

CHAPTER 8

TRADE AND BUSINESSES

Article I

DEFINITIONS AND CONSTRUCTION

Sec. 8-1. Definitions

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined below shall have the meaning indicated when used in this chapter.

- (a) "Business" includes any trade, occupation, profession or other activity engaged in by any person or caused to be engaged in by him/her with the object of gain, profit, benefit, or advantage, either direct or indirect, except that the term business does not include occasional and isolated sales or transactions by a person who does not hold him/herself out as engaged in business.
- (b) A person conducts a business "within the city" when he/she maintains a business location within the City of Archdale or when, either personally or through agents, he/she:
 - (1) solicits business within the city; or
 - (2) picks up or delivers goods or services within the city.

Sec. 8-2. Construction of this Chapter

This chapter is enacted primarily for revenue purposes, and therefore it should be construed to require payment of the maximum tax permitted by its terms. Issuance of a license pursuant to this chapter does not excuse the licensee from compliance with any other applicable ordinance or statute. This chapter does not prevent the city from imposing license taxes on additional businesses, increasing or decreasing the amount of any license tax or from regulating any business taxed.

Article II

LEVY OF TAX

Sec. 8-3. License and Payment of Tax Required

An annual privilege license tax is hereby levied on each business conducted within the city limits in the amounts established by state statutes and this ordinance. Any person engaged in business shall be responsible for making certain that the applicable license tax is paid. A person conducts a business when he/she engages in one or more of the acts of business taxed under this ordinance. He/she conducts business within the city if he/she maintains a business location

within the city or if, either personally or through agents, solicits business within the city limits, or picks up or delivers goods or services within the city limits. It is the duty of each person to determine whether the business conducted is taxed under this ordinance, and if so, whether that tax has been paid for the current tax year.

Subject to Section 8-4, no person may conduct any business within the city without having paid the tax required by this chapter or without a valid privilege license issued pursuant to this chapter.

Sec. 8-4. 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) Owners of real property who lease their property are considered to be in the leasing business and are required to obtain a privilege license and pay a privilege license tax. .
- (c) Non-profit organizations for religious, educational, civic, patriotic, charitable, or fraternal purposes shall be exempt from obtaining a privilege license or paying any privilege license tax levied by this chapter.
- (d) Blind persons and persons who serve in the United States Armed Forces or the Merchant Marine are exempt from obtaining a privilege license or paying any privilege license tax levied by this chapter to the extent provided by NCGS 105-249 and 105-249.1.
- (e) Those businesses exempted under North Carolina law from paying a privilege license tax are exempt from obtaining a privilege license or paying a privilege license tax in the City of Archdale.

Secs. 8-5--8-7. Reserved.

Article III

LICENSES

Sec. 8-8. Period of License

- (a) Unless otherwise provided in this chapter, a license issued pursuant to this chapter is valid for that twelve-month period beginning July 1st and ending June 30th. The tax is due July 1st of each year.
- (b) If a person begins business after July 1, the tax for that year must be paid before the business is begun. Except when a tax is based on gross receipts, if a business is begun after January 31 but before July 1, the tax shall be one-half the amount otherwise due.

- (c) If a license is issued for a period of one (1) day, one (1) 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.
- (d) If for any reason a licensee discontinues his/her business during a license year, he/she is not entitled to a refund.
- (e) A license issued under this chapter shall be posted in a conspicuous place at the regular place of business. If there is no regular place of business, the license shall be kept where it may be inspected by city officials. If a machine or other item of personal property is licensed, the license shall be affixed to the machine or item.
- (f) If the revenue collector has reason to believe that a person is conducting business in the city in violation of this ordinance, the revenue collector may conduct an investigation to determine the person's tax liability.

Sec. 8-9. Application

- (a) Every person desiring to obtain a new license for the privilege of doing business within the City shall make an application in writing on the form provided by the City for this purpose. The license will automatically renew and you will be billed accordingly. If you do not want to renew the license or if there are any changes, you must notify the City no less than thirty (30) days before the tax is due.
- (b) The application, which shall be submitted on forms provided by the revenue collector, shall contain:
 - (1) The name of the applicant and whether he/she or it 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 notices and statements may be mailed.
 - (5) Whether the business is one regulated by a state occupational licensing board subject to NCGS 93B, and if so, the serial numbers of the state licenses held by all those who are part of the applicant's business;
 - (6) Any other information the revenue collector determines to be necessary to issue the privilege license in accordance with this chapter.
- (c) Any person who willfully makes a false statement on a license application shall be guilty of a misdemeanor.

- (d) Businesses in the City shall comply with the City's request for information regarding the suppliers and vendors who pick up or deliver goods or services, or solicit business within the City limits.

