

**TITLE XI: BUSINESS REGULATIONS**

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## CHAPTER 110: BUSINESS AND PRIVILEGE LICENSES

### Section

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### § 110.01 LEVYING OF LICENSE AND PRIVILEGE TAXES.

The Board of Commissioners shall levy, when allowed by state statutes, in the month of May of each year, the license and privilege taxes as the Board may deem wise to levy and as early thereafter as possible, cause a schedule of the same to be printed in a newspaper of the town. The taxes, as levied by the Board, shall be for 12 months unless otherwise specified. All licenses shall date from July 1 of the year of issuance and shall expire on June 30 next following.

(1990 Code, § 110.01)

### § 110.02 DEFINITIONS.

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

**AGENT.** The person having the agency for the manufacturer, producer or distributor.

**BUSINESS.** Any business, trade, occupation, profession, avocation or calling of any kind, subject, by the provision of this chapter, to a license tax.

**ENGAGED IN THE BUSINESS.** Engaged in the business as owner or operator.

**FISCAL YEAR.** The period beginning with the July 1 and ending with the June 30 next following.

**ITINERANT MERCHANT.** Any person, firm or corporation, whether as owner, agent, consignee or employee, who engages in a temporary business of selling and delivering goods, wares and merchandise within the town, and who, in furtherance of the purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad box car or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the town, for the private exhibition and sale of the goods, wares and merchandise. The words **ITINERANT MERCHANT** shall include the words **TRANSIENT MERCHANT**, **TRANSIENT VENDOR** and **ITINERANT VENDOR**.

**PEDDLER.** Any person, whether a resident of the town or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter, shall be deemed a **PEDDLER** subject to the provisions of this chapter. The word **PEDDLER** shall include the words **HAWKER** or **HUCKSTER**.

**PERSON.** Any person, firm, partnership, company or corporation.

**QUARTER.** Any three consecutive months.

**SOLICITOR.** Any individual, whether a resident of the town or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of the sale or whether he or she is collecting advance payments on the sales or not, provided that the definition shall include any person who, for himself or herself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place within the town for the sole purpose of exhibiting samples and taking orders for future delivery. The word **SOLICITOR** shall include the word **CANVASSER**.

(1990 Code, § 110.02) (Ord. passed 6-5-1961; Ord. passed 2-15-1983)

### **§ 110.03 LICENSE TAX UPON CERTAIN TRADES AND BUSINESS OPERATIONS.**

In addition to the tax on property, as otherwise provided for, and under the power and authority conferred in the state laws, there shall be levied and collected annually, or oftener, 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 the following sections and schedules. All licenses shall be a personal privilege and shall not be transferable. Nothing herein contained shall be construed to prevent the Board of Commissioners from imposing from time to time, as they may see fit, the license taxes as are not specifically herein defined, or from increasing or decreasing the amount of any special license tax, or from prohibiting or regulating the business or acts licensed, and all licenses are granted subject to the provision of existing ordinances or those thereafter enacted.

(1990 Code, § 110.03) (Ord. passed 10-5-1961) Penalty, see § 110.99

**§ 110.04 APPLICATION FOR LICENSE.**

(A) All original applications for licenses, unless otherwise specifically provided, shall be made to the Town Manager in writing upon forms to be furnished by him or her and shall contain:

- (1) The name of the applicant and of each officer, partner or business associate;
- (2) His or her present occupation and place of business;
- (3) His or her place of residence for five years next preceding the date of application;
- (4) The nature and location of the intended business or enterprise;
- (5) The period of time for which the license is desired;
- (6) A description of the merchandise to be sold, if for a vendor; and

(7) The other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.

(B) Renewal of an annual license may be granted to a licensee in good standing upon the original application, unless otherwise provided.

