



MEMORANDUM

To: Mayor and City Councilors

From: Rich Olson, City Manager

Date: July 8, 2015

Re: Consideration – Call for a Public Hearing to Repeal Article IV of Chapter 14 of the City's Code or Ordinances in its Entirety

BACKGROUND:

Part XII, Section 12.3(a) of Session Law 2014-3 (HB 1050) was signed into law on May 28, 2014 (see attached). As a result, NCGS §160A-211, which is the statute that gave municipalities authority to levy a privilege license tax has been repealed effective July 1, 2015.

ANALYSIS:

Pursuant to authority granted by NCGS §160A-211, the City of Elizabeth City's Code of Ordinances, Chapter 14, Article IV (attached) put into place the City's regulations regarding levying a tax and issuing a privilege license to businesses operating in Elizabeth City. Due to the repeal of §160A-211, the City's Code is now in conflict with state law.

In order to comply with HB 1050, City staff has drafted an ordinance to repeal Chapter 14, Section IV in its entirety and requests that the City Council call for a Public Hearing to receive comment on this matter.

STAFF RECOMMENDATION:

By motion, call for a Public Hearing to be held on Monday, August 10, 2015 at 7:30 p.m. in Council Chambers of the Municipal Administration Building to receive comment regarding the adoption of an ordinance repealing Chapter 14 Business Regulations, Article IV License Taxes and Privilege Licenses in its entirety.

RCO/vdw

TO REPEAL

License Taxes and Privilege Licenses as Found in Chapter 14 - Business Regulations, Article IV of the City of Elizabeth City Code of Ordinances

WHEREAS, Part XII, Section 12.3(a) of Session Law 2014-3 (HB 1050) was signed into law on May 28, 2014; and as a result, NCGS §160A-211 has been repealed effective July 1, 2015; and

WHEREAS, pursuant to authority granted by NCGS §160A-211, the City of Elizabeth City's Code of Ordinances, Chapter 14, Article IV put into place the City's regulations regarding levying a tax and issuing a privilege license to businesses operating in Elizabeth City; and

WHEREAS, in an effort to comply with HB 1050, the Elizabeth City Council desires to repeal Chapter 14 Business Regulations, Article IV License Taxes and Privilege Licenses of the City of Elizabeth City Code Of Ordinances in its entirety.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY THAT:

SECTION I. EFFECTIVE DATE: Effective upon adoption, Article IV License Taxes and Privilege Licenses found in Chapter 14 - Business Regulations of the City of Elizabeth City Code of Ordinances is repealed in its entirety.

SECTION II. CODIFICATION. The provisions of Section I of this Ordinance shall be published as appropriate in the City of Elizabeth City Code of Ordinances as soon as practicable.

SECTION III. SEVERABILITY CLAUSE. If any section, or part of provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council of the City of Elizabeth City in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION IV. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon adoption according to law and for subsequent years unless rescinded or modified in accordance with law.

READ, CONSIDERED, AND ADOPTED at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the _____ day of _____, 2015.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2014-3
HOUSE BILL 1050**

AN ACT TO AMEND THE REVENUE LAWS, AS RECOMMENDED BY THE REVENUE LAWS STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. DEDUCTION FOR STATE NET LOSS

SECTION 1.1.(a) G.S. 105-130.5(b) reads as rewritten:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...
(4) ~~Losses in the nature of~~ Any unused portion of a net economic loss as allowed under G.S. 105-130.8A(e). ~~losses sustained by the corporation in any or all of the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A corporation required to allocate and apportion its net income under the provisions of G.S. 105-130.4 shall deduct its allocable net economic loss only from total income allocable to this State pursuant to the provisions of G.S. 105-130.8.~~ This subdivision expires for taxable years beginning on or after January 1, 2030.

(4a) A State net loss as allowed under G.S. 105-130.8A. A corporation may deduct its allocable and apportionable State net loss only from total income allocable and apportionable to this State.

...."

SECTION 1.1.(b) G.S. 105-130.8 is repealed.

SECTION 1.1.(c) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-130.8A. Net loss provisions.

(a) State Net Loss. – A taxpayer's State net loss for a taxable year is the amount by which allowable deductions for the year, other than prior year losses, exceed gross income under the Code for the year adjusted as provided in G.S. 105-130.5. In the case of a corporation that has income from business activity within and without this State, the loss must be allocated and apportioned to this State in the year of the loss in accordance with G.S. 105-130.4.