Sec. 8-10. 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. This applies even if the person is engaged in the same business at two or more locations within the city.
- (b) If two (2) or more separate taxable businesses are operated at the same location by the same owner, the revenue collector may issue one (1) privilege license upon the payment of the total amount of taxes due for all the businesses.

Sec. 8-11. Reasons for Refusal or Revocation of a License

- (a) The revenue collector shall refuse to issue a license or shall revoke a license for any of the following reasons:
 - (1) The applicant misrepresents a fact relevant to the amount of tax due or his/her qualifications for a license.
 - (2) The applicant refuses to provide information necessary to compute the amount of tax due.
- (b) Before revoking a license, the revenue collector shall give the licensee written notice of the grounds for revocation. The licensee may within ten (10) days after the day on which the notice is served request a conference with the revenue collector in writing. The request shall specify the reasons why the license should not be revoked. The revenue collector 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 revenue collector shall revoke the license. If the licensee requests a conference, the license may not be revoked until after the conference.

Sec. 8-12. Unqualified Applicants; Right to a Conference

After receipt of the completed application, if the revenue collector believes that a reason exists for refusing a license under Section 8-11, he/she shall refuse to accept payment of the tax and shall not issue the license. At the applicant's request, the revenue collector shall give him/her a written statement of the reasons for refusing the license per Section 8-19. The applicant may, within ten (10) days after the day the statement is received, request a conference to discuss the refusal. In his/her request the applicant shall specify why his/her application for a license should not be refused. The revenue collector shall arrange the conference within a reasonable time, not to exceed thirty (30) days.

- (b) The applicant may reapply for a license. 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 revenue collector shall issue the license pursuant to Section 8-13.

Sec. 8-13. Revenue Collector to Issue License; Payment of Tax a Prerequisite

After receipt of the completed application, if the revenue collector believes that no reason exists for refusal of a license under Section 8-11, he/she shall determine the amount of tax due and notify the applicant of the amount. The revenue collector shall not issue a license until the tax is paid.

Sec. 8-14. Amount of Tax Disputed

If disputes arise over the amount the revenue collector determines to be due, the applicant may either refuse to pay and request a conference to discuss the determination or pay the amount and request a conference to discuss the right to a refund. If a conference is requested, the revenue collector shall arrange a conference within a reasonable time, not to exceed thirty (30) days. The city council may revise this ordinance for clarification purposes and to address any omissions in order to provide fair and equitable treatment of all applicants. If the revision results in a change in the interpretation of the ordinance that adversely affects current license holders, the license holders so affected may make a written request for a refund.

Sec. 8-15. 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 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 revenue collector shall keep a copy of each license issued.

Sec. 8-16. Assignments

- (a) 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.

- (b) Unless defined in section (a), each license issued under this chapter is a personal privilege and is not assignable.

Sec. 8-17. Changes in the Business Conducted by Licensee During Tax Year

- (a) A licensee or his/her assignee shall report a change in the information contained in the license application to the revenue collector within ten (10) days after the change occurs.

If information shown on the license itself is affected thereby, the licensee or his/her assignee shall surrender the license to the revenue collector when reporting the change.

- (b) If there are no reasons for revoking the license under Section 8-11 and the change results in the imposition of a separate or additional tax, the revenue collector shall reissue a license reflecting the change upon payment of the separate or additional tax.
- (c) If there are no reasons for revoking the license under Section 8-11 and the change does not result in an imposition of a separate or additional tax, the revenue collector shall reissue a license reflecting the change upon payment of a fee of \$5.00.
- (d) If there is reason for revoking the license under Section 8-11., the revenue collector shall refuse to reissue a license and shall instead begin proceedings to revoke the license.
- (e) If a business with a valid privilege license is relocated within the City, the license which has been issued shall be valid for the remainder of the license year at the new location. The person relocating the business shall inform the revenue collector of the change of address.
- (f) In the event a license is lost or destroyed, the licensee must provide satisfactory proof to the revenue collector who will furnish a duplicate for a fee of \$5.00.

Sec. 8-18. Record of Conferences

The revenue collector shall maintain for three (3) years a record of each conference held pursuant to 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. A copy of this record shall be served upon the applicant or licensee per Section 8-19. After three (3) years the revenue collector shall dispose of the record pursuant to NCGS 121-5.

Sec. 8-19. Providing Notice to an Applicant or Licensee

Whenever this chapter requires the revenue collector to give a written statement or notice to an applicant or a licensee, he/she may do so in any one of three ways:

- (1) By personally delivering the statement or notice to the applicant or licensee.
- (2) By mailing the statement or notice by regular first class mail, or registered or certified mail, return receipt requested, to the address specified for that purpose in the license application.
- (3) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service or process under Rule 4, North Carolina Rules of Civil Procedure.

Sec. 8-20. Reserved.

