necessary, the town manager is authorized to enter upon the premises of any such business during normal business hours for the purpose of determining whether this article has been complied with and to examine the books and records to determine the nature and amount of business transacted. If necessary, the town manager may cause the business books and records to be subpoenaed.

(c) In the event any person is not able to produce copies of filed tax returns as required by this section, then the amount of taxes due shall be the maximum amount that the schedule permits to be collected for that type of business.

(d) If necessary, such business may request a hearing by notifying the town clerk in writing setting forth specifically the complaint.

(e) Notice of the hearing shall be in writing given by the town clerk, setting forth specifically the time and place of the hearing. Such notice shall be made either by personal service or by certified mail, return receipt requested, to the requester at the last known address, at least five days prior to the date set for the hearing.

(f) The order of the town manager or other authorized official, department, board or agency, where applicable, shall be the final municipal action.

(Code 1982, § 11-20; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 90-19, § 2, 2-22-1990; Ord. No. 97-012, 2-27-1997)

**Sec. 20-30. Duration; due date.**

(a) Unless otherwise provided in the schedule of privilege license taxes, each privilege license issued shall cover the twelve-month period beginning July 1 of each calendar year and ending June 30 of the subsequent calendar year.

(b) The privilege license tax is due on July 1 of each year. If, however, a person begins a business after July 1, the tax for that year must be paid before the business is begun.

(Code 1976, § 5-21; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 97-012, 2-27-1997)

**Sec. 20-31. Application; false statement.**

(a) Every person desiring to obtain a license for the privilege of engaging in a business within this town shall make application therefor in writing to the town manager. The application, to be made on a form provided by the town manager, shall contain the following:

- (1) The name and nature of the business for which the license is sought.
- (2) The address where the business is conducted and a mailing address for the business, if different.
- (3) The name and address of the person filling out the application and his relationship to the business.
- (4) Any other information which the town manager determines to be necessary.

(b) Any person who willfully makes a false statement on a license application shall be guilty of a misdemeanor.

(Code 1982, § 11-22; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 90-19, § 2, 2-22-1990)

**Sec. 20-32. Proration of tax; seasonal businesses.**

(a) If a business is begun after January 31 but before July 1, the tax under this article shall be one-half of the amount otherwise due.

(b) A person engaged in a business which is seasonal in nature is liable for one-half of the amount of tax otherwise due.

(Code 1982, § 11-23; Ord. No. 79-5, § 1, 5-31-1979)

**Sec. 20-33. Multiple businesses.**

If a person is engaged in more than one business made subject to a license tax under this article, such person shall pay the license tax prescribed in the tax schedule for each such business, even if the businesses are conducted at the same business location.

(Code 1982, § 11-24; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 97-012, 2-27-1997)

**Sec. 20-34. Separate places of business.**

Unless otherwise provided by state law or by the tax schedule, if a person engages in a business in two or more separate places, a separate license tax shall be required for each place of business.

For purposes of this section, if a person engages in the same business at two or more locations within the town, which locations are contiguous, communicate with and open directly into each other and are operated as a unit, the person is liable for only one license tax.

(Code 1982, § 11-25; Ord. No. 79-5, § 1, 5-31-1979)

**Sec. 20-35. Display of license.**

Each person issued a license under this article shall post the license in a conspicuous place in his regular place of business. If there is no regular place of business, the license shall be kept where it may be inspected at appropriate times by the town manager. If a machine or other item of personal property is licensed, the license shall be affixed to such machine or item.

(Code 1982, § 11-26; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 90-19, § 2, 2-22-1990)

**Sec. 20-36. Change in place of business.**

If a person who has obtained a license for a business taxed under this article desires to move from one business location to another within the town, the license which has been issued shall be valid for the remainder of the license year at this new location, and no additional tax need be paid. Within a reasonable time after the change in location, however, such person shall inform the town manager of the change in address.

(Code 1982, § 11-27; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 90-19, § 2, 2-22-1990)

**Sec. 20-37. Abatement of tax.**

If a licensee under this article discontinues a business before the end of the period for which the license was issued, the license tax shall not be abated nor shall a refund of any part of the license tax be made.