(C) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

(D) It shall be unlawful knowingly to make any false statement or representation in the license application. (1990 Code, § 110.04) Penalty, see § 110.99

**§ 110.05 ISSUANCE OF LICENSE; STANDARDS FOR ISSUANCE.**

(A) Upon receipt of the application for a license, accompanied by the proper fee, if approval by another officer or department is not required, the Town Manager shall forthwith deposit the fee in the general fund of the town and issue to the applicant a proper license certificate signed by the Town Manager and any other appropriate town official. If for any reason the license is not issued, the license fee shall be returned to the applicant.

(B) Licenses shall be issued unless such is tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals or general welfare. In particular, tangible evidence that the applicant:

- (1) Has been convicted of a crime of moral turpitude;
- (2) Has made willful misstatements in the application;
- (3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors and the like;
- (4) Has committed prior fraudulent acts;
- (5) Has a record of continual breaches of solicited contracts; or

(6) Has an unsatisfactory moral character will constitute valid reasons for disapproval of an application.

(C) A business license shall not be issued to any person, corporation, partnership or other legal entity that is in default or has failed to comply with any ordinance or regulation of the town or has failed to pay any obligation due and owing to the town, including all fines, delinquent taxes, licenses or other fees. (1990 Code, § 110.05)

**§ 110.06 CONDUCTING BUSINESS WITHOUT LICENSE PROHIBITED.**

(A) It shall be unlawful for any person or his or her agent or servant, to engage in or carry on a business in the town for which there is required a license, without first having paid the license tax and obtained the license.

(B) For the purpose 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 the business, and each day that the person, firm or corporation shall engage in or carry on the business as aforesaid, shall be construed to be a separate offense.

(1990 Code, § 110.06) (Ord. passed 10-5-1961) Penalty, see § 110.99

**§ 110.07 DURATION OF LICENSE.**

All taxes provided for and fixed in the following sections and schedules shall be for 12 months, unless otherwise specified, and shall so remain for 12 months.

(1990 Code, § 110.07) (Ord. passed 10-5-1961)

**§ 110.08 LICENSE REQUIRED FOR EVERY SEPARATE BUSINESS.**

The payment of any particular tax imposed by this chapter shall not relieve the person paying the same from the payment of any other tax imposed by this chapter for any other business he or she may carry on, unless so provided by the section imposing the tax; it being the intent of this chapter that license taxes prescribed by various sections or divisions of this chapter applicable to any business shall be cumulative except where otherwise specifically provided.

(1990 Code, § 110.08) (Ord. passed 10-5-1961) Penalty, see § 110.99

**§ 110.09 SEPARATE LICENSE REQUIRED FOR EVERY PLACE OF 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 place of business, unless the 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 Town Manager.

(1990 Code, § 110.09) (Ord. passed 10-5-1961) Penalty, see § 110.99

**§ 110.10 DISPLAY OF LICENSE; EXCEPTION.**

Every license must be kept prominently displayed at the place of business of the licensee named in the license, or, if the licensee has no fixed place of business, the licensee must keep the same wherever the business is being operated and where it can be inspected at any time by the proper municipal official.  
(1990 Code, § 110.10) (Ord. passed 10-5-1961) Penalty, see § 110.99

**§ 110.11 ABATEMENT OF LICENSE TAX.**

No license tax shall be abated nor shall any refund of any part thereof be made, in any case where the licensee discontinues his or her business before the end of the period for which the license was issued.  
(1990 Code, § 110.11) (Ord. passed 10-5-1961)

**§ 110.12 REVOCATION OR SUSPENSION; APPEAL AND REVIEW.**

(A) (1) Any license may be revoked by the Town Manager at any time for conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial, for any misrepresentation of a material fact in the application discovered after issuance of the license, for violation of any provision of this chapter or other law or ordinance relating to the operation of the business or enterprise for which the license has been issued or upon conviction of a licensee for any federal, state or municipal law or ordinance involving moral turpitude.

(2) The revocation shall become effective upon notice served upon the license or posted upon the premises affected.

(3) As a preliminary to revocation, the Town Manager may issue an order suspending the license, which shall become effective immediately upon service of written notice to the licensee. This notice shall specify the reason for suspension, and may provide conditions under which reinstatement of the license may be obtained. Upon compliance with these conditions within the time specified, the license may be restored.