Article IV

LICENSE TAXES

Sec. 8-21. Schedule of Taxes

The Schedule of Taxes shall be maintained by the revenue collector and the city clerk. Changes to the Schedule of Taxes shall be made by city council action during regularly scheduled session.

Sec. 8-23. Levying A Tax On Gross Receipts Derived From Retail Short-Term Lease Or Rental Of Vehicles

Definitions. In addition to the common meanings of words, the following definitions shall be applicable herein:

- (a) “Customer” shall mean any person that leases or rents a vehicle on a short-term lease or rental basis.
- (b) “General Statutes” shall refer to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.
- (c) “Gross receipts” shall mean the amount that is or would be reported as gross receipts on a business’s state income tax return, or on the federal income 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. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.
- (d) “Lease or rental” shall mean a transfer, for consideration, of the use but not the ownership of property to another for a period of time. [G.S. Sec. 105-164.3(7a)]
- (e) “Long-term lease or rental” shall mean a lease or rental made under a written agreement to lease or rent property to the same person for a period of at least three hundred sixty-five (365) continuous days. [G.S. Sec. 105-187.1(3)]
- (f) “Person” shall mean any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.
- (g) “Short-term lease or rental” shall mean any lease or rental of a vehicle that is not a long-term lease or rental. [G.S. Sec. 160A-215.1(e)(2) and G.S. Sec. 105-187.1(4)]
- (h) “Revenue Collector” shall refer to that individual appointed by the governing body pursuant to the City Code of the City of Archdale to collect revenues on behalf of the City of Archdale and any other person authorized to carry out the duties and functions of such individual.

- (i) "Taxpayer" means any person liable for the taxes imposed by this Ordinance.
- (j) "Vehicle" shall mean any of the following:
 - (1) A motor vehicle of the private passenger type, including a passenger van, minivan, or sport utility vehicle.
 - (2) A motor vehicle of the cargo type, including a cargo van, pickup truck, or truck with a gross vehicle weight of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight, and that does not require the operator to possess a commercial driver's license.
 - (3) A trailer or semi-trailer with a gross vehicle weight of 6,000 pounds or less. [G.S. 160A-215.1(e)(1)]

Levy of Tax. A tax is hereby imposed and levied in an amount equal to one and one-half percent (1.5%) of the gross receipts derived from the short-term lease or rental of vehicles at retail to the general public. This tax on gross receipts is an addition to the privilege taxes authorized by G.S. Sec. 160A-211.

Collection of Tax. Every person engaged in the business of the short-term lease or rental of vehicles at retail to the general public shall collect at the time of the lease or rental the tax herein levied, place the tax so collected in a segregated account, and thereafter remit such tax to the Revenue Collector in accordance with this Ordinance. The taxpayer shall include a provision in each retail short-term lease or rental agreement stating that the percentage amount enacted by this Ordinance of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer's records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of the City of Archdale. The taxpayer shall be liable for the collection thereof and for its payment to the Revenue Collector and the taxpayer's failure to charge or to collect said tax from the customer shall not affect such liability.

Report and Payment of Tax. Taxes levied under this Ordinance are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the Revenue Collector on the form prescribed by the Revenue Collector. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to the Revenue Collector each month on or before the fifteenth (15th) day of the month following the month in which the tax accrues. As provided in G.S. Sec. 160A-208.1, a return shall not be considered a public record and information contained in a return may be disclosed only in accordance therewith.

Taxpayer to Keep Records. The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this Ordinance. It shall be the duty of the taxpayer to keep and preserve for a period of three years all such records of gross receipts and other books and accounts described.

All records, books and accounts herein described shall be open for examination at all reasonable hours during the day by the Revenue Collector or his/her duly authorized agent.

Revenue Collector to Provide Forms. The Revenue Collector shall design, prepare, print and make available to all taxpayers operating within the municipal boundaries of the City of Archdale forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.

Situs. The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle. [G.S. Sec. 160A-215.1(b)]

Penalties and Remedies. The provisions with respect to remedies and penalties applicable to Subchapter VIII (Local Government Sales and Use Tax) of Chapter 105 of the General Statutes, as contained in Article 5 and Article 9, Subchapter 1, Chapter 105 thereof, shall be applicable in like manner to the tax authorized to be levied and collected under this Ordinance, to the extent that the same are not inconsistent with the provisions hereof. The governing body of the City of Archdale may exercise any power the Secretary of Revenue may exercise in collecting sales and use taxes. [G.S. Sec. 160A-215.1(f)]

Administration. In addition to the provisions herein, the levy and collection of the taxes herein imposed shall be otherwise administered in the same manner as the Sales and Use Tax as provided in Article 5, Subchapter 1, Chapter 105 of the General Statutes. [G.S. Sec. 160A-215.1(d)]

Severability. If any section, clause, or provision of this Ordinance shall be found to be invalid, the validity of the remaining sections, clauses or provisions shall not be affected thereby.