(Code 1982, § 11-28; Ord. No. 79-5, § 1, 5-31-1979)

**Sec. 20-38. Effect of license.**

The issuance of a license under this article does not authorize the carrying on of a business for which additional licenses or qualifications are required by state or local law, nor does the issuance of a license prevent the town from enacting additional regulations applicable to the licensee.

(Code 1982, § 11-29; Ord. No. 79-5, § 1, 5-31-1979)

**Sec. 20-39. Collection of unpaid tax.**

(a) If a person begins or continues to engage in a business taxed under this article without payment of the required privilege license tax, the town tax collector may, in addition to the enforcement procedures as provided in section 20-28, use any of the following methods to collect the unpaid tax:

- (1) The remedy of levy and sale or attachment and garnishment, in accordance with G.S.160A-207; or
- (2) The remedy of levy and sale of real and personal property of the taxpayer in accordance with G.S 105-109(d);

(3) Criminal prosecution and penalties in accordance with section 20-28 and G.S. 105-109.

(b) Any person who begins or continues to engage in a business taxed under this article without payment of such tax is liable for an additional tax of five percent of the original tax due for each 30 days or portion thereof that the tax is delinquent.

(Code 1982, § 11-30; Code 1976, § 5-3; Ord. No. 79-5, § 1, 5-31-1979; Ord. No. 97-012, 2-27-1997)

**Secs. 20-40—20-66. Reserved.**

### ARTICLE III. TAXICABS\*

#### DIVISION 1. GENERALLY

##### **Sec. 20-67. Definitions.**

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

*Chief* means the chief of police of the town of Cary and his or her designee(s). The chief is responsible for the administration of this article.

*Driver* means any person who actually drives a taxicab on the streets of the town for hire. The term "drive" or "driving a taxicab" means driving a taxicab for hire on such streets.

*Driver's permit* means the license, issued by the chief, under which a person may drive a taxicab for hire.

*Limousine* means for hire passenger vehicles on call or demand which do not solicit passengers indiscriminately for hire between points along streets or highways.

*Memorandum operating permit* means the card issued by the chief to a taxicab operator for display within a taxicab indicating that an operating permit has been issued covering the operation of such taxicab.

*Operating permit* means the license issued by the chief under which a person may operate a taxicab, and which shows that proof of financial responsibility and other requirements of this article have been met and that the convenience and necessity of the public requires the operation of such taxicab(s).

*Operator* means any person who owns one or more taxicabs or who engages in the operation of one or more taxicabs under a trade or service name.

*Owner* means the owner of a taxicab and any person holding legal right to possession or management of one or more vehicles being operated as a taxicab.

\***State law references**—Municipal regulation of taxicabs and drivers, G.S. §§ 20-37, 160A-304; registration of taxicabs by state, G.S. § 20-87; financial responsibility, G.S. § 20-280.

*Permit* means an operating permit and a driver's permit, as the context requires.

*Person* means and includes an individual, partnership, corporation, limited liability company, and all other legal entities including an association of taxicab owners/drivers.

*Privilege license* means a privilege license issued by the town pursuant to this chapter 20, article II of the Cary Code of Ordinances.

*Proof of financial responsibility* means a certificate of any insurance carrier duly authorized to do business in the state of North Carolina certifying that there is in effect a policy of liability insurance insuring the owner and operator of the taxicab, his or her agents and employees while in the performance of their duties, against loss from any liability imposed by law for damages including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property caused by accident and arising out of the ownership, use or operation, including driving, of such taxicab or taxicabs in the limits required by state law (G.S. 20-280(b)), as amended from time to time. For purposes of this definition, the term "operator" shall mean and include any driver of the taxicab.

*Rate card* means a card for the display of the rates or fares for the use of the taxicab.

*Taxicab* means a passenger motor vehicle plying for hire for which public patronage is accepted or solicited and which is so designed as to seat comfortably not more than nine persons but shall not include motor vehicles or motor vehicle carriers as defined in G.S. ch. 20, art. 17.

