

CHAPTER 110: PRIVILEGE LICENSE TAXES

Section

General Provisions

- 110.01 Enactment
- 110.02 Definitions

Levy

- 110.15 Levy of tax
- 110.16 Who must pay tax
- 110.17 Period of license; due date
- 110.18 Proration of tax
- 110.19 Refunds
- 110.20 License required for every separate business
- 110.21 Computation of tax based on gross receipts
- 110.22 Exemptions

Licensing

- 110.35 Application
- 110.36 Unqualified applicants; rights to conference
- 110.37 Refusal or revocation of license
- 110.38 Tax collector to issue license; payment of tax required
- 110.39 Amount of tax disputed
- 110.40 Form and contents of license
- 110.41 Assignments
- 110.42 Changes in business conducted by licensee during tax year
- 110.43 Furnishing duplicates; fee
- 110.44 Record of conferences
- 110.45 Providing notice to applicant or licensee
- 110.46 Revocation of license
- 110.47 Schedule of license fees

Collection and Enforcement

- 110.60 Duty to determine whether tax due
- 110.61 Tax Collector to investigate
- 110.62 Books to be kept
- 110.63 Permitting inspections
- 110.64 Posting of licenses
- 110.65 Notice of deficiency
- 110.66 Request for conference

110.67 Deficiency to become final
 110.68 Conference held
 110.69 Collection of deficiency

110.99 Penalty

GENERAL PROVISIONS

• 110.01 ENACTMENT.

This chapter is enacted for revenue purposes only. Therefore, it should be construed to require payment of the maximum tax permitted under its terms. In addition issuance of a license in accordance with this chapter does not excuse a licensee from compliance with any other applicable ordinance or statute. This chapter does not prevent the city from imposing license taxes on additional businesses, from increasing or decreasing the amount of any license tax, or from regulating any business taxed.

(Ord. passed 6-26-90)

• 110.02 DEFINITIONS.

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

BUSINESS. Each trade occupation, profession, business, and franchise taxed under this chapter.

PERSON. Any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

SEASONAL. A business is Aseasonal@ in nature when it is conducted for profit six months out of the year or less.

(Ord. passed 6-26-90)

LEVY

• 110.15 LEVY OF TAX.

An annual privilege license tax is hereby levied on each business conducted within this city listed in ' 110.47 of this chapter in the amounts set forth in that section.

(Ord. passed 6-26-90)

• 110.16 WHO MUST PAY TAX.

Each person who conducts a business within the city is subject to this chapter. A person Aconducts business@ when he engages in one act of business taxed under the chapter. He conducts the business Awithin the city@ if he maintains a business location within the city limits; or if, either personally or through agents, he (1) solicits business within the city limits or (2) picks up or delivers goods or services within the city limits.
(Ord. passed 6-26-90)

• 110.17 PERIOD OF LICENSE; DUE DATE.

(A) Annual licenses. Unless the ' 110.47, levying the privilege license tax applicable to a particular business, provides otherwise, a license issued in accordance with this chapter is good for the 12 month period beginning July 1 and ending June 30. The tax is due on July 1 of each year. However, if a person begins a business after July 1 of a year, the tax for that year is due before the business is begun.

(B) Licenses for periods shorter than one year. If ' 110.47, levying the privilege license tax applicable to a particular business, so provides, a license may be issued for a period of one day, one week, or some comparable period of less than a full license year. A person may not commence a business conducted within the city and taxed under a provision until the privilege license tax due is paid and may not continue a business beyond the period for which the license is issued.
(Ord. passed 6-26-90)

• 110.18 PRORATION OF TAX.

If a business is begun after January 31 and before July 1, the amount of tax due is half the amount otherwise due. If a business is seasonal in nature and if the amount of tax is not based on gross receipts, the amount of tax due is half the amount otherwise due.
(Ord. passed 6-26-90)

• 110.19 REFUNDS.