Authority. This Ordinance is enacted pursuant to the provisions of G.S. Sec. 160A-215.1.

Effective Date. This Ordinance and the taxes thereby levied and imposed shall become effective July 1, 2000.

Secs. 8-24--8-25. Reserved.

Article V

ENFORCEMENT AND COLLECTIONS

Sec. 8-26. Duty to Determine Whether Tax Due

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

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

Sec. 8-27. Payment in Advance; Non-Payment Penalty

All license taxes imposed by this ordinance shall be due and payable by July 1st. If any person shall fail to pay any tax required by this ordinance by September 1st, five (5%) percent per month of the amount of such license tax shall be added to the tax required, and no license shall be granted until the license tax plus five percent thereof has been paid.

Sec. 8-28. Duty to Post License

A licensee shall post his/her license or licenses conspicuously in the place of business licensed. If he/she has no regular place of business, the license must be kept where it may be inspected at all times by the proper city officials. If a machine is licensed, the license shall be affixed to the machine.

Sec. 8-29. Notice of Deficiency

- (a) If the revenue collector determines that a person has not paid the full amount of tax due under this ordinance, either for the current license year or for a prior license year, he/she shall give the person written notice of the deficiency, pursuant to Section 8-19. 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 deficiency; and the consequences to the person if he/she fails to respond as specified. 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. If the person fails to request a conference, the deficiency becomes final.

Sec. 8-30. Enforcement

The revenue collector may use any of the following methods to collect a deficiency:

- (a) The remedies of levy, sale, attachment and garnishment in accordance with N.C.G.S. 160A-207; or
- (b) The remedy of levy and sale of real and personal property of the taxpayer in accordance with N.C.G.S. 105-109(d).
- (c) Costs related to the use of collection remedies shall be added to the amount of the tax due from the tax payer. This will include, but is not limited to, any actual attorney fees and court fees incurred in adjudicating these remedies, as well as a \$50.00 processing fee for each levy, sale, attachment and garnishment.

- (d) Criminal remedies. The following shall be deemed to be expressly incorporated by reference within each section of this chapter. A violation of this section or any part thereof, shall constitute a misdemeanor and shall subject the offender to a fine of not more than \$500.00 or imprisonment of not more than 30 days. Payment of a fine imposed in criminal proceedings in accordance with this section does not relieve a person of the liability for taxes imposed under this chapter.
- (e) Equitable remedies. In addition to the criminal remedies set forth in subsection (c) of this section and in compliance with N.C.G.S. 160A-175(d), the city may seek an injunction against a person who conducts business in violation of this chapter.

Each day that violation of Section 8-3 or 8-28 exists after the person has been notified of the violation shall constitute a separate and distinct offense. (1984 Revisions)

Secs. 8-31 -- 8-39. Reserved.

Article VI

INSULATION CONTRACTORS LICENSE

Sec. 8-40. License Required

On and after January 1, 1978, no person, firm or corporation may for a consideration install, alter, or restore within the city any insulation or other materials or energy utilization equipment designated or intended to meet the State Building Code requirements for insulation and energy utilization standards who is not either:

- (a) Licensed as a contractor to do the proposed work under NCGS 87;
- (b) Working under the supervision of a registered architect or professional engineer;
- (c) Owner working upon his own building; or
- (d) Licensed under this section.

Sec. 8-41. Applications

Every person desiring a license under this ordinance shall submit an application for such license to the building inspector conforming to the following requirements:

- (a) Each application shall be a written statement upon forms provided by the inspections department of Randolph County.
- (b) Each application shall contain the following information:
 - (1) Name and home address of the applicant, if an individual or home office address, if a corporation or partnership;

- (2) Names and home addresses of the partners, if a partnership;
 - (3) Names and home addresses of the officers and directors, if a corporation;
 - (4) Place where the proposed business is to be located;
 - (5) Complete record of all convictions of felonies or acts involving dishonesty, fraud, or deceit by the applicant or any employee, partner, officer, or director of the applicant; whether in this or any other state or jurisdiction;
 - (6) Complete record of all licenses or permits held by the applicant or any employee, partner, officer, or director of the applicant authorizing activities of the type authorized herein or other activities involving construction, alteration, or modification of buildings and structures;
 - (7) Information as to the circumstances in which any local, state, or federal government or agency has refused, suspended, or revoked a license or permit of the type described in subsection 6 (above) to the applicant or any employee, partner, office, or director of the applicant.
- (c) Each application shall be accompanied by a fee established in Section 8-48, for such license, such amount to be for the calendar year and prorated by quarters to the end of such year.
- (d) False statements on any application for a license shall be grounds for immediate revocation or denial of such license.