(B) In case any applicant has been denied a license, or if his or her license has been revoked or suspended, the applicant or licensee as the case may be, shall, within three business days, have the right to appeal to the Board of Commissioners from the denial, revocation or suspension. Notice of appeal shall be filed in writing with the Town Manager who shall fix the time and place for a hearing which shall be held not later than one week thereafter. The Town Manager shall notify the Mayor and all members of the Board of Commissioners of the time and place of the hearing not less than 24 hours in advance thereof. A majority of the Commissioners shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the Board of Commissioners present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the order appealed from shall become final.

(1990 Code, § 110.12)

**§ 110.13 SCHEDULE OF LICENSE TAXES.**

Taxes shall be levied and collected on the trades, professions, agencies, business operations and other subjects set out in the schedule of license taxes, hereby made a part hereof, which is on file in the town office.  
(1990 Code, § 110.13) (Ord. passed 10-5-1961)

**§ 110.99 PENALTY.**

Every person, firm or corporation that shall, after July 15 of each year, exercise the privileges which shall be taxed as above set forth in § 110.01 without having obtained a license for the privilege of conducting the business or vocation so taxed shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine not exceeding \$50. Each and every day the business or privilege shall be operated unlicensed after July 15 shall be deemed a separate offense under this chapter and is hereby made punishable as such.  
(1990 Code, § 110.99)

**CHAPTER 111: ADVERTISING**

Section

*Posting Bills*

- 111.1 Posting upon public or private property
- 111.2 Temporary banners or signs permitted

**POSTING BILLS**

**§ 111.01 POSTING UPON PUBLIC OR PRIVATE PROPERTY.**

(A) It shall be unlawful for any person, firm or corporation to post, nail, stick or otherwise affix bills, posters, advertisements, notices or any other printed or graphic matter upon public property in the town. This section shall not apply to notices, signs or advertisements required to be posted by law, signs or plates on residential premises giving the name or address of the occupant, mail boxes or newspaper tubes, municipal, county, state and federal traffic signs, historical markers, monuments or signs erected by public authority, temporary displays as a part of customary holiday decorations and signs denoting the location of underground utilities.

(B) It shall be unlawful for any person, firm or corporation to nail, stick or otherwise affix bills, posters, advertisements, notices or other printed or graphic matter upon private property within the town without the consent of the owner.

(1990 Code, § 111.01) Penalty, see § 10.99

**§ 111.02 TEMPORARY BANNERS OR SIGNS PERMITTED.**

(A) Notwithstanding the above provisions, it shall be lawful to post or affix upon public property in the town, temporary banners or signs advertising the place and date of fairs, carnivals, horse shows and similar events for a period not to exceed 30 days, and after the giving of a bond which the Chief of Police shall set the amount of the bond to be commensurate with the cost of removing the banners or signs.

(B) If the signs or banners are not removed within the 30-day period, the bond shall be retained by the town to defray the costs of removing the banners or signs.

- (1) No banner or sign will be allowed to hang over any street in the town.

(2) Two generic banners will be allowed on the northeast and northwest corner of Grove property for sponsoring organizations to advertise their events being held at the Grove. The banners cannot be larger than three feet by 18 inches, must be done professionally, must be durable to withstand moderate winds, must contain grommets and no more than 20% of the banner can be used for the logo of a company or advertiser of sponsoring organization choice.  
(1990 Code, § 111.02) (Ord. passed 5-11-1993)

## CHAPTER 112: ALCOHOLIC BEVERAGES

### Section

#### *General Provisions*

- 112.1 Hours of sale of beer and wine
- 112.2 Drinking in public places; minors
- 112.3 Consumption and possession of malt beverages and unfortified wine
  