If for any reason a licensee discontinues his or her business during the license year, he or she is not entitled to a refund.
(Ord. passed 6-26-90)

• 110.20 LICENSE REQUIRED FOR EVERY SEPARATE BUSINESS.

A separate license is required and a separate privilege license tax must be paid for each place of business unless two or more places of business under common ownership are contiguous to each other, communicate directly with and open into each other with and open into each other and are operated as a unit. In addition a separate privilege license tax must be paid for each business taxable under this chapter conducted by the taxpayer at any one location; however, the tax collector may issue a single license for all taxable business conducted at one location by a single taxpayer.
(Ord. passed 6-26-90)

• 110.21 COMPUTATION OF TAX BASED ON GROSS RECEIPTS.

(A) Whenever this chapter levies a privilege license tax computed on the basis of gross receipts. **GROSS RECEIPTS** means the amount reported as gross receipts on a business's state income tax return, or on the federal income tax return 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.

(B) If business has not been in operation long enough for the information required in division (A) of this section to be available, the tax collector shall estimate gross receipts for the business on the basis of gross receipts of comparable businesses, or any other information that the tax collector considers useful.

(C) On or before the July 31 immediately after the license year, each licensee who paid the tax for the past license year based on estimated gross receipts shall submit to the tax collector a sworn final report showing the amount of gross receipts for the license year. If the amount shown is more than estimated gross receipts, the licensee shall pay the amount of additional tax that would have been due had the gross estimate been accurate. If the amount shown is less than estimated gross receipts, the city shall refund to the licensee the difference between the actual tax paid and the amount of tax that would have been due had the estimate been accurate.
(Ord. passed 6-26-90)

• 110.22 EXEMPTIONS.

(A) Generally. Except as otherwise provided in this chapter or by state law, no person is exempt from the payment of a privilege license tax levied by this chapter.

(B) Charitable organizations. A person who operates a business for a religious, educational, civic, patriotic, charitable, or fraternal purpose, when the entire gross income of the business is used for the purpose, is exempt from paying any privilege license tax levied by this chapter.

(C) Blind persons and members of the armed forces and merchant marine. Blind persons and persons who serve in the United States armed forces or the merchant marine are exempt from paying any privilege license tax levied by this chapter to the extent provided by G.S. 105-249 and G.S. 105-249.1

(D) Must obtain license. A person exempt from paying a privilege license tax levied by this chapter shall nevertheless obtain a license from the tax collector. The license shall state that the licensee is exempt from paying the privilege license tax.
(Ord. passed 6-26-90)

LICENSING**• 110.35 APPLICATION.**

A person shall apply to the tax collector for each license required by this chapter no less than 30 days before the date the tax is due. The application, which shall be submitted on forms provided by the tax collector, shall contain:

(A) The name of the applicant and whether the applicant is an individual, a partnership, a corporation, or some other entity.

(B) The nature of the business.

(C) Where the business is conducted.

(D) An address where notices and statements may be mailed to as required by this chapter.

(E) Whether the business is regulated by a state occupational licensing board subject to G.S. Chapter 93B, and if so, the serial number of the state license the applicant currently holds.

(F) Any other information the tax collector determines to be necessary to compute the amount of tax due.
(Ord. passed 6-26-90)

• 110.36 UNQUALIFIED APPLICANTS; RIGHTS TO CONFERENCE.

(A) After receipt of the completed application, if the tax collector believes that a reason exists for refusing a license under ' 110.37 of this subchapter, the tax collector shall refuse to accept payment of the tax and shall not issue the license. At the applicant's request, the tax collector shall, in accordance with ' 110.45 of this subchapter, give the applicant a written statement of the reason for refusing the license. The applicant may, within 10 days after the day the statement is received, request a conference to discuss the refusal. In the request the applicant shall specify why the application for a license should not be refused. The tax collector shall arrange the conference within a reasonable time.

(B) If the collector refuses to issue a license, the applicant may reapply for a license at any time thereafter. If the reason for which the application was refused no longer exists, and if no other reason exists for refusing to issue a license, the tax collector shall issue the license in compliance with ' 110.38 of this subchapter.
(Ord. passed 6-26-90)

• 110.37 REFUSAL OR REVOCATION OF LICENSE.

