

ORDINANCE NO.: 06-2015-ORD14

**AN ORDINANCE PROVIDING FOR THE ISSUANCE OF BUSINESS LICENSES
FOR THE CONDUCT OF BUSINESS WITHIN THE CITY**

City Council of the City of Thomasville

The City Council finds that NCGS Section 153A-134 has been amended by the North Carolina General Assembly to provide that the Privilege Licenses currently required by the City of Thomasville of local businesses may no longer provide for a tax. However, the newly amended Statute continues to permit cities and towns to issue Business Licenses for the effective regulation of commerce within those municipalities.

Therefore, be it enacted that Article IV Privilege License is hereby amended to remove the current Article IV in its entirety, and to replace the former language with the following:

See Exhibit A

The initial fee required by Section 18-181 shall be in the amount of \$25.00.

This Ordinance shall be effective on July 1, 2015.

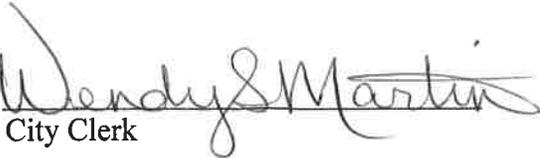
Upon the motion of a member of Council Pat Shelton, and
a second by a member of Council Jackie Jackson, the foregoing
ordinance was passed upon its first reading by a vote of 7 - 0.

This 15th day of June, 2015.

CITY OF THOMASVILLE

By: 
Mayor

Attest:


City Clerk

[SEAL]

ORDINANCE NO.: 07-2015-ORD17

**AN ORDINANCE CORRECTING A TEXTUAL MISTAKE IN THE BUSINESS
LICENSE ENACTING ORDINANCE**

City Council of the City of Thomasville

The City Council has been advised that the Ordinance which amended Article IV to enact a new Article IV Business License, passed under date of June 15, 2015, contained an incorrect statutory reference in the first paragraph of the Preamble on the enacting page. The draftsman incorrectly referenced NCGS Section 153A-134, when in fact the correct statutory reference is NCGS Section 160A-194.

Therefore, be it enacted that the Ordinance passed by this Council at its June 15, 2015 meeting is hereby amended to change the reference in the first line of the first paragraph from NCGS Section 153A-134 to NCGS Section 160A-194. This change shall be retroactive in nature and in all other respects the Ordinance, as passed, remains in full force with no textual changes to Article IV Business License.

Upon the motion of Member of Council Pat Shelton, and a second by Member of Council Scott Styers, the foregoing ordinance amendment was passed upon its first reading by a vote of 6 - 0.

This 20 day of July, 2015.

CITY OF THOMASVILLE

By: Joe G. Bennett
Mayor Joe G. Bennett

Attest:

Wendy S. Martin
City Clerk Wendy S. Martin

[SEAL]



EXHIBIT A

ARTICLE IV Business License

DIVISION 1.- GENERAL

Sec. 18-171. - Definitions.

When used in this chapter (unless the context requires a different meaning):

Administrator shall be the person designated by the City Manager to operate the program required by this Article.

Business includes each trade, occupation, profession, business, and franchise licensed under this chapter.

Person includes any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

A business is *seasonal* in nature when it is conducted for profit six months out of the year or less.

Sec. 18-172. - Construction of this chapter.

This chapter is enacted for regulation purposes only. 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 requiring licenses for additional businesses.

DIVISION 2. – REQUIREMENT FOR LICENSE

Sec. 18-173. – Who must be licensed.

Each person who conducts a business within this city is subject to this chapter. One conducts the business "within the city" if one maintains a business location within the city; or if, either personally or through agents, one (1) solicits business within the city limits or (2) picks up or delivers goods or services within the city limits.

Sec. 18-174. - Period of license; due date.

- (a) *Annual licenses.* Unless the section of this chapter 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.
- (b) *Licenses for periods shorter than one year.* If the section of this chapter 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 until the business license is obtained and may not continue such a business beyond the period for which the license is issued.

Sec. 18-175. - Separate businesses.

A separate license is required 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, and are operated as a unit.

Sec. 18-176. - Exemptions.

Except as otherwise provided by state law, no person is exempt from the requirement of obtaining a license required by this chapter.

DIVISION 3. – LICENSES

Sec. 18-177. - Application.

A person shall apply to the Administrator for each license required by this chapter before commencing business. The application, which shall be submitted on forms provided by the Administrator, 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 Administrator determines to be necessary to issue the license.

The application shall be accompanied by the payment of a license fee, which is described in Section 18-181 below. In compliance with state law, this fee shall not exceed the cost to the city of the administrative process of the production and issuance of the license.