Sec. 8-42. Procedure for Issuance

Each application received by the city shall be promptly forwarded to the inspections department and to the police department for review. Such departments shall promptly make any comments and recommendations pertaining to the application. The application and any comments and recommendations relating thereto shall be considered by the inspection department, which shall then issue or deny the license pursuant to the following standards.

Sec. 8-43. Standards

The inspections department of Randolph County shall issue the license unless it shall find that the applicant or any employee, partner, officer, or director of the applicant:

- (a) Has been convicted within the last three (3) years of a felony or any act involving dishonesty, fraud, or deceit, whether in this or any other state or jurisdiction;
- (b) Has been refused a license to do the type of work authorized herein or has had such a license suspended or revoked by any local, state or federal government of agency and such government or agency has not subsequently granted or restored such license;

- (c) Has knowingly made a false statement in the application;
- d) Has failed to post the bond or other security required by Section 8-44.

Sec. 8-44. Bond Required

Before a license shall be issued to any applicant, the building inspector may require the applicant to post a bond with the city. In lieu of posting a bond, the applicant may deposit a cashier's check or cash in the same amount of the bond.

The security required by this section shall be available to indemnify any person for any damage which may accrue by reason of the applicant's failure to properly provide or install insulation, energy utilization equipment or other materials designed or intended to meet the state building code standards for insulation and energy utilization.

Sec. 8-45. Termination and Renewal of Licenses

All licenses issued hereunder shall terminate on the last day of the calendar year for which issued. Renewal of such licenses shall be pursuant to the same procedures and requirements set forth for initial issuance.

Sec. 8-46. Suspension; Revocation

- (a) The inspections department may suspend or revoke any license issued hereunder 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; or
 - (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 within 20 days of suspension or revocation. After reasonable notice to the licensee, the city council shall afford the licensee an opportunity to show why its license should not be suspended or revoked.

Sec. 8-47. Change of Location

The location of any licensed business may be changed, provided ten (10) 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.

Sec. 8-48. Required Permit; Fee

On and after January 1, 1978, no person, firm or corporation specified in Section 8-40. licensed under this ordinance 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 Randolph County inspection department for each item of work within the city's jurisdiction. There shall be a fee of \$5.00 for the first 2,500 square feet of any single building and \$1.00 for each additional 1,000 square feet or portion thereof.

Sec. 8-49. Penalties

Any person, firm, or corporation violating the provisions of this ordinance shall be subject to all the applicable punishment, penalties, and equitable relief provided for by NCGS 160A-175 and Chapter 703, North Carolina Session Laws of 1977. (Ord. of 2-28-1978, 1984 Revisions)

Article VII

TAXICABS

Sec. 8-50. Definitions

The following words as used in this ordinance shall have the meanings respectively ascribed to them in this section for the purposes of interpretation of this ordinance, except where the context clearly indicates a different meaning:

- (a) Certificate: A certificate of public convenience and necessity, issued by the city council, licensing the operation of a taxicab, or taxicabs.
- (b) Council: The city council of the City of Archdale.
- (c) Owner: Any person, firm or corporation to whom a certificate of public convenience and necessity for the operation of a taxicab or taxicabs has been issued by the City of Archdale.
- (d) Taxicab: The word taxicab shall be construed to mean any motor vehicle seating nine (9) or fewer passengers, accepting or soliciting passengers indiscriminately for hire along streets or highways as may be directed by passenger or passengers being transported; provided, the "taxicab" shall not be construed as including motor vehicles operated as ambulances or operated by the owner where the cost of operation is shared by neighbor fellow workmen between their homes and the place of regular daily employment when operated for not more than two trips each way per day, nor automobiles operated by the owner where the cost of operation is shared by the passengers on a "share the expense" plan, nor motor vehicle transporting students for public or private education.
- (e) Permit - Indicia of authority granted by the City of Archdale to operate a specific taxicab by a person, firm or corporation holding a certificate of public convenience or necessity.

Sec. 8-51. Certificates of Convenience and Necessity and Permits Issued Pursuant Thereto

- (a) It shall be unlawful for any person to operate a taxicab business in the City of Archdale without first having applied for and secured from the city council a certificate of convenience and necessity, currently, in effect, as provided in this Article.
- (b) It shall be unlawful for any person, firm or corporation to operate a specific vehicle as a taxicab without first obtaining a currently effective permit therefore pursuant to a certificate of public necessity and convenience, secured from the city council.