*Taximeter* means a mechanical device which is installed in a taxicab for the purpose of computing the fare for a trip upon the basis of distance traveled, waiting time, or both.  
(Code 1982, § 18-1; Ord. No. 98-022, 12-10-1998)

#### **Sec. 20-68. Compliance with chapter; exception.**

It is unlawful for any person to engage in the business of operating one or more taxicabs, or to drive any taxicab, within the corporate limits of the town or within one mile beyond the corporate limits in every direction, unless such person shall have complied, and shall continue to comply, with the provisions of this chapter. Notwithstanding the preceding, taxicab drivers and operators who are duly licensed in another jurisdiction may come into the town to pick up or deliver persons if their services were requested by the passenger, provided they do not solicit fares within town limits. The term "solicit fares" shall include directing advertisement of their services toward town residents, such as advertising in the town phone directory.  
(Code 1982, § 18-2; Ord. No. 98-022, 12-10-1998)

#### **Sec. 20-69. Proof of financial responsibility, payment of privilege license required.**

The operator and driver of every taxicab shall furnish and keep in effect for each taxicab proof of financial responsibility. The insurance policy shall contain a clause obligating the insurance company to give 15 days' written notice to the chief prior to the cancellation of such insurance on any taxicab. The operating permit for any taxicab shall be automatically revoked upon the lapse,

cancellation or termination of the insurance on that vehicle unless the same has been renewed or replaced and a new certificate filed with the chief. The operator shall also furnish proof of payment of a town privilege license.

(Code 1982, § 18-3; Ord. No. 98-022, 12-10-1998)

**Sec. 20-70. Records.**

Every operator and driver shall keep a daily record of all calls received from persons requesting transportation. Every driver shall keep a record of his or her trips, including origin, destination, fare charged, time the driver received the passenger, the time the driver completed the trip, and the fare received. Such information shall be recorded on the driver's trip sheet immediately upon the completion of each trip. Such record shall be open to inspection at all times by the police department, and the trip sheets shall be filed chronologically by car and date at the central taxicab office of the operator within 96 hours from first day of use and shall remain on file at such location for a period of three months. Every taxicab driver after receiving a call from the dispatcher to pick up a passenger shall notify the dispatcher immediately after picking up the passenger of the time such passenger was picked up.

(Code 1982, § 18-3.1; Ord. No. 98-022, 12-10-1998)

**Sec. 20-71. General prohibited practices.**

(a) *Prohibited practices.* In addition to the practices prohibited elsewhere in this chapter, it shall be unlawful:

- (1) *Refusal to transport passengers.* For a driver to refuse to transport any orderly person applying to driver for transportation within the limits of the town when the taxicab has not been previously engaged by another.
- (2) *Passenger seating.* For a driver to transport in a taxicab more than the number of passengers specified as its capacity by the manufacturer at the same time, or to transport a child under the age of three years unless the child is in an approved child safety seat.
- (3) *Illegal use of a cab.* For a driver, on or off duty, to knowingly permit a taxicab to be used for any illegal act listed in G.S. Ch. 14, arts. 26 and 27 (being G.S. 14-177 through 14-202 and 14-203 through 14-208) or to transport any person in a taxicab to any place used for such purposes, or to acquire and transport in a taxicab any alcoholic beverage for another, or to transport any person to any place where alcoholic beverages are illegally dispensed or stored.
- (4) *Lost property.* For a driver to fail, refuse or neglect to preserve any property left in a taxicab by any passenger and to deliver it to the operator, who shall report the same to the police department within 24 hours thereafter.
- (5) *Deviating from direct route.* For a driver to fail, refuse or neglect to proceed with all reasonable dispatch by the nearest practicable route to the destination of the first person applying to him for transportation unless the person has granted permission to take on or wait for additional passengers.
- (6) *Solicitation.* For any person to solicit passengers for a taxicab except the driver thereof when sitting upon the driver's seat of the vehicle.

- (7) *Illegal rates.* For a driver to charge or attempt to charge a passenger a greater or lesser rate of fare than that which is posted in the vehicle as required by this chapter.

(b) *Suspension/revocation of permit for violation.* Upon any violation of the provisions of this section, the driver's permit of the violator may be suspended or revoked in accordance with the procedures provided in section 20-110.