Sec. 18-178. - Reasons for refusal or revocation of a license.

The Administrator 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 his or her qualifications for a license.
- (b) The applicant refuses to provide necessary information.

Sec. 18-179. - Unqualified applicants; right to a conference.

After receipt of the completed application, if the Administrator believes that a reason exists for refusing a license under Section 18-178 of this chapter, the Administrator shall not issue the license. At the applicant's request, the Administrator shall in accordance with Section 18-188 of this chapter, give the applicant a written statement of the reason for refusing the license. The applicant may, within ten 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 Administrator shall arrange the conference within a reasonable time.

If the Administrator 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 Administrator shall issue the license in compliance with Section 18-180 of this chapter.

Sec. 18-180. - Administrator to issue license; payment of license fee a prerequisite.

After receipt of the completed application and payment of the license fee, if the Administrator believes that no reason exists for refusal of a license under Section 18-178 of this chapter, the Administrator shall issue the license.

Sec. 18-181. – License Fee.

The fee required of every applicant for any business conducted or engaged in within the city as required by this Article shall be set forth and made a part of the Schedule of Fees and Charges adopted by the City Council, as amended from time to time. Notwithstanding the foregoing, the fee shall in no case be more than the maximum permitted by North Carolina law for that particular business or enterprise.

Sec. 18-182. - Revocation.

The Administrator shall revoke a license if a reason exists to revoke it as set forth in Section 18-178 of this chapter. Before revoking a license, the Administrator shall give the licensee written notice of the grounds for revocation, in accordance with Section 18-188 of this chapter. The licensee may within ten days after the day on which notice is served request a conference with the Administrator in writing. The request shall specify the reasons why the license should not be revoked. The Administrator shall arrange the conference within a reasonable time.

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

If the Administrator 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 Administrator shall issue the license in accordance with Section 18-180 of this chapter.

Sec. 18-183. - 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 and the period for which the license is issued. The Administrator shall keep a copy of each license issued.

Sec. 18-184. - Assignments

A license may be assigned if (1) a business licensed under this chapter and carried on at a fixed place is sold as a unit to any person, and (2) the purchaser is to carry on the same business at the same place. Such a change shall be reported to the Administrator in accordance with Section 18-185 of this chapter. Otherwise, each license issued under this chapter is a personal license and is not assignable.

Sec. 18-185. – Changes in the business conducted by licensee during the year.

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

(a) Fee for change. If the change does not result in a separate license fee, the Administrator shall reissue a license reflecting the change upon payment of a fee of \$5.00.

(b) Change requiring refusal of a license. If there is reason for revoking the license under Section 18-178 of this chapter, the Administrator shall refuse to reissue a license and shall instead begin proceedings to revoke the license in accordance with Section 18-182 of this chapter.

Sec. 18-186. - Administrator to furnish duplicates.

Upon satisfactory proof that a license has been lost or destroyed, the Administrator shall furnish a duplicate for a fee of \$5.00.

Sec. 18-187. – Record of conferences.

The Administrator 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 Administrator shall dispose of the record in accordance with G.S. 121-5.

Sec. 18-188. – Providing notice to an applicant or licensee.

Whenever this chapter requires the Administrator to give a written statement or notice to an applicant or a licensee, the Administrator 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; or
- (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.

DIVISION 4. – ENFORCEMENT

Sec. 18-189. – Duty to determine whether license is required.

Each person has the duty to determine whether the business he or she conducts is required to be licensed under this chapter, and if so, whether that license has been obtained.

Sec. 18-190. – Administrator to investigate.

If the Administrator has reason to believe that a person is conducting a business in the city in violation of this chapter, the Administrator shall conduct an investigation to determine the status of the business.

Sec. 18-191. – Duty to permit inspection.

Each person who conducts business in the city shall permit the Administrator to inspect the business premises during normal business hours to determine the nature of the business conducted there.

Sec. 18-192. – Duty to post license.

A licensee shall post the license or licenses conspicuously in the place of business licensed. If the licensee has a regular place of business, the license must be kept where it may be inspected at all times by the proper city officials.

Sec. 18-193. – Enforcement of ordinance.

- (a) *Criminal remedies.* Conducting business within this city without a valid license issued in accordance with this chapter, or without posting a license in compliance with Section 18-192 of this chapter is a misdemeanor, punishable as provided in G.S. § 14-4. Each day that a person conducts business in violation of this chapter is a separate offense.
- (b) *Equitable remedies.* In addition to the criminal remedies set forth in subsection (a) 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.