- 112.99 Penalty

#### **GENERAL PROVISIONS**

##### **§ 112.01 HOURS OF SALE OF BEER AND WINE.**

It shall be unlawful for any person, firm, establishment or corporation to sell beer or wine within the corporate limits of the town from 1:00 a.m. on each Sunday until 7:00 a.m. on the following Monday. However, during the period beginning on the first Sunday of April of each year and ending on the last Sunday of October of each year, these beverages may be sold until 2:00 a.m.  
(1990 Code, § 112.01) Penalty, see § 112.99

##### **§ 112.02 DRINKING IN PUBLIC PLACES; MINORS.**

(A) No person shall consume malt beverages or unfortified wine, as defined by G.S. § 18B-101, on or within the rights-of-way of the public streets, boulevards, alleys and sidewalks, or in municipal parks, within the town. This will be considered a violation of a town ordinance of the town and anyone violating this section will be guilty of a misdemeanor and subject to the penalty set forth in § 112.99.

(B) It shall be unlawful for any owner or manager of any premises which is licensed for the on premise sale of beer or wine, or both, to permit any person under the age of 18 years to enter or to remain upon the licensed premises; provided, this shall not apply to licensed premises upon which the sales of beer or wine, or both, do not constitute a substantial portion of the total sales made upon the premises.

(1) It shall be the duty of the owner or manager of any premises to which this division applies to maintain a sign posted in a conspicuous place in each room of the premises, containing the following words: "All persons under 18 years of age are prohibited by law from being on the premises."

(2) It shall be the responsibility of the owner or manager, or his or her agent on duty, to ascertain to his or her satisfaction the age of persons entering upon the premises, and to notify all persons under the age of 18 years to leave the premises at once.

(3) It shall be unlawful for any person under the age of 18 years to refuse to leave any premises to which this division applies after having been notified to do so. It shall also be unlawful for any person to remain upon any premises where a sign is posted in accordance with division (B)(1) above. (1990 Code, § 112.02) (Ord. passed 6-23-1970; Ord. passed 8-1-1973; Ord. passed 3-11-1980; Ord. passed 10-14-1980) Penalty, see § 112.99

### **§ 112.03 CONSUMPTION AND POSSESSION OF MALT BEVERAGES AND UNFORTIFIED WINE.**

(A) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

**MALT BEVERAGE.** Beer, lager, malt liquor, ale, porter and any other brewed or fermented beverage containing at least 0.5%, and not more than 6% alcohol by volume. (G.S. § 18B-101(9))

**OPEN CONTAINER.** A container whose seal has been broken or a container other than the manufacturer's unopened original container. (G.S. § 18B-300(c))

**PUBLIC STREET.** Any highway, road, street, avenue, boulevard, alley, bridge or other way within and/or under the control of the town and open to public use, including the sidewalks of any the street.

**UNFORTIFIED WINE.** Wine that has an alcoholic content produce only by natural fermentation or by the addition of pure cane, beet or dextrose sugar, and that has an alcoholic content of not more than 17% alcohol by volume. (G.S. § 18B-101(15))

(B) *Consumption on the public streets and on municipal property prohibited.* It shall be unlawful for any person who is not an occupant of a motor vehicle to consume malt beverages and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to consume malt beverages and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied or controlled by the town including, but not limited to, public buildings and grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts and other athletic fields.

(C) *Possession of open containers on the public streets and on municipal property prohibited.* It shall be unlawful for any person who is not an occupant of a motor vehicle to possess any open container of malt beverage and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to possess any open container of malt beverage and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied or controlled by the town including, but not limited to, public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts and other athletic fields.