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

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

(B) The applicant refuses to provide information necessary to compute the amount of tax due.
(Ord. passed 6-26-90)

• 110.38 TAX COLLECTOR TO ISSUE LICENSE; PAYMENT OF TAX REQUIRED.

After receipt of the completed application, if the tax collector believes that no reason exists for refusal of a license under ' 110.37 of this subchapter, the tax collector shall determine the amount

of tax due and notify the applicant of that amount. The tax collector shall not issue a license until the tax is paid.
(Ord. passed 6-26-90)

• **110.39 AMOUNT OF TAX DISPUTED.**

If disputes arise over the amount the tax collector determines to be due, the applicant may either refuse to pay and request a conference with the tax collector to discuss the right to a refund. If a conference is requested, the tax collector shall arrange it within a reasonable time.

(Ord. passed 6-26-90)

• **110.40 FORM AND CONTENTS OF LICENSE.**

A license shall show the name of the person licensed, the place where the business is conducted (if it is to be conducted at one place), the nature of the business licensed, the period for which the license is issued, and the amount of tax paid. In addition if a machine is licensed, the license shall show the serial number of the machine. The tax collector shall keep a copy of each license issued.

(Ord. passed 6-26-90)

• **110.41 ASSIGNMENTS.**

A license may be assigned if a business licensed under this subchapter and carried on at a fixed place is sold as a unit to any person, and the purchaser is to carry on the same business at the same place. The change shall be reported to the tax collector in accordance with ' 110.42 of this subchapter. Otherwise, each license issued under this subchapter is a personal privilege and is not assignable.

(Ord. passed 6-26-90)

• **110.42 CHANGES IN BUSINESS CONDUCTED BY LICENSEE DURING TAX YEAR.**

A licensee or an assignee shall report a change in the information contained in the license application to the tax collector within ten days after the change occurs. If information shown on the license itself is affected, the license itself is affected, the licensee or assignee shall surrender the license to the tax collector when reporting the change.

(A) *Changes affecting the amount of tax due.* If there are no reasons for revoking the license under ' 110.37 of this subchapter and the change results in the imposition of a separate or additional tax, the tax collector shall reissue a license reflecting the change upon payment of the separate or additional tax.

(B) *Changes not affecting the amount of tax due.* If there are no reasons for revoking the license under ' 110.37 of this subchapter and the change does not result in imposition of a separate or additional tax, the tax collector shall reissue a license reflecting the change upon payment of a fee of \$5.

(C) *Change requiring refusal of a license.* If there is reason for revoking the license under ' 110.37 of this subchapter, the tax collector shall refuse to reissue a license and shall instead begin proceedings to revoke the license in accordance with ' 110.18 of this chapter.

(Ord. passed 6-26-90)

▪ **110.43 FURNISHING DUPLICATES; FEE.**

Upon satisfactory proof that a license has been lost or destroyed, the tax collector shall furnish a duplicate for a fee of \$5.

(Ord. passed 6-26-90)

▪ **110.44 RECORD OF CONFERENCES.**

The tax collector shall maintain for three years a record of each conference held in accordance with this article. The record shall contain the applicant's or licensee's name, the date of the conference, and a brief statement of the issues discussed and the result reached. After three years, the tax collector shall dispose of the record in accordance with G.S. 121-5.

(Ord. passed 6-26-90)

▪ **110.45 PROVIDING NOTICE TO APPLICANT OR LICENSEE.**

Whenever this subchapter requires the tax collector to give a written statement or notice to an applicant or a licensee, the tax collector may do so in one of three ways:

(A) By personally delivering the statement or notice to the applicant or licensee;

(B) By mailing the statement or notice by registered or certified mail and returning the receipt requested to the address specified for that purpose in the license application;

(C) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service of process under Rule 4, North Carolina Rules of Civil Procedure.