(Code 1982, § 18-3.2; Ord. No. 98-022, 12-10-1998; Ord. No. 2010-Code-02, 3-10-2010)

**Sec. 20-72. Rates and charges.**

(a) No person operating or driving a taxicab may charge for the use of a taxicab within the town in an amount greater than in accordance with the following rates:

- (1) Mileage: Two dollars and thirty cents for the first one-sixth mile or fraction thereof and 30 cents for each additional one-sixth mile or fraction thereafter. At this rate, the charge for the first mile may be four dollars and ten cents and the charge for each additional full mile may be one dollar and eight cents.
- (2) Waiting time: Twenty-five cents for each sixty-second period, or fraction thereof, of waiting time.
- (3) Foot lockers: Fifty cents each.
- (4) Trunks: One dollar for each trunk, except where two persons are required to handle, in which case the charge shall be one dollar and fifty cents for each trunk.
- (5) Hand baggage: Ten cents for each piece of hand luggage in excess of one per person.
- (6) Groceries in bags: Ten cents for each bag or sack in excess of one bag per person.
- (7) Groceries in cartons, boxes or crates: Ten cents for each container.
- (8) Bulky items: Fifty cents for each article, container or commodity (such as, but not limited to, bags, cartons, boxes or crates of groceries, coal, feed, fertilizer, rolls of roofing paper and the like) weighing more than 50 pounds.

(b) A sign setting forth these maximum rates shall be posted inside the taxicab at a conspicuous place where it will be visible to passengers. The driver of the taxicab shall not reset the taximeter until the fare is paid.

(Code 1982, § 18-3.3; Ord. No. 98-022, 12-10-1998; Ord. No. 01-007, § 1, 5-10-2001)

**Sec. 20-73. Enforcement and penalties.**

(a) *Civil penalty.* In addition to all other remedies and sanctions available to the town or imposed under law, there is hereby imposed a civil penalty in the amount of \$50.00 for the first violation of any provision of this chapter in any 12-month period and \$100.00 for any subsequent violation in a 12-month period.

- (1) The levying of civil penalties may be initiated by any police officer giving written notice of the violation along with a statement that a civil penalty is being imposed. The notice shall

inform the recipient that he or she may appeal the civil penalty within ten days to the chief. If an appeal is made, a hearing shall be held before the chief, who, following the hearing, shall affirm or reverse the imposition of the penalty. A notice of violation that is not appealed, or one affirmed after appeal, shall be considered finally assessed.

- (2) For the second and successive violations of any of the provisions of this chapter during any 12-month period, the civil penalty shall be double that for the first violation.
- (3) Civil penalties shall be paid within 30 days to the office of the revenue collector of the town. If not so paid, the town may initiate a civil action in the name of the town in the nature of debt to collect any unpaid penalty.
- (4) Any permit required to be issued or renewed under this chapter shall not be issued or renewed unless and until all civil penalties that have been assessed against the applicant, or any employee of the applicant, have been paid in full.

(b) *Misdemeanor offenses.* In addition to the civil penalty, violations may also be punishable as a misdemeanor offense.

(Code 1982, § 18-3.4; Ord. No. 98-022, 12-10-1998)

**State law reference**—Penalties for ordinance violations, G.S. 14-4, 160A-175.

**Sec. 20-74. Defrauding Taxicab.**

No person who engages, uses, employs or hires a taxicab shall fail or refuse to pay the required rate or fare with intent to cheat and defraud the taxicab owner or driver. Violation of this section shall be a misdemeanor. This section not only applies to intra-city trips, but also to legally licensed taxicabs from other jurisdictions that enter the town to reach a destination, where the failure or refusal to pay occurs within the town.

(Ord. No. 2011-Code-02, 3-10-2011)

**Secs. 20-75—20-104. Reserved.**

DIVISION 2. PERMITS

**Sec. 20-105. Required.**

(a) *Operating permit.* No person shall operate, or permit to be operated or driven, any taxicab without first having obtained, and having in effect, an operating permit authorizing the operation of each vehicle engaged as such. Upon issuance of an operating permit, the chief shall also issue a memorandum operating permit. All taxicabs shall at all times display the memorandum operating permit covering such taxicab.

- (1) *Limitation on number of operating permits.* The town council may, by resolution, limit the total number of operating permits issued. At the time of adoption of this chapter, the total number is 30. The chief may make recommendations for changes in the number of available operating permits.
- (2) *Transferability.* Operating permits are not transferable from one vehicle to another, nor are they transferable between persons.