Sec. 8-52. Application for Certificate

All persons desiring to operate a taxicab business upon and over the streets of the City of Archdale shall file with the council a sworn application for a certificate of public convenience and necessity, in duplicate, stating:

- (a) The name and address of the owner or owners of the business, including partners or shareholders, and in the event that the owner of the business be a corporation, a certified copy of the Articles of Incorporation attached.
- (b) The number of vehicles of the applicant owned and previously operated as taxicabs within the City of Archdale, if any, and if no taxicabs have therefore been operated by the applicant within the City of Archdale, the number of vehicles which the applicant desires and proposes to operate as taxicabs within the city if the certificate is granted.
- (c) The net worth of the owner or applicant over and above all debts, judgments, claims and demands whatsoever.
- (d) Whether there are any unpaid or unbonded judgments of record against such applicant, and if so, the title of all actions in the amount of all judgments unpaid or unbonded.
- (e) Assurance that the applicant will investigate prospective drivers and provide drivers of good character with good driving records who have not within three (3) years been convicted of a felony, reckless driving, driving under the influence of alcoholic beverages or drugs, or habitual motor vehicle offenses.
- (f) The make, type, year of manufacture, serial number, engine number and passenger capacity of each taxicab for which a permit is desired under a certificate of public convenience and necessity.
- (g) The court record of the applicant for the past ten (10) years; and if the applicant is a corporation, the court record of the officers, directors, and supervising employees thereof, including general manager, if any, for the past ten (10) years.
- (h) That all taxicab drivers employed by the business or to be employed have or shall be required to have before beginning to drive any taxicab a currently effective chauffeur's license, and a list of the names and addresses of the drivers or proposed drivers of the

taxicabs, and said statement shall include an agreement to maintain a list of all motor vehicles being operated as well as names and addresses of all drivers of taxicabs for the business for the clerk of the City of Archdale at all times .

- (i) That the owner will furnish and maintain in full force and effect for each taxicab, a policy of insurance as required by state law (NCGS 20-18) to be in effect for an owner operator operating taxicabs within a municipality.
- (j) The owner of every motor vehicle engaged in business of transporting passengers for hire over the public streets of the City of Archdale as a taxicab covered by this chapter, shall file and maintain evidence of such policy of insurance, with the clerk of the city before operating any taxicab.

Sec. 8-53. Public Hearing on Application for Certificate

Each application for a certificate of convenience and necessity shall be scheduled for a hearing no later than forty-five (45) days after it is filed, and the applicant shall be notified by the city clerk by mail at the business address set forth in the application of the date, time and place of such hearing, such notification to be sent at least seven (7) days preceding the date set for the hearing. The city clerk shall, within the same time, notify all persons who then hold certificates of convenience and necessity for the operation of taxicabs within the municipality, of the date, time and place of such hearing and the name of the applicant. In addition, the city clerk shall cause to be published at least once in a newspaper of general circulation, at least ten (10) days before the hearing, a notice setting forth the name of the applicant and the date, time and place of the hearing. The cost of such publication shall be paid by the applicant.

Sec. 8-54. Granting of Certificates.

No certificate shall be granted until the council, after a public hearing provided by this ordinance, shall declare that public convenience and necessity require the proposed taxicab service by the applicant. In determining whether public convenience and necessity require the operation of a taxicab or taxicabs for which application for certificate of public convenience and necessity is made, the council shall consider:

- (a) Whether the demand of the public requires additional taxicab service;
- (b) The adequacy of existing transportation and taxicab service;
- (c) The financial responsibility and experience of the applicant;
- (d) The likelihood of the proposed service being permanent, responsible and satisfactory;
- (e) The number, kind, quality and condition of equipment proposed to be used;
- (f) Whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved, and whether or not adequate provision has been made for off-street parking of such taxicabs;

(g) The applicant's statements on application for the certificate, as well as the responsibility of the applicant to maintain certain lists and financial responsibility with regard thereto as well as past experience of the city with said applicant as to his responsibility and efficiency;

(h) And such other relevant facts as the council may deem advisable or necessary.

Sec. 8-55. Issuance of Certificates and Permits

If the council shall declare that public convenience and necessity require the proposed taxicab service, the council shall grant to the applicant a certificate of public convenience and necessity for such taxicab or number of taxicabs as the council may deem that public necessity requires, subject to such conditions as the council may deem necessary or proper in connection therewith, provided:

- (a) The applicant shall comply with all the provisions of this chapter;
- (b) That there are no unpaid or unbonded judgments of record against the applicant;
- (c) The court record of the applicant is not such as would make it against the interest of the public for such application to be granted.

After issuance of the certificate of convenience and necessity by act of the council, the city clerk shall issue individual permits for each vehicle to be operated as a taxicab up to the number of taxicabs authorized by the certificate of public convenience and necessity, provided that the applicant as owner shall provide the clerk of the city with the necessary certificates of insurance, bonds, lists of drivers and information identifying said vehicle as required in the application.

Sec. 8-56. Expiration of Certificates and Permits

All certificates of necessity and convenience shall expire on the dates set forth in such certificates as granted, and all permits issued by the clerk for individual vehicles pursuant to said certificate of convenience and necessity shall expire on the first day of January of each year.