(Ord. passed 6-26-90)

▪ **110.46 REVOCATION OF LICENSE.**

(A) The tax collector shall revoke a license if a reason exists to revoke it as set forth in ' 110.37 of this subchapter. Before revoking a license, the tax collector shall give the licensee written notice of the grounds for revocation, in accordance with ' 110.45 of this subchapter. The licensee may within ten days after the day on which notice is served request a conference with the tax collector in writing. The request shall specify the reasons why the license should not be revoked. The tax collector shall arrange the conference within a reasonable time.

(B) If the licensee fails to request a conference within ten days after the day on which notice is served, the tax collector shall revoke the license. If the licensee requests a conference, the tax collector may not revoke the license until after the conference.

(C) If the tax collector revokes a license, the former licensee may apply for a new license at any time thereafter. If the reason for which the license was revoked no longer exists and if no other reason exists for refusing to issue a license, the tax collector shall issue the license in accordance with ' 110.38 of this subchapter.

(Ord. passed 6-26-90)

• **110.47 SCHEDULE OF LICENSE FEES.**

The following list of activities shall hereby have levied upon them an annual privilege license tax. The amount of tax for some activities shall be as provided in *schedule B*, which is hereby incorporated by reference; otherwise, the amount of tax for each activity is set forth below:

<i>Activity</i>	<i>Amount of tax</i>
Automobile dealers	\$20
Barbershops and beauty parlors, per employee	2.50
Bicycle dealers	10
Bowling alleys per ally	10
Campgrounds and trailer parks	12.50
Chain stores	50
Circuses and animal stores	Refer to schedule B
Collection agencies	25
Contractors	10
Day care centers	10
Dealers in firearms and other weapons	200
Dry cleaners	25
Electronic video games, per machine	5
Elevators and sprinkler systems, installing	100
Flea market operators, peddlers, and vendors:	
Peddler of farm products only	25
Peddler on foot	10
Peddler with vehicle	25
Itinerant merchants	100
Flea market operators	25
Fortune tellers	250
General amusements:	
Entertainments	7.50
Dances	2.50
Hotels and motels	Refer to schedule B
Ice cream:	
Manufacturers	10
Sellers	2.50

Privilege License Taxes

<i>Activity</i>	<i>Amount of tax</i>
Laundries: Inside city	50
Outside city	12.50
Loan agencies	100
Motorcycle dealers	10
Movie theaters, indoor	31.25
Movie theaters, outdoor	31.25
Music machines, per machine	5
Oils, sale of certain	25
Outdoor advertising	7.50
Packing houses	100
Pawnbrokers	200
Pianos and record players, sale of	5
Pinball machines and similar amusements	10
Plumbing, heating contractors, and electricians	12.50
Pool tables, per table	5
Restaurants, minimum (Based on \$.50 per seat)	2.50 (Refer to schedule B)
Security dealers	50
Service stations, per pump	1.25
Sundries, per location	4
Tobacco warehouses, per warehouse	50
Undertakers	12.50
Wholesale supply dealers	12.50

(Ord. passed 6-26-90)

COLLECTION AND ENFORCEMENT

• 110.60 DUTY TO DETERMINE WHETHER TAX DUE.

Each person has the duty to determine whether the business he or she conducts is taxed under this

chapter and if so, whether that tax has been paid for the current tax year.
(Ord. passed 6-26-90)

▪ **110.61 TAX COLLECTOR TO INVESTIGATE.**

If the tax collector has reason to believe that a person is conducting a business in the city in violation of this chapter, the tax collector shall conduct an investigation to determine the person's tax liability.
(Ord. passed 6-26-90) Penalty, see ' 110.99

▪ **110.62 BOOKS TO BE KEPT.**

Each person who conducts a business taxed under this chapter shall keep all records and books necessary to compute the tax liability. If a person fails to keep books and records required, the tax collector shall make a determination of that person's tax liability from the information available.
(Ord. passed 6-26-90)