- (3) *Review of drivers.* The operating permit holder shall review the qualifications of all drivers seeking to drive the taxicab under the operating permit. No operating permit holder shall permit or allow any driver to drive a taxicab under his or her operating permit unless, after reasonable inquiry, it appears that the driver has a valid state and Town of Cary taxicab driver's permit, and has met all the requirements of this chapter for taxicab drivers.
- (4) *Required phone service.* Every operating permit holder shall advertise in the local telephone book making the public aware of the services provided by the operator and shall operate and maintain a business location capable of dispatching and receiving local telephone calls for service from town citizens.

(b) *Driver's permit.* No person shall drive a taxicab unless that person shall have been issued, and shall have in effect, a driver's permit under this chapter. An identification card containing the name and photograph of the permit holder and the permit number shall be issued by the chief as evidence of the driver's permit. Such identification card shall also bear the name of the chief and the following words in bold type or print:

**PASSENGERS—FOR YOUR PROTECTION, KEEP A RECORD OF YOUR DRIVER'S NAME AND NUMBER.**

(c) *Display of identification.* Such identification shall be on display in such a manner as to be in full view of all passengers at all times while the driver is on duty. The driver shall retain custody of the identification card, and present it, on demand, for inspection by any passenger or law enforcement officer.

(Code 1982, § 18-4; Ord. No. 98-022, 12-10-1998)

#### **Sec. 20-106. Issuance.**

(a) *Issuance/compliance with chapter.* The chief shall take applications for, and issue, permits. No permit shall be issued to, or renewed by, any person who has not complied with all the applicable requirements of this chapter and paid in full all civil penalties that may have been finally assessed hereunder. The fee for all driver's permits is \$15.00.

(b) *False information.* Submission of false or misleading information to obtain or renew a permit or in submitting reports under this chapter is unlawful, shall be a misdemeanor, and shall be grounds for denial, suspension or revocation of a permit.

(c) *Right to investigate.* Submission of an application for a permit shall constitute a waiver of any privileges and rights of privacy with respect to any document in existence reasonably related to the determination of the applicant's qualifications and shall serve as an authorization to the chief to make inquiry of any person or entity, and to receive any oral or written reports from any person or entity, regarding any facts, evidence or information reasonably related to the determination of the applicant's qualifications. The applicant shall sign any separate written authorization that any person may require to release documents or information concerning the applicant.

(d) *Town property.* All permits and memorandums of permit shall be and remain the property of the town. Loss, theft, destruction or defacement shall be immediately reported to the chief and a replacement permit obtained.

(Code 1982, § 18-5; Ord. No. 98-022, 12-10-1998)

#### **Sec. 20-107. Application.**

(a) *Operating permit.* All applications for an operating permit shall be submitted by the owner. The applicant shall file with the chief a sworn application, in duplicate, on forms provided by the chief. If the applicant desires an operating permit for more than one taxicab, such application may

be made on one form and shall provide supporting information for each taxicab for which an operating permit is desired. If the applicant is a corporation, then the information requested about the applicant shall also be provided about each officer, director and about each stockholder owning 20 percent or more of the outstanding stock. If the applicant is a limited liability company, such information shall be provided about its managers and each of its members. If the operator is a partnership, such information shall be provided about each of its partners. The application must contain the following information:

- (1) Information reasonably necessary to identify the applicant. If the applicant is a corporation or a limited liability company, the application shall include a certified copy of the articles of incorporation or organization, as the case may be.
- (2) Description of the experience of the applicant in the transportation of passengers for hire.
- (3) Description of any unpaid or unbonded judgments of record against the applicant, including the title of all actions, the amount of each judgment and judgment docket reference information.
- (4) Court records of the applicant and of any person who functions as a general manager. Fingerprints of the applicant shall be submitted so a fingerprint check can be made.
- (5) An accurate and complete description of the proposed or actual taxicab operation and any other information necessary in order for the chief to evaluate the applicant's ability to provide and maintain taxicab service as required under this chapter.
- (6) Evidence that a valid town of Cary privilege license has been obtained for each taxicab.
- (7) Information concerning each taxicab for which an operating permit is sought, as follows:
  - a. Full name, address and phone number of the taxicab owner;
  - b. Full description of the vehicle, including make, type, year of manufacture, state license number, engine and serial number, cab number, color scheme, lettering and marks, and its seating capacity exclusive of the driver;
  - c. Proof of financial responsibility for each taxicab;
  - d. Description of all liens, mortgages, and other encumbrances on the taxicab, and lienholder, amount and character thereof;
  - e. Such other information, evidence and documents, as the chief may require to assure that the requirements of this chapter have been or will be met.