Sec. 8-57. Fee for Permits

The owner of each taxicab who is granted a certificate of convenience and necessity shall pay to the City of Archdale annually on or before the first day of each year the sum of fifteen (\$15.00) per taxicab vehicle for the permit to operate said vehicle during that year pursuant to the certificate of convenience and necessity.

Sec. 8-58. Automatic Suspension of Certificates and Permits

Certificates of convenience and necessity shall be automatically suspended upon the happening of any of the following events:

- (a) A change in the controlling interest in any firm or corporation holding a certificate of convenience and necessity under this Article, provided that a new application may be filed on behalf of such firm or corporation in advance of the transfer of the controlling interest therein setting forth the proposed transfer of interest in the going concern and requesting that a new certificate of public necessity and convenience be issued in advance of the expiration of the existing certificate to said firm or corporation;
- (b) Any holder of a certificate of convenience and necessity for the operation of taxicabs within and from the city who plans to discontinue regular operation and service of such business shall notify the city clerk in writing of such action. Discontinuance of regular service for a period of more than thirty (30) days shall automatically operate to suspend any certificate of convenience and necessity and any permit issued pursuant thereto.
- (c) Any person to whom a certificate of convenience and necessity has been issued may, by appropriate endorsement thereon by the city clerk, substitute another vehicle or vehicles for the vehicle or vehicles for which the permits pursuant to the certificate were granted, provided further that in any such instance the liability insurance required under this ordinance shall forthwith be transferred to such substitute vehicle or vehicles and the permit previously granted for the vehicle being discontinued from service shall be automatically suspended and rendered null and void.
- (d) The permit for any specific vehicle under this ordinance, issued pursuant to a currently effective certificate of public necessity and convenience, shall be automatically suspended in the event the vehicle for which the permit was issued shall fail to bear a North Carolina safety inspection sticker currently in effect under state law or upon cessation of effective liability insurance or surety bond for the protection of the public upon said vehicle as required by state law and this ordinance, or upon failure of the owner thereof to properly register said vehicle with the North Carolina Department of Motor Vehicles or shall fail to maintain current state or city license tags thereon. Suspension of a permit issued for a specific vehicle, automatically suspended under this provision of this ordinance shall be deemed reinstated upon removal of the cause for suspension.
- (e) Suspension of certificate or permit issued to any owner of a taxicab business under this ordinance for any of the reasons listed above is deemed by the city council to be necessary to the public safety and welfare, and it is the obligation of any owner whose certificate or permit shall be automatically suspended for any of the reasons set forth within this section to immediately discontinue use of any or all taxicabs affected by such suspension until the cause for such suspension shall have been removed and the certificate or permit is reinstated.

Sec. 8-59. Required Insurance

The owner will furnish and maintain in full force and effect for each taxicab, a policy of liability insurance insuring the owner and operator of the taxicab business, his agents and employees while in the performance of their duties against loss from any liability imposed by law for damages with respect to each vehicle operated as follows: \$25,000 because of bodily injury to or

death of one person in any one accident and, subject to said limit for one person, \$50,000 because of bodily injury to or death of two or more persons in any one accident, and \$10,000 because of injury to or destruction of property of others in any one accident. Such limits of liability as stated herein are subject to modification by state law and are automatically superseded by changes in the requirements of NCGS 20-280 as to proof of financial responsibility of taxicab operators.

Sec. 8-60. Certificates; Public Hearings upon Subject of Revocation

The city council may, at any time after a public hearing upon the subject, revoke any certificate of convenience and necessity issued by authority of this article for any one or more of the following causes:

- (a) Failure to operate the taxicabs specified in the certificate in such manner as to serve the public adequately and efficiently;
- (b) Failure to maintain motor equipment in good repair;
- (c) Failure to carry liability insurance as required by this article;
- (d) Failure to pay to the city tax or license fee of fifteen dollars (\$15.00) imposed upon each taxicab;
- (e) Repeated and persistent violation by the taxicab drivers of traffic and safety regulations of this code, or state laws relating to alcoholic beverages or prostitution;
- (f) Failure to report accidents;
- (g) Willful failure to comply with any provision of this ordinance or state law relating to the operation of taxicabs;
- (h) Failure to prevent drivers employed by a taxicab company owner from transporting customers in nonlicensed taxicabs or privately owned vehicles.

No certificate of convenience and necessity shall be revoked until the holder thereof has had at least five (5) days notice by personal service or registered mail of the charges against him, and of the date, time and place of hearing. If, after hearing, it is found that the certificate holder is guilty of one or more of the offenses listed herein, the city council shall have the power to revoke the certificate, or to condition a revocation upon compliance of its order within any time fixed by it.