(D) *Possession during special events prohibited.* It shall be unlawful for any person to possess malt beverages and/or unfortified wine on public streets, alleys or public parking lots which are temporarily closed to regular traffic for special events.  
(1990 Code, § 112.03) (Ord. passed 11-14-1995) Penalty, see § 112.99

**§ 112.99 PENALTY.**

The violation of any provision of §§ 112.01 through 112.03 shall constitute a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or imprisonment not exceeding 30 days, as provided in G.S. § 14-4.  
(1990 Code, § 112.99) (Ord. passed 10-14-1980)



## CHAPTER 113: AMUSEMENTS

### Section

#### *Pool, Billiard or Bowling Alleys*

- 113.1 License required
- 113.2 Application for license
- 113.3 Non-issuance of license
- 113.4 Form and content of license
- 113.5 Hours of operation
- 113.6 [Reserved]
- 113.7 Certain prohibitions to be observed by licensee and employees
- 113.8 Responsibility for acts and conduct
- 113.9 Revocation of licenses
- 113.10 Appeal and review

#### ***POOL, BILLIARD OR BOWLING ALLEYS***

##### **§ 113.01 LICENSE REQUIRED.**

No person shall maintain or operate any pool, billiard or bowling alley or other table or alley for any game or play for which a charge is made, either directly or indirectly, unless he or she shall first have secured a license from the Town Manager to do so. The license shall expire on June 30 each year, and shall not be transferable. (1990 Code, § 113.01) (Ord. passed 1-13-1987) Penalty, see § 10.99

##### **§ 113.02 APPLICATION FOR LICENSE.**

Applications for the license shall be made upon forms provided by the Town Manager, and shall contain all information necessary for the Town Manager to act intelligently upon the applications. (1990 Code, § 113.02)

##### **§ 113.03 NON-ISSUANCE OF LICENSE.**

- (A) Upon receipt of the application for a license, accompanied by the proper fee, if approval by another officer or department is not required, the Town Manager shall forthwith deposit the fee in the general fund of the town and issue to the applicant a proper license certificate signed by the Town Manager and any other appropriate town official. If for any reason the license is not issued, the license fee shall be returned to the applicant.

(B) (1) Licenses shall be issued unless there is tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals or general welfare. In particular, tangible evidence that the applicant:

- (a) Has been convicted of a crime of moral turpitude;
  - (b) Has made willful misstatements in the applications;
  - (c) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors and the like;
  - (d) Has committed prior fraudulent acts;
  - (e) Has a record of continual breaches of solicited contracts; or
  - (f) Has an unsatisfactory moral character.
- (2) Will constitute valid reasons for disapproval of an application.

(C) A business license shall not be issued to any person, corporation, partnership or other legal entity that is in default or has failed to comply with any ordinance or regulation of the town or has failed to pay any obligation due and owing to the town, including all fines, delinquent taxes, licenses or other fees.  
(1990 Code, § 113.03)

#### **§ 113.04 FORM AND CONTENT OF LICENSE.**

(A) Every license issued pursuant to this chapter shall specify the premises for which it is issued, the number of tables or alleys to be operated thereunder, the name of the owner or operator and the dates upon which the license begins and shall expire.

(B) The license shall be posted in a prominent place on the premises at all times.  
(1990 Code, § 113.04)

#### **§ 113.05 HOURS OF OPERATION.**

No person shall operate any pool or billiard table Monday through Saturday within the town limits of the town, except during the hours of 7:00 a.m. and 2:00 a.m. and on Sunday except during the hours of 12 noon to 2:00 a.m.

(1990 Code, § 113.05) (Ord. passed 1-13-1987; Ord. passed 7-1996) Penalty, see § 10.99

#### **§ 113.06 [RESERVED].**

**§ 113.07 CERTAIN PROHIBITIONS TO BE OBSERVED BY LICENSEE AND EMPLOYEES.**

Licensees under this chapter shall not, and neither shall their employees:

(A) Suffer or permit any gambling on the licensed premises at any time; nor the sale or use of any racing, football or other parlay cards or gambling boards;

(B) Suffer or permit the licensed premises to become disorderly, or permit any profane, obscene or indecent language thereon;

(C) Suffer or permit any intoxicating liquors or narcotic drugs to be sold, kept or consumed on the licensed premises;

(D) Suffer or permit any person under the age of 16 years to enter or remain upon the licensed premises, unless the person be accompanied by his or her parent or guardian. The exception shall be for those hours posted to allow video games to be played and all billiard tables secured. The hours posted shall be forwarded to the Chief of Police at least one week prior to the posted hours being enforced;

(E) Employ in carrying on the business any person who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; and

(F) Suffer or permit any keeley board, keno board or any other board or device to be attached to or placed upon any tables.