(b) *Driver's permit.* All applicants for a driver's permit shall file with the chief a sworn application, in duplicate, on forms provided by the chief which shall require submission of such information as may be needed by the chief to conduct a background investigation on the applicant. By submitting an application for a driver's permit, applicants agree that they accept the town's taxicab driver's

dress code. Applicants agree to be clean and neat in appearance and not wear flip-flops or sandals, tank or T shirts, or shorts while on duty as a taxicab driver. All applications shall provide the following information:

- (1) Applicant's full name, age, date of birth, place of birth, business and home address and phone numbers, state driver's license number and a physical description, including height, weight, sex, race, color of eyes and hair, complexion, and body and facial marks, if any;
- (2) The length of time the applicant has resided in the town and in the state, and citizenship information;
- (3) A current health certificate issued by the health department, or by a licensed physician, within the previous 12 months stating that the applicant has no impairments that would endanger the life of any passenger riding in the taxicab;
- (4) Applicant's employment history for the previous ten years and previous experience driving taxicabs and other vehicles for hire;
- (5) Applicant's court and driving records;
- (6) Two copies of a photograph taken within the previous six months and a completed fingerprint card;
- (7) A letter of introduction from the operator who proposes to hire the driver, if any, and affidavits of good character from two reputable citizens who have personal knowledge of the applicant.

(Code 1982, § 18-6; Ord. No. 98-022, 12-10-1998)

**Sec. 20-108. Issuance standards and procedures.**

(a) *Investigation.* The chief shall cause an investigation to be made of the applicant. No permit shall be issued or renewed unless the applicant meets the requirements of this chapter including the following:

- (1) Is at least 18 years of age or is otherwise legally emancipated and is a U.S. citizen or possesses documentation of eligibility to work in the United States;
- (2) Has neither entered a plea of guilty or no contest to nor has been convicted of or had an order entered continuing prayer for judgment to any of the following:
  - a. Any felony against the state or any offense against another state which would have been a felony if committed in North Carolina;
  - b. Any federal or state law relating to the use, possession, or sale of alcoholic beverages or narcotic or barbiturate drugs;
  - c. Any federal or state law relating to prostitution;
- (3) Is not a habitual user of, or addicted to, narcotic or barbiturate drugs or intoxicating liquors;
- (4) Has no unpaid and unbonded judgments of record against the applicant; or, if such exist, demonstrates the establishment and maintenance of regular periodic payments in discharge of the liability;

- (5) Provides proof of financial responsibility;
- (6) Has not had any permit issued under this chapter revoked within the 24 months preceding the application;
- (7) Has paid in full any civil penalties finally assessed under this chapter;
- (8) Must also, if an applicant for an operating permit:
  - a. Not be in default in the payment of any indebtedness secured by lien, mortgage or any other encumbrance on the vehicle intended to be operated pursuant to the operating permit;
  - b. Have properly registered the vehicle to be operated with the state, and secured required state inspections and inspections in accordance with the requirements of this chapter;
- (9) Must also, if an applicant for a driver's permit:
  - a. Be physically and mentally capable of safely driving a taxicab;
  - b. Possess a valid state driver's license issued to him or her;
  - c. Have an operating permit or permission from an operating permit holder to operate a taxicab under the operating permit;
  - d. Have not habitually violated traffic laws or ordinances. Habitual violation shall be deemed to mean more than two violations in any 12-month period of time;
  - e. Have not, within the previous 12 months, had a revocation or suspension of 60 days or more of his or her driver's license for convictions of moving violations; or, within the previous 24 months, been convicted of, or entered a plea of guilty or no contest to, driving under the influence of alcohol or drugs, or a substantially equivalent offense; or has not accumulated, within the three-year period preceding the application, 12 or more points under G.S. 20-16, or six or more points within the three-year period following the reinstatement of a state driver's license which had been suspended or revoked.