(b) Deduction. – A taxpayer may carry forward a State net loss the taxpayer incurred in a prior taxable year and deduct it in the current taxable year, subject to the limitations in this subsection:

(1) The loss was incurred in one of the preceding 15 taxable years.

(2) Any loss carried forward is applied to the next succeeding taxable year before any portion of it is carried forward and applied to a subsequent taxable year.

(c) Mergers and Acquisitions. – The Secretary must apply the standards contained in regulations adopted under sections 381 and 382 of the Code in determining the extent to which a loss survives a merger or an acquisition.

(d) Administration. – A taxpayer claiming a deduction under this section must maintain and make available for inspection by the Secretary all records necessary to determine and verify the amount of the deduction. The Secretary or the taxpayer may redetermine a loss originating in a taxable year that is closed under the statute of limitations for the purpose of determining the amount of loss that can be carried forward to a taxable year that remains open under the statute of limitations.

(e) Net Economic Loss Carryforward. – For taxable years beginning before January 1, 2015, a taxpayer is allowed a net economic loss as calculated under G.S. 105-130.8. In determining and verifying the amount of a net economic loss incurred or carried forward for taxable years beginning

for taxation to each local taxing unit in which an airport used by the company is situated according to the ratio obtained by averaging the following two ratios: the ratio of the company's ground hours in the taxing unit in the year preceding January 1 to the company's ground hours in the State in the same period, and the ratio of the company's gross revenue in the taxing unit in the year preceding January 1 to the company's gross revenue in the State in the same period.

- (4) The appraised valuation of the tangible personal property of a mobile telecommunications company (excluding towers) that is appraised in accordance with the provisions of G.S. 105-336(c) is allocated among the local taxing units in which the property of the company is situated on January 1 in the proportion that the original cost of the property in the taxing unit bears to the original cost of all such property in this State."

SECTION 11.1.(f) G.S. 105-339 reads as rewritten:

"§ 105-339. Certification of appraised valuations of nonsystem property and locally assigned rolling stock, stock, tangible personal property of tower aggregator companies, and certain tangible personal property of mobile telecommunications companies.

Having determined the appraised valuations of the nonsystem properties of public service companies in accordance with subdivisions (b)(2) and (b)(3) of G.S. 105-335 and the appraised valuations of locally assigned rolling stock in accordance with subdivision (c)(1) of G.S. 105-335, the appraised valuations of the tangible personal property of tower aggregator companies in accordance with G.S. 105-336(d) and the appraised valuations of towers of mobile telecommunications companies in accordance with G.S. 105-336(d), the Department of Revenue shall assign those appraised valuations to the taxing units in which such properties are situated by certifying the valuations to the appropriate counties and municipalities. Each local taxing unit receiving such certified valuations shall assess them at the figures certified and shall tax the assessed valuations at the rate of tax levied against other property subject to taxation therein."

SECTION 11.1.(g) Article 23 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-339.1. Certification of appraised valuations of mobile telecommunications companies.

Having determined the appraised valuations of the tangible personal property of mobile telecommunications companies (excluding towers) in accordance with subdivision (c) of G.S. 105-335 and having allocated the valuations to the local taxing units in accordance with subdivision (c)(4) of G.S. 105-338, the Department of Revenue shall assign each local taxing unit's appraised valuations by certifying the valuations to the appropriate counties and municipalities. Each local taxing unit receiving these certified valuations shall assess them at the figures certified and shall tax the assessed valuations at the rate of tax levied against other property subject to taxation therein."

SECTION 11.1.(h) This Part is effective for taxes imposed for taxable years beginning on or after July 1, 2015.

PART XII: PRIVILEGE LICENSE TAX CHANGES

SECTION 12.1.(a) G.S. 160A-211(a) is reenacted as amended by Section 58(d) of S.L. 2013-414.

SECTION 12.1.(b) This section is effective when it becomes law.

