

Chapter 10

BUSINESSES*

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Cross References: Alcoholic beverages, ch. 3; pool and billiards, § 4-36 et seq.; vehicles for hire, ch. 32.

State Law References: Municipal authority to regulate and license businesses, trades, etc., G.S. 160A-194, 160A-211.

Addition to Article I of the City of Cherryville Code of Ordinances

Section 10-2 Farmers Market

Sec. 10-2 Farmers Market Defined

The City of Cherryville recognizes the link between a high quality of living, fresh produce and promoting North Carolina agricultural products. In this spirit the City of Cherryville creates a down town farmers market located at 216 E. Main Street. The market will be open from May 1 through October 31, (day to be determined) (time to be determined). During the normal hours of operation of the market no peddler's license will be required for farmers or other local growers to sell their produce. Enforcement of the rules, regulations or conflicts at the farmers market shall be made by the City Manager and/or his designees.

(effective 5-13-2013 by City Council)

ARTICLE I.**IN GENERAL****Sec. 10-1. Itinerant merchants, peddlers and hawkers operating on Sunday.**

(a) It shall be unlawful for any person to operate as an itinerant merchant, peddler or hawker on Sunday within the city.

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

- (1) *Hawker* means a trader who goes from place to place selling goods which he carries with him.
- (2) *Itinerant merchant* means a person engaged in the transient selling of goods from place to place.
- (3) *Peddler* means a person who sells goods which he carries with him in traveling about from place to place.

(c) It shall constitute a misdemeanor for any person to violate the provisions of this section, and in such event any such person shall be subject to the penalties provided by section 1-11.

(Code 1973, § 14-15)

State Law References: Authority of city to license and regulate peddlers, itinerant merchants, etc., G.S. 160A-178.

Secs. 10-2--10-35. Reserved.

ARTICLE II.**LICENSES***

* **State Law References:** Municipal authority to levy privilege license taxes, G.S. 160A-211.

Sec. 10-36. 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:

Agent means the person having the agency for the manufacturer, producer or distributor.

Business means any business, trade, occupation, profession, avocation or calling of any kind, subject by the provisions of this article, to a license tax.

Engaged in the business means engaged in the business as owner or operator.

Fiscal year means the period beginning with July 1 and ending with June 30 next following.

Quarter means any three consecutive months.
(Code 1973, § 11-1)

Cross References: Definitions generally, § 1-2.

Sec. 10-37. Levy of tax generally; transfer.

In addition to the tax on property as otherwise provided for and under the power and authority conferred in the laws of the state, there shall be levied and collected annually, or more often where provided for, a privilege license tax on trades, professions, agencies, business operations, exhibitions, circuses and all subjects authorized to be licensed as set out in this article. All licenses shall be a personal privilege and shall not be transferable. Nothing contained in this section shall be construed to prevent the city council from imposing, from time to time as they see fit, such license taxes as are not specifically provided for by this article, from increasing or decreasing the amount of any special license tax or from prohibiting or regulating the business or acts licensed. All licenses are granted subject to the provisions of this Code and other ordinances of the city.
(Code 1973, § 11-2)

Sec. 10-38. Application; grant by finance director; revocation.

Any person engaged or desiring to engage in any profession, business or trade shall make application in writing to the finance director stating the name, location and character of his business, trade or profession which he proposes to conduct and the name of the applicant. The finance director, if he or she finds that such business, trade or profession is legal, shall grant such license and give to the person to whom it was issued the right to conduct such business, trade or profession within the corporate limits during the time stated in such license on the payment of the tax in advance as fixed by the city council. Any license issued by the finance director may be revoked for good cause at any time by the finance director subject to the

review of the city council.
(Code 1973, § 11-3)

State Law References: Collection of tax by city tax collector, G.S. 105-33.

Sec. 10-39. Term.

All taxes provided for and fixed in this article shall be for 12 months, unless otherwise specified.
(Code 1973, § 11-4)

Sec. 10-40. Payment date.

All taxes for annual or yearly licenses shall be paid before July 1 in each and every year, except as otherwise provided in this article.
(Code 1973, § 11-5)

Sec. 10-41. Prorating of tax.

Any person commencing business between June 30 and January 1 shall pay the total amount of the annual license tax, between December 31 and April 1 only half of the annual license tax shall be charged and between April 1 and June 30 only one quarter of the annual license tax shall be charged.
(Code 1973, § 11-6)

Sec. 10-42. Engaging in business without license.

It shall be unlawful for any person or his agent or servant to engage in a business in the city for which there is required a license without first having paid the license tax and obtained the license required by this article. For the purposes of this section, the opening of a place of business or offering to sell followed by a single sale or the doing of any act or thing in furtherance of the business shall be construed to be engaging in or carrying on such business.
(Code 1973, § 11-7)

Sec. 10-43. License required for each separate business.

The payment of any particular tax imposed by this article shall not relieve the person paying the same from the payment of any other tax imposed by this article for any other business he may carry on, unless so provided by the section imposing such tax, it being the intent of this article that license taxes prescribed by various sections or subsections of this article applicable to any business shall be cumulative, except where otherwise specifically provided.
(Code 1973, § 11-8)

Sec. 10-44. License required for each place of business;

moving or selling business.

A license issued for the privilege of conducting a business is only valid for the business conducted at the place and by the licensee named therein. Every person doing business in more than one factory, mill, warehouse, store, stall or stand or other place of business shall secure a separate license for each such place of business, unless such places of business are contiguous to each other, communicate directly with and open into each other and are operated as a unit. If the business is moved or if the licensee sells to another, then a new license is necessary, unless a special permit to continue business under the original license is obtained from the city council.
(Code 1973, § 11-9)

Sec. 10-45. Display.

Every license issued under this article shall be kept prominently displayed at the place of business, if the licensee has no fixed place of business, such licensee shall keep such license wherever such business is being operated and where it can be inspected at any time by the proper city official.
(Code 1973, § 11-10)

Sec. 10-46. Refund of tax on discontinuance of business.

No license tax shall be abated nor shall any refund of any part thereof be made in any case where the licensee discontinues his business before the end of the period for which such license was issued.
(Code 1973, § 11-11)

Sec. 10-47. Religious or charitable organization.

The license tax imposed by this article shall not apply to any business operated by any strictly religious or charitable organization when the proceeds of such business are for the exclusive benefit of such organization.
(Code 1973, § 11-12)

State Law References: Exemptions for charitable organizations, G.S. 105-40.

Sec. 10-48. Schedule of fees.

The amounts of the license taxes imposed under this article shall be as are established from time to time by the city council. The schedule of such taxes shall be maintained on file in the finance director's office.
(Code 1973, § 11-13)

State Law References: License taxes generally, G.S. 105-33.

ec. 10-49. City not to compete with private businesses.

The city shall not engage in any business, service or enterprise wherein such business, service or enterprise shall be in competition with private businesses to the damage or harm of private competitors; except, that in cases of emergency, cases affecting public health and safety, and the abatement of public nuisances as defined in section 14-38, the city council may authorize a reasonable charge for such service for the purpose of reimbursement to the city at such time or times as may become necessary.

(Code 1973, § 11-14)



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