(b) *Appeal.* In the event the chief, or designee, denies issuance of a permit, such person shall specify, in writing, the grounds for such denial. The applicant shall have a period of ten days from receipt of notification of the denial and grounds therefor within which to appeal the denial to the chief or the town manager, pursuant to the procedures specified in section 20-110.

(Code 1982, § 18-7; Ord. No. 98-022, 12-10-1998)

**Sec. 20-109. Expiration and renewal.**

(a) Permits shall expire 12 months from the date of issue. Applications for renewal of permits shall be made at least 30 days prior to the date of expiration of the existing permit in the same manner as the application for an original permit, on such forms as may be required by the chief.

(b) The chief may refuse to renew an operating permit if the taxicab for which the permit was issued has not been in regular use and service in the town in the three months preceding the application for renewal. The purpose of this provision is to assure that the full allocation of operating permits are allocated to taxicabs that are actually used in service in the town.

(Code 1982, § 18-8; Ord. No. 98-022, 12-10-1998)

**Sec. 20-110. Suspension or revocation.**

(a) *Grounds.* In addition to any other penalty provided for, the chief shall have the right to suspend or revoke any permit if the applicant or permittee:

- (1) Fails to operate the taxicab or taxicab business or to drive the taxicab in compliance with the requirements of this chapter, or fails to continuously meet the standards set forth in section 20-108;
- (2) Fails to continuously maintain proof of financial responsibility;
- (3) Submits or causes to be submitted false or misleading information on any application or report required under this chapter.

(b) *Procedure.* When grounds for suspension or revocation exist, the chief shall, by registered or certified letter, give notice to the permittee that the permit is suspended or revoked and must be immediately surrendered. It shall be unlawful for the person to whom the permit was issued to fail to return same to the chief. The permittee shall have ten days from the receipt of such notice to appeal the determination to the chief, if the initial determination was made by a designee of the chief, and to the town manager if the initial determination was made by the chief himself, by filing a written notice of appeal with the person who made the initial determination and the chief or the town manager, as the case may be. Such notice of appeal shall specify with particularity all the grounds for the appeal. The permit shall remain suspended or revoked pending such appeal. If no notice of appeal is filed within the allotted time, any right to an appeal is considered waived at the expiration of the ten-day period. If an appeal is filed and a hearing held and the suspension or revocation is confirmed by the chief, the permittee shall have ten days from receipt of the determination to appeal to the town manager by filing a written notice of appeal with the chief and the town manager. If an appeal was filed and a hearing held and the suspension or revocation was confirmed by the town manager, then such appeal shall be to the town council, by filing a written notice of appeal with the town manager and the town clerk. The permit shall remain suspended or revoked pending such hearing. The town manager or council hearing of any appeal shall be in the form of certiorari. If the council finds that a denial or revocation is justified, the holder may not reapply for a taxicab permit for a minimum of 12 months.

(Code 1982, § 18-9; Ord. No. 98-022, 12-10-1998)

**Secs. 20-111—20-133. Reserved.**

DIVISION 3. VEHICLES AND EQUIPMENT

**Sec. 20-134. Vehicle inspection.**

(a) *Upon application for permit and periodically.* In addition to annual state safety inspections, vehicles must be inspected under this chapter upon the filing of an application, or renewal application, for an operating permit. The chief may also, from time to time, cause to be made an

inspection of taxicabs. If any vehicle is found to be unsafe or unfit for operation, notice shall be given to the driver and the operating permit holder and such vehicle shall not be operated until the same has been put in safe and fit condition.