SECTION 12.2.(a) G.S. 160A-211(a), as reenacted by Section 12.1 of this Part, reads as rewritten:

"(a) Authority. – Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchises ~~earned on~~ physically located within the city. A city may levy privilege license taxes on the businesses that were formerly taxed by the State under the following sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed:

G.S. 105-36	Amusements – Manufacturing, selling, leasing, or distributing moving picture films.
G.S. 105-36.1	Amusements – Outdoor theatres.
G.S. 105-37	Amusements – Moving pictures – Admission.
G.S. 105-37.1	Amusements – Live entertainment and ticket resales
G.S. 105-42	Private detectives and investigators.
G.S. 105-45	Collecting agencies.
G.S. 105-46	Undertakers and retail dealers in coffins.

G.S. 105-50	Pawnbrokers.
G.S. 105-51.1	Alarm systems.
G.S. 105-53	Peddlers, itinerant merchants, and specialty market operators.
G.S. 105-54	Contractors and construction companies.
G.S. 105-55	Installing elevators and automatic sprinkler systems.
G.S. 105-61	Hotels, motels, tourist courts and tourist homes.
G.S. 105-62	Restaurants.
G.S. 105-65	Music machines.
G.S. 105-65.1	Merchandising dispensers and weighing machines.
G.S. 105-66.1	Electronic video games.
G.S. 105-74	Pressing clubs, dry cleaning plants, and hat blockers.
G.S. 105-77	Tobacco warehouses.
G.S. 105-80	Firearms dealers and dealers in other weapons.
G.S. 105-85	Laundries.
G.S. 105-86	Outdoor advertising.
G.S. 105-89	Automobiles, wholesale supply dealers, and service stations.
G.S. 105-89.1	Motorcycle dealers.
G.S. 105-90	Emigrant and employment agents.
G.S. 105-91	Plumbers, heating contractors, and electricians.
G.S. 105-97	Manufacturers of ice cream.
G.S. 105-98	Branch or chain stores.
G.S. 105-99	Wholesale distributors of motor fuels.
G.S. 105-102.1	Certain cooperative associations.
G.S. 105-102.5	General business license."

SECTION 12.2.(b) For fiscal year 2014-2015, a city shall apply the privilege license tax ordinance that was in effect for that city in 2013-2014 along with any modifications required by this act. If a city did not have a privilege license tax ordinance in effect for fiscal year 2013-2014, then it may not enact a privilege license tax ordinance for fiscal year 2014-2015.

SECTION 12.2.(c) This section is effective when it becomes law and applies to taxable years beginning on or after July 1, 2014.

SECTION 12.3.(a) G.S. 160A-211 is repealed effective for taxable years beginning on or after July 1, 2015.

SECTION 12.3.(b) G.S. 105-88(e), 105-109(e), 130A-294(r), 160A-211.1, 153A-152, and 153A-152.1 are repealed.

SECTION 12.3.(c) G.S. 160A-194 reads as rewritten:

"§ 160A-194. Regulating and licensing businesses, trades, etc.

(a) A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. ~~Nothing in this section shall impair the city's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 160A-211.~~

...."

SECTION 12.3.(d) G.S. 160A-215.1 reads as rewritten:

"§ 160A-215.1. Gross receipts tax on short-term leases or rentals.

(a) As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. 105-275(42), a city may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from such short-term leases or rentals. ~~This tax on gross receipts is in addition to the privilege taxes authorized by G.S. 160A-211.~~

...."

SECTION 12.3.(e) G.S. 153A-49 reads as rewritten:

"§ 153A-49. Code of ordinances.

A county may adopt and issue a code of its ordinances. The code may be reproduced by any method that gives legible and permanent copies, and may be issued as a securely bound book or books with periodic separately bound supplements, or as a loose-leaf book maintained by replacement pages. Supplements or replacement pages should be adopted and issued at least annually, unless there have

§ 160A-211. (Repealed effective for taxable years beginning on or after July 1, 2015) Privilege license taxes.

(a) **(See Editor's note)** Authority. - Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchises physically located within the city. A city may levy privilege license taxes on the businesses that were formerly taxed by the State under the following sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed:

G.S. 105-36 Amusements - Manufacturing, selling, leasing, or distributing moving picture films.

G.S. 105-36.1 Amusements - Outdoor theatres.

G.S. 105-37 Amusements - Moving pictures - Admission.

G.S. 105-37.1 Amusements - Live entertainment and ticket resales.

G.S. 105-42 Private detectives and investigators.