▪ **110.63 PERMITTING INSPECTIONS.**

Each person who conducts business in the city shall permit the tax collector to inspect the business premises during normal business hours to determine the nature of the business conducted there and to determine the nature and amount of business transacted.
(Ord. passed 6-26-90)

▪ **110.64 POSTING OF LICENSES.**

A licensee shall post the license or licenses conspicuously in the place of business licensed. If the licensee has no regular place of business, the license must be kept where it may be inspected at all times by the proper city official. If a machine is licensed, the license shall be affixed to the machine.
(Ord. passed 6-26-90)

▪ **110.65 NOTICE OF DEFICIENCY.**

If the tax collector determines that a person has not paid the full amount of tax due under this chapter, either for the current license year or for a prior license year, the tax collector shall give the person written notice of the deficiency, in accordance with ' 110.45 of this chapter. The notice of deficiency shall specify the total amount of tax due; the section of this chapter upon which the tax is based; the amount of tax paid; any interest due; the balance owed; the manner and time period in which the person may respond to the notice of the deficiency; and the consequences of failing to respond as specified.
(Ord. passed 6-26-90) Penalty, see ' 110.99

• 110.66 REQUEST FOR CONFERENCE.

(A) The person may, within ten days after the day on which notice is served, request a conference in writing. The request shall specify the person's objections to the notice of deficiency.

(B) By way of illustration but not limitation, a person who receives notice of a deficiency may object on the following grounds:

(1) That the tax due has already been paid;

(2) That the tax collector miscalculated the amount of tax due;

(3) That the tax collector based his calculation on incorrect or insufficient information concerning either the nature or the amount of business conducted;

(4) That the tax collector based the determination on an erroneous interpretation of a section of this chapter that establishes a category of business subject to a particular tax.
(Ord. passed 6-26-90)

• 110.67 DEFICIENCY TO BECOME FINAL.

If the taxpayer fails to request a conference under ' 110.66 of this subchapter, the deficiency becomes final and the tax collector shall proceed to collect the deficiency.
(Ord. passed 6-26-90) Penalty, see ' 110.99

• 110.68 CONFERENCE HELD.

If the taxpayer requests a conference, the tax collector shall not proceed to collect the deficiency until hearing the taxpayer's objections and determining that the deficiency should become final. The tax collector shall maintain a record of each conference held for three years in accordance with ' 110.66 of this subchapter. The record shall contain the name of the taxpayer, the date of the conference, a brief statement of the issues discussed, and the results of the discussion. After three years, the tax collector shall dispose of the record in compliance with G.S. 121-5.
(Ord. passed 6-26-90)

• 110.69 COLLECTION OF DEFICIENCY.

(A) The tax collector may use any of the following methods to collect a deficiency:

(1) Criminal prosecution in accordance with ' 110.99 (A) of this chapter;

(2) Equitable relief in accordance with ' 110.99 (B) of this chapter;

(3) The remedies of levy, sale, attachment and garnishment in accordance with G.S. 160A-207;

Boiling Springs - Business Regulations

(4) The remedies of levy and sale of real and personal property of the taxpayer within the city in accordance with the provisions of G.S. 105-109.

(B) Any person who commences or continues to conduct a business taxed under this chapter without payment of the tax is liable for an additional tax of 5% every 30 days as imposed by G.S. 105-109.
(Ord. passed 6-26-90)

• 110.99 PENALTY.

(A) Criminal Remedies. Conducting business within this city without having paid the privilege license tax imposed by this chapter, or without a valid license issued in compliance with ' 110.64 of this chapter is a misdemeanor, punishable as provided in G.S. 105-109. Each day that a person conducts business in violation of this chapter is a separate offense. Payment of a fine imposed in criminal proceedings in accordance with this chapter does not relieve a person of the liability for taxes imposed under this chapter.

(B) Equitable Remedies. In addition to the criminal remedies set forth in division (A) above of this section and in compliance with G.S. 160A-175 (d), the city may seek an injunction against any person who conducts a business in violation of this chapter.
(Ord. passed 6-26-90)