(b) *Inspection items.* The inspection may include and cover the brakes, lights, horn, tires, all other safety features of the vehicle, a road test of the vehicle, an inspection and test of the taximeter, and an inspection of the interior of the taxicab with respect to the general condition of the upholstery, rugs, or floor covering and general cleanliness thereof and an inspection of the exterior condition of the vehicle which must be free of torn, flaking or protruding metal which could constitute a safety hazard. Additionally, the following, in good working order, is required on every taxicab:

- (1) An electric light indicator on top of the vehicle no less than ten inches in width and four inches in depth and height designed so that when the taximeter is engaged the light is burning;
- (2) A standard speedometer, visible to passengers, properly installed and maintained in good working order. No taxicab shall be operated as a taxicab if such speedometer is out of repair or disconnected;
- (3) A heater and air conditioner sufficient to adequately heat and cool the interior of the taxicab in cold or warm weather, respectively;
- (4) A frame or other device to display the driver's permit, memorandum operating permit and rate card to passengers;
- (5) Taximeter as required by section 20-135. No taxicab shall be driven as a taxicab if the taximeter is out of repair or disconnected;
- (6) Approved and working seat belts available to any passenger within the taxicab;
- (7) Windshields, side and rear glass clear and free of dirt, discoloration and cracks;
- (8) A two-way radio or cellular phone providing direct communication for immediate dispatching;
- (9) Tires with a tread of at least three-thirty-seconds of an inch;
- (10) Removable floor mats of rubber or other nonabsorbent material;
- (11) Neat and sanitary interior with upholstery that is free of stains and tears and of original manufacturer's design and type with no temporary seat covers;
- (12) Such other items as may be required by this chapter.

(c) *Inspection decal.* The chief may require that taxicabs that have been inspected and found to be in clean and proper condition display an inspection decal issued by the chief and displayed in a location to be determined by the chief. At such time as the chief commences issuing inspection decals, no taxicab shall be operated on the streets of the town without displaying a current valid inspection decal.

(d) *Removal from service.* The discovery of any inadequacy in any of the items required to be inspected or tested by this chapter shall cause the taxicab to be removed from service until the taxicab has been repaired and complies with the requirements of this chapter. Such removal may be appealed to the chief in accordance with section 20-110 but the vehicle shall remain out of service pending the decision of the chief.

(Code 1982, § 18-10; Ord. No. 98-022, 12-10-1998)

**Sec. 20-135. Taximeter.**

(a) No person may operate or drive a taxicab unless the taxi is equipped with a taximeter of a design approved by the chief. In order to be approved, a taximeter must show, in figures which are plainly visible to a passenger, the amount of the fare.

(b) No taxicab shall be driven while occupied by a person other than the driver with the signal affixed to such taximeter in such a position as to denote such vehicle is not employed or in such a position as to denote that it is employed at a rate of fare different from that which is required by this chapter.

(c) No person shall operate or drive a taxicab if the seal is broken on the taximeter, or after the installation of a new or different taximeter, or after any repairs or alterations are made to the taximeter or to the taxicab, if the repairs or alterations to the taxicab will affect the operation of the taximeter in any manner, until the taximeter has been submitted to a taximeter repair mechanic designated by the chief for inspection and test for accuracy. The taximeter repair mechanic shall cause a seal to be affixed to all taximeters that pass inspections.

(d) No person shall use or permit to be used upon any taxicab a taximeter which shall be in such condition as to be more than five percent from absolute accuracy.

(Code 1982, § 18-11; Ord. No. 98-022, 12-10-1998)

**Sec. 20-136. Identifying markings required.**

(a) *Identification scheme.* Each operator shall adopt a color scheme or other identifying markings for identifying its taxicabs distinct from that of any other operator or firm and shall file such identification scheme with the chief. All additional, new or replacement vehicles put in operation by such operator shall comply with the identification scheme selected. No identification scheme shall be used unless filed with and approved by the chief, and no identification scheme shall be accepted by the chief if it in any way would be confused with the identification scheme of another operator, association or firm.

(b) *Display of name/number/rate.* The operator or operator's trade name, taxicab number and telephone number shall be painted with permanent paint or appear on a permanent decal on both sides and rear of each taxicab, with letters and numbers four inches high or greater. The taxicab number on the rear shall be at a location designated by the chief. There shall be painted on each side of the taxicab in letters and numbers at least three inches high the basic mileage rates. The color to be used for lettering and numbers shall be of sharp contrast to color or surface paint to which applied, so as to be easily visible at a reasonable distance, especially at nighttime with street

lights. No lettering or numbers shall be acceptable which have been painted upon a sheet of metal or other material which, in turn, can be removed or detached to conceal the identification of the operator or taxicab number.

(Code 1982, § 18-12; Ord. No. 98-022, 12-10-1998)