G.S. 105-45 Collecting agencies.

G.S. 105-46 Undertakers and retail dealers in coffins.

G.S. 105-50 Pawnbrokers.

G.S. 105-51.1 Alarm systems.

G.S. 105-53 Peddlers, itinerant merchants, and specialty market operators.

G.S. 105-54 Contractors and construction companies.

G.S. 105-55 Installing elevators and automatic sprinkler systems.

G.S. 105-61 Hotels, motels, tourist courts and tourist homes.

G.S. 105-62 Restaurants.

G.S. 105-65 Music machines.

G.S. 105-65.1 Merchandising dispensers and weighing machines.

G.S. 105-66.1 Electronic video games.

G.S. 105-74 Pressing clubs, dry cleaning plants, and hat blockers.

G.S. 105-77 Tobacco warehouses.

G.S. 105-80 Firearms dealers and dealers in other weapons.

105-85 Laundries.

105-86 Outdoor advertising.

105-89 Automobiles, wholesale supply dealers, and service stations.

105-89.1 Motorcycle dealers.

105-90 Emigrant and employment agents.

105-91 Plumbers, heating contractors, and electricians.

105-97 Manufacturers of ice cream.

105-98 Branch or chain stores.

105-99 Wholesale distributors of motor fuels.

105-102.1 Certain cooperative associations.

105-102.5 General business license.

(b) **Barbershop and Salon Restriction.** - A privilege license tax levied by a city on a barbershop or a beauty salon may not exceed two dollars and fifty cents (\$2.50) for each barber, manicurist, cosmetologist, beautician, or other operator employed in the barbershop or beauty salon.

(c) **Prohibition.** - A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to sales tax at the combined general rate for which the city receives a share of the tax revenue or they are subject to the local sales tax:

- (1) Supplying piped natural gas.
- (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).
- (3) Providing video programming taxed under G.S. 105-164.4(a)(6).
- (4) Providing electricity. A city may continue to impose and collect the license, franchise, or privilege taxes on an electric power company that it imposed and collected on or before January 1, 1947, but it may not impose or collect any greater franchise, privilege, or license taxes, in the aggregate, on an electric power company that was imposed and collected on or before January 1, 1947.

(d) Repealed by Session Laws 2006-151, s. 12, effective January 1, 2007. (R.C., c. 111, s. 13; 1862, c. 51; Code, s. 3800; Rev., s. 2924; C.S., s. 2677; 1949, c. 933; 1971, c. 698, s. 1; 1996, 2nd Ex. Sess., c. 14, s. 23; 1998-22, s. 12; 2001-430, s. 17; 2006-151, s. 12; 2013-316, s. 4.4(a); 2013-414, ss. 58(b), (d); 2014-3, ss. 12.1(a), 12.2(a).)

Sec. 14-62. Suspension and revocation.

(a) The city manager may suspend or revoke any license issued under the provisions of this article at any time upon a showing that the applicant or any employee, partner, officer or director of the applicant has:

- (1) Knowingly made a false statement in the application for a license;
- (2) Violated the state building code requirements as to insulation or energy utilization equipment or materials, whether in this or any other jurisdiction; or
- (3) Been convicted of an act involving dishonesty, fraud or deceit with respect to any contract entered into for work requiring this license.

(b) Any licensee whose license is suspended or revoked may appeal the suspension or revocation to the city council. After reasonable notice to the licensee, the council shall afford the licensee an opportunity to show why his license should not be suspended or revoked.

(Code 1976, § 5-63; Code 1993, § 5-56; Ord. of 1-9-1978, § 7)

Sec. 14-63. Change of location.

The location of any business licensed under this article may be changed provided ten days notice thereof is given to the city, and operation at such new location does not violate any applicable state or local law, ordinance or regulation.

(Code 1976, § 5-64; Code 1993, § 5-57; Ord. of 1-9-1978, § 8)

Sec. 14-64. Required permit; fee.

On and after January 1, 1978, no person licensed under this article may for a consideration install, alter or restore any insulation or other materials or energy utilization equipment designed or intended to meet the state building code requirements for insulation and energy utilization without first securing a permit from the building inspector for each item of work. A fee as set by the city council from time to time shall be levied for each permit issued.