Sec. 8-61. Meter Requirements

Every taxicab shall have affixed thereto, and the driver thereof shall use, a taxi meter of a size and design approved by the city council and which shall conform to the following specifications:

- (a) Such taxi meter must register upon visual counters the following items:

- (1) Total miles;
 - (2) Paid miles;
 - (3) Number of units;
 - (4) Number of trips.
- (b) Each taxi meter must be furnished with a tamper-proof switch and system of electrical distribution, so that when the taxi meter is in the vacant or non-earning position the light of the top of the taxicab shall be lighted, and when the meter flag is thrown to an earning position the fare indicator on the taxi-meter will be lighted and simultaneously a tell-tale light on top of the taxicab will not be lighted during the night time.
- (c) No permit shall be issued for a taxicab until the taxi meter attached to such taxicab shall have been installed and certified satisfactorily to the clerk of the city to be accurate within .05 tolerance.

Sec. 8-62. Rates of Fare

- (a) Persons owning, driving or controlling any taxicab within the city shall charge the rates established from time to time by the council. A copy of taxicabs rates of fare shall be maintained by the city clerk.
- (b) No person owning, driving or controlling a taxicab shall charge or attempt to charge any passenger a greater rate of fare than that to which he is entitled under the provisions of this article. All taxicab drivers shall travel the nearest and most direct route to the point of destination unless directed to do otherwise by the passenger.

Sec. 8-63. Rates to Be Displayed in Cabs

Every taxicab operated within the city or between the city and points not incorporated with a radius of five (5) miles of the city shall have at all times prominently posted and displayed in such taxicab, so as to be visible to the passengers therein, the rates and fares for the use of such cab, the driver's name, picture and commercial drivers license number, the name and address of the taxi company, and the taxicab permit issued by the city. (Ord. 6-27-1972, 1984 Revisions)

Article VIII

- Reserved -

Article IX

PEDDLERS, SOLICITORS, ITINERANT MERCHANTS

Sec. 8-70. Definitions

Peddler, solicitor, canvasser, hawker: Any individual whose business is conducted by traveling either by foot or by vehicle or any other conveyance from door-to-door for the purpose of selling or obtaining orders for the sale of goods, wares, merchandise or personal property of any kind, for present or future delivery. Or for services to be furnished or performed either now or at a future date. Any individual who is compiling information such as occupation; economic, social, religious or political status; number of occupants, etc. for the purpose of creating a directory or record book to be sold or used for a commercial purpose.

Itinerant Merchant: A merchant, other than a merchant with an established place of business, who travels with an inventory of goods to a lot, building, or other location for less than six (6) consecutive months within the city and who displays and sells these goods at retail.

Sec. 8-71. License Required

It is unlawful to engage in business as a peddler, solicitor, canvasser, hawker or itinerant merchant, within the city limits, without having first completed and filed an application and obtained a license from the city.

Licenses pursuant to this chapter shall be valid for thirty (30) days.

Exceptions:

1. Any items that were produced, grown or made personally by the seller or seller's household members such as goods, produce, nursery items or crafts.
2. Nonprofit charitable, educational, religious or civic organizations.

Sec. 8-72. Restriction

No soliciting will be allowed in the public right-of-way or intersection, except for a special event or a city-sponsored event. It shall be unlawful to solicit or to accept contributions from occupants of any vehicle in the public right of way or to distribute merchandise to any occupant of a vehicle in the public right of way.

Sec. 8-73. Application

An application pursuant to this article shall be made on a form provided by the city. All prospective vendors whether exempt from paying a license fee or not must first file an application. The application must be filled out completely and truthfully with all the following information:

1. Name, address and phone number of Employer or Organization.

2. Name, address, phone number and cell phone number of applicant.
3. Applicant's local address.
4. Description sufficient for identification, date and place of birth (must be 18 years or older) and driver's license number or valid I.D..
5. If a vehicle is to be used a complete description and license number.
6. Description of the goods to be sold or the services offered.
7. For itinerant merchants: address where setting up (must have a signed letter from the property owner granting permission).
8. Dates requested (30 days maximum).
9. Whether or not applicant has been convicted of any crime or misdemeanor.

An application fee of \$20.00 will be charged to cover costs of fingerprinting, photographing and running a background check. Applications will be processed within three (3) business days and if approved a license will be issued.

Sec. 8-74. Penalties

1. Violation of this Article is a misdemeanor, punishable by a fine of up to five hundred dollars (\$500.00).
2. Any law enforcement officer may issue a violation notice in accordance with N.C.G.S. 160A-175, subjecting the violator to a fifty dollar (\$50.00) civil penalty to be paid within ten days, which penalty may provide for an additional twenty-five dollar (\$25.00) delinquency charge upon non-payment, in the discretion of the City Manager or his/her designee, and which penalty and delinquency charge may be recovered by the City in a civil action.