



# MEMORANDUM

---

**To:** Mayor and City Councilors

**From:** Rich Olson, City Manager

**Date:** July 8, 2015

**Re:** Consideration – Call for a Public Hearing to gather citizen input regarding adoption of a proposed Business Registration Ordinance

---

***BACKGROUND:***

As the City Council is aware, Governor Pat McCrory signed House Bill 1050 into law on May 28, 2014 eliminating the authority of municipalities to levy privilege license taxes effective July 1, 2015. Although the loss of privilege license revenue is a major issue for the City of Elizabeth City (approximately \$280,000 per year), City staff has an additional concern regarding how to keep track of the businesses in our City for zoning and public safety concerns, now that privilege licenses are no longer available to us.

***ANALYSIS:***

Cities and counties are authorized to license and regulate businesses in their jurisdictions under [G.S. 153A-134](#) (counties) and [G.S. 160A-194](#) (cities), even though the authority to levy a privilege license tax no longer exists. According to guidance we have received from the School of Government (SOG), these statutes might authorize a business registration system and a minimal registration fee that could help a local government keep track of businesses operating in its jurisdiction. Although the SOG believes this is likely the case, they do not know for sure because state courts have not opined on the matter.

With that said, SOG has advised that if a city were to adopt a registration system it would be wise to exempt from that requirement the businesses described in 160A-194(b) and (c) (see attached). While an argument supporting the decision to include these businesses in a registration requirement could be made, we think a conservative approach is best.

Assuming that an annual fee could be charged for this type of regulatory system, that fee should not be viewed as a replacement for lost privilege license tax revenue. Regulatory fees must be tied to the cost of the related regulatory system. A business registration system that does not involve inspections or background checks would be relatively inexpensive. The SOG has offered that

fees above \$10 or \$20 per business would run the risk of being viewed as unreasonable by a court.

***FINANCIAL:***

City staff believes a business registration system would be prudent to assist in the management of the City's zoning and public safety responsibilities. It is staff's recommendation that the City Council consider calling for a Public Hearing to gather citizen input regarding adoption of an ordinance to place business registration requirements in the City's Code of Ordinances. Staff recommends that a fee of \$20 per year be considered and that the registration process be effective beginning September 1, 2015 and annually thereafter.

The registration fee would apply to any business, which previously was required to have a privilege license. If this fee was adopted by the City Council, staff would anticipate approximately \$22,000 in revenue annually.

The Finance Committee discussed this matter during their meeting of July 8, 2015. Upon motion made by Councilman Donnelly, seconded by Mayor Peel, the committee unanimously recommended approval by the City Council.

***STAFF RECOMMENDATION:***

By motion, direct staff to craft a proposed ordinance to establish a business registration program in the City's Code of Ordinances and 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 adoption of same.

RCO/vdw

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

(a) **(Effective until July 1, 2015)** 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.

(a) **(Effective July 1, 2015)** 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.

(b) Nothing in this section shall authorize a city to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

(c) Nothing in this section shall authorize a city to regulate and license digital dispatching services for prearranged transportation services for hire. (1971, c. 698, s. 1; 2013-413, s. 12.1(a); 2014-3, s. 12.3(c); 2014-115, s. 17.)