(Code 1976, § 5-65; Code 1993, § 5-58; Ord. of 1-9-1978, § 9)

Sec. 14-65. Penalties.

Any person violating the provisions of this article shall be subject to all the applicable punishment penalties and equitable relief provided for by the general statutes.

(Code 1976, § 5-66; Code 1993, § 5-59; Ord. of 1-9-1978, § 10)

Secs. 14-66—14-88. Reserved.**ARTICLE IV. LICENSE TAXES AND PRIVILEGE LICENSES*****Sec. 14-89. 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:

Business means and includes any trade, occupation, profession or other activity engaged in by any person or caused to be engaged in by him with the object of gain, profit, benefit or advantage, either direct or indirect, except that the term does not include occasional and isolated sales or transactions by a person who does not hold himself out as engaged in business of that kind.

Conducts a business means a person conducts a business when he engages in one act of any business. If a person is listed in the yellow pages of the telephone directory issued by the telephone system serving the city, that shall be prima facie evidence the person is conducting a business.

Engaged in business within the city means a person is engaged in business within the city when he engages in business activity of any type, either as owner or operator of such business:

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

***State law references**—Authority to tax, G.S. 160A-206 et seq.; municipal power to levy privilege licenses taxes on businesses, G.S. 160A-211.

Seasonal in nature means a business is seasonal in nature when it is taxed on an annual basis, but is operated within the city for less than six months of the year.

(Code 1993, § 5-76; Ord. of 6-6-1988)

Sec. 14-90. Construction.

This article is enacted primarily for revenue purposes, and therefore it should be construed to require payment of the maximum tax permitted by its terms. A secondary purpose of this article is to prevent the operation of covered businesses until the person applying for the license has complied with certain city ordinances. Issuance of a license pursuant to this article does not excuse the licensee from compliance with any other applicable ordinance or statute. This article does not prevent the city from increasing or decreasing the amount of any license tax or from regulating any business taxed.

(Code 1993, § 5-77; Ord. of 6-6-1988, § 5-1.2)

Sec. 14-91. Schedule B license ordinance.

The schedule B license ordinance, as may be adopted from time to time is hereby saved from repeal. A copy of the schedule B license ordinance shall be kept on file in the office of the city clerk.

(Code 1976, § 5-1; Code 1993, § 5-78)

State law reference—Schedule B taxes, G.S. 105-33 et seq.

Sec. 14-92. Tax collector; duties.

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

(b) The tax collector shall make any investigation necessary to determine the tax liability of persons engaged in business within the city. If necessary, the tax collector 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.

(Code 1993, § 5-79; Ord. of 6-6-1988, § 5-1.7)

State law reference—Similar provisions, G.S. 105-349 et seq.

Sec. 14-93. License and payment of tax required.

Subject to section 14-96, no person may conduct any business within the city without having paid the tax required by this article or without a valid privilege license issued pursuant to this article.

(Code 1993, § 5-80; Ord. of 6-6-1988, § 5-1.3)

Sec. 14-94. Application.

(a) With respect to annual licenses, a person shall apply to the tax collector for the license at least 30 days before the tax is due. With respect to licenses issued for one day, one week, or some similar period less than one year, application shall be made at least ten days before the tax is due. These time limitations may be waived by the tax collector for good cause shown.

(b) The application, which shall be submitted on forms provided by the tax collector, shall contain:

- (1) The name of the applicant and whether he is an individual, partnership, corporation or some other entity;
- (2) The nature of the business, including the duration the business intends to operate;
- (3) Where the business is conducted;
- (4) An address to which may be mailed notices and statements; and
- (5) Any other information the tax collector determines to be necessary to issue the privilege license in accordance with this article.

(Code 1993, § 5-81; Ord. of 6-6-1988, § 5-1.9)

Sec. 14-95. Change in business.

A licensee or his assignee shall report a change in the information contained in the license application to the tax collector within ten days after the change occurs.

(Code 1993, § 5-82; Ord. of 6-6-1988, § 5-1.12)

Sec. 14-96. Exemptions.

(a) If an individual conducts a business as a partner in a partnership or as an officer or employee of a corporation or as an employee or member of any other business entity, that individual is not required to obtain a privilege license or pay a privilege license tax. However, the partnership, corporation or other business entity must obtain the license and pay the tax unless exempted by this section.

(b) A person who operates a business for a religious, educational, civic, patriotic, charitable or fraternal purpose, is exempt from obtaining a privilege license or paying a privilege license tax.

(c) Owners of real property who lease that property need not obtain a privilege license or pay a privilege license tax solely for acting as a lessor of that property.

(Code 1993, § 5-83; Ord. of 6-6-1988, § 5-1.4)

State law reference—Charitable solicitations, G.S. ch. 131C.

Sec. 14-97. Proration of tax; seasonal businesses.

(a) Except when a tax is based on gross receipts, if a business is begun after April 1, but before September 1, the tax shall be one-half of the amount otherwise due.

(b) Except when a tax is based on gross receipts, a person who is seasonal in nature is liable for one-half of the amount of tax otherwise due.

(c) When any business is begun after April 1, the licensee shall pay a privilege license tax equal to one-half the amount set forth in the schedule B license ordinance, kept on file in the office of the city clerk.

(Code 1993, § 5-84; Ord. of 6-6-1988, §§ 5-1.5, 5-1.6)

Sec. 14-98. Period in which license is valid.

(a) Unless otherwise provided, a license issued pursuant to this article is valid for that 12 month period beginning September 1 and ending August 31. The tax is due September 1 of each year. However, if a person begins business after September 1 in any year, the tax for that year is due before the business is begun.

(b) If a license is issued for a period of one day, one week, or some comparable period of less than a full license year, the licensee may not continue the business beyond the period for which the license is issued. The tax on such a business is due not later than the day prior to commencement of the business.

(c) If for any reason a licensee discontinues his business during a license year, he is not entitled to a refund.

(Code 1993, § 5-85; Ord. of 6-6-1988, § 5-1.8)

Sec. 14-99. Separate businesses; multiple businesses.

(a) A separate license is required and a separate tax must be paid for each separate place of business operated by the same person.

(b) If two or more separate taxable businesses are operated at the same location by the same owner, the tax collector may issue one privilege license upon the payment of the total amount of taxes for all the businesses.

(Code 1993, § 5-86; Ord. of 6-6-1988, § 5-1.10)

Sec. 14-100. Assignments.

(a) A license under the provisions of this article is not assignable, except that when a business carried on at a fixed place is sold as a unit to any person and the purchaser thereof elects to carry on the same business at the same location, the license may be assigned to the purchaser unless otherwise prohibited by law.

(b) The assignee of a privilege license shall deliver the license, properly assigned, to the tax collector, together with a written statement that the business has been sold as a unit and that the purchaser is to carry on the same business at the same location.

(Code 1993, § 5-87; Ord. of 6-6-1988, § 5-1.11)

Sec. 14-101. Change in place of business.

If a person who has obtained a license for a business desires to move from one business location to another within the city, 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 15 day

period after the change in location, however, such person shall inform the tax collector of the change in address.

(Code 1993, § 5-88; Ord. of 6-6-1988, § 5-1.13)

State law reference—Similar provisions, G.S. 105-33(d).

Sec. 14-102. Duty to determine whether tax due.

(a) Each person has the duty to determine whether the business he conducts is taxed under this article, and if so, whether that tax has been paid for the current tax year.

(b) If the tax collector has reason to believe that a person is conducting a business in the city in violation of this article, he shall conduct an investigation to determine the person's tax liability.

(Code 1993, § 5-89; Ord. of 6-6-1988, § 5-1.14)

Sec. 14-103. Duty to post license.

Each person issued a license under this article shall post the license in a conspicuous place in his regular place of business, where it may be inspected at appropriate times by the proper city officials. If a machine or other item of personal property is licensed, the license shall be affixed to such machine or item.

(Code 1993, § 5-90; Ord. of 6-6-1988, § 5-1.15)

Sec. 14-104. Collection of unpaid tax.

(a) If a person begins or continues to engage in business taxed under this article without payment of the required privilege license tax, the tax collector may use either 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;
- (2) The remedy of levy and sale of real and personal property and other remedies as provided in G.S. ch. 105.

(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.

(c) A violation of section 14-93 constitutes a misdemeanor. Payment of a fine imposed in criminal proceedings pursuant to this section does not relieve a person from his liability for taxes imposed under this article.

(d) A violation of sections 14-93 or 14-103 shall subject the offender to a civil penalty of \$10.00. If the offender does not pay the penalty within ten days after he has been cited for a violation, the city may attempt to recover the penalty by filing a civil action in the nature of debt. Payment of this civil penalty does not relieve a person of his liability for taxes imposed under this article.

(e) The city may seek appropriate equitable relief from a court of competent jurisdiction to prevent or redress violations of this article.

(f) Each day that a violation of sections 14-93 or 14-103 exists after the person has been notified of the violation shall constitute a separate and distinct offense.

(g) This article may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(Code 1993, § 5-91; Ord. of 6-6-1988, § 5-1.16)

State law references—Misdemeanor, G.S. 14-4; remedies, G.S. 105-366, 105-368, 105-375, 160A-207.

Sec. 14-105. Revocation and suspension.

(a) Any privilege license issued by the city pursuant to this article shall be subject to revocation or suspension for a definite or indefinite time by the city council, without refund of any part of the privilege license tax paid if the person to whom the privilege license is issued, or the manager, or the person in charge of the business, or any employees of the business shall violate any ordinance or law relative to such business, or be convicted of a felony, or if the business by reason of the nature or the manner or the place in which it is conducted, constitutes a nuisance, or is a menace to good order or to public safety or morals of the community. Upon the revocation of or suspension of any such privilege license it shall be unlawful for the person to whom such license was granted to continue to conduct such business.

(b) No license shall be suspended or revoked by the city council without just cause.

(c) Any business which continues to operate after the revocation or suspension of a privilege license shall be subject to the fines and penalties as if said business were operating without a privilege license pursuant to this article. (Code 1993, § 5-92; Ord. of 9-10-1990)

Sec. 14-106. Notice and hearing.

(a) Before the city council revokes a privilege license issued pursuant to section 14-101, the city council shall cause a written notice to be sent by certified mail to the licensee affected at the address stated on the privilege license. This notice shall advise the licensee of the grounds asserted by the city for revocation or suspension and that he has a right to appear before the city council with or without legal counsel and to present evidence at a scheduled time and place.

(b) The city council shall hold a hearing during a regular or special city council meeting scheduled pursuant to G.S. 160A-71, to determine if the licensee's privilege license shall be revoked or suspended.

(c) At said hearing a quorum of the city council must be present pursuant to G.S. 160A-74, and any action by the city council must be by majority vote pursuant to G.S. 160A-75.

(d) At this hearing the affected licensee shall have the right to hear all evidence presented against him to cross examine all witnesses at the hearing. The affected licensee shall also have a right to call witnesses and to present any evidence relevant to the grounds asserted for such revocation or suspension. (Code 1993, § 5-93; Ord. of 9-10-1990)

Secs. 14-107—14-125. Reserved.

ARTICLE V. PEDDLING AND SOLICITATION*

DIVISION 1. GENERALLY

Sec. 14-126. Soliciting; permit required.

Persons wishing to engage in door-to-door sales or solicitation, or on-the-street sales or solicitation, shall apply for a permit to perform such sales or solicitation. (Code 1976, § 16-2; Code 1993, § 5-112)

Sec. 14-127. Application; fee; bond.

Persons wishing to engage in door-to-door or on-the-street sales or solicitations shall file a timely application therefor with the city manager, pay such fee as may be established, and pay a bond as may be required. (Code 1976, § 16-3; Code 1993, § 5-113)

Sec. 14-128. Compliance with rules, regulations.

Persons wishing to engage in door-to-door or on-the-street solicitation shall, upon the granting of a permit therefor, comply with all rules and regulations of the city. (Code 1976, § 16-4; Code 1993, § 5-114)

Sec. 14-129. Door-to-door canvassing without invitation.

(a) No peddler, hawker, itinerant merchant, transit vendor or solicitor for the sale of merchandise or periodicals, whether the same be delivered at the time of the soliciting or later delivered by mail or otherwise, shall go in or upon private residences, offices or places of business, not having been requested or invited to do so by the owner, or occupant thereof, for the purpose of soliciting the sale of merchandise or periodicals.

*State law references—Soliciting on streets, G.S. 20-175; charitable solicitation, G.S. ch. 131C; authority to regulate itinerant merchants and solicitation campaigns, G.S. 160A-178; authority to regulate begging, G.S. 160A-179.