(1990 Code, § 113.07) Penalty, see § 10.99

**§ 113.08 RESPONSIBILITY FOR ACTS AND CONDUCT.**

The acts and conduct of the agents and employees of the licensee in the conduct of the business shall be deemed to be the acts and conduct of the licensee.

(1990 Code, § 113.08)

**§ 113.09 REVOCATION OF LICENSES.**

A second conviction of a licensee, or his or her agent or employee, for any violation of any provision of this chapter shall, by operation of law, constitute an automatic revocation of the license of the licensee. In addition, the Town Manager may at any time, for cause and after a hearing of which the licensee shall be given the reasonable notice as the Town Manager may direct, revoke any license issued pursuant to this chapter.

(1990 Code, § 113.09)

**§ 113.10 APPEAL AND REVIEW.**

In case any applicant has been denied a license, or if his or her license has been revoked or suspended, the applicant or licensee as the case may be, shall, within three business days, have the right to appeal to the Board of Commissioners from the denial, revocation or suspension. Notice of appeal shall be filed in writing with the Town Manager who shall fix the time and place for a hearing which shall be held not later than one week thereafter. The Town Manager shall notify the Mayor and all members of the Board of Commissioners of the time and place of the hearing not less than 24 hours in advance thereof. A majority of the Commissioners shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the Board of Commissioners present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the order appealed from shall become final.

(1990 Code, § 113.10)



## CHAPTER 114: CONCESSIONS

### Section

#### *Singing Grove Festival*

- 114.1 Privilege license required
- 114.2 Permitted business
- 114.3 Bids for concession rights
- 114.4 Regulation of concessions
- 114.5 Annual restriction

#### **SINGING GROVE FESTIVAL**

##### **§ 114.01 PRIVILEGE LICENSE REQUIRED.**

Every operator of a concession stand located within 500 feet of the outside bounds of the Singing Grove on the days of the singing, the fourth Saturday and Sunday in June, must buy from the town a \$10 privilege license to operate the stand.

(1990 Code, § 114.01) (Ord. passed 5-6-1955) Penalty, see § 10.99

##### **§ 114.02 PERMITTED BUSINESS.**

Nothing in this chapter shall be construed to prohibit the conduct of lawful privileges licensed by the town or which may hereafter be licensed by the town; neither shall it be construed to prevent participating singing groups from selling or offering for sale recordings and photographs in the immediate Grove area on the fourth Saturday and the fourth Sunday in the month of June.

(1990 Code, § 114.02) (Ord. passed 5-8-1967)

##### **§ 114.03 BIDS FOR CONCESSION RIGHTS.**

The town will sell concession rights within the bounds of the Singing Grove to any resident or civic organization of the town bidding the highest for the concession rights. Any individual or civic club becoming the highest bidder shall be given full privilege of operating all concessions within the bounds of the Singing Grove on payment of the stipulated bid price to the town, the price to be a minimum of \$75. At the time and place of the auction sale of the concession rights, requirements concerning the location and number of stands shall be given. The number of stands shall not be over six and the stands shall be situated as near the edges of the Grove as possible.

(1990 Code, § 114.03) (Ord. passed 5-6-1955)

**§ 114.04 REGULATION OF CONCESSIONS.**

Concession stand or booth privileges for the sale of the items as candy, cigars, cigarettes, popcorn, carbonated or cold drinks and snowballs in the immediate area of the Singing Grove, situated between East Main and Parrish Streets and between South Lee and Johnson Streets, shall be permitted by the Board of Commissioners on the fourth Saturday and the fourth Sunday in the month of June. The Board of Commissioners, from time to time, shall establish rules regulating the granting and operation of the concession stand or booth privileges.

(1990 Code, § 114.04) (Ord. passed 5-8-1967)

**§ 114.05 ANNUAL RESTRICTION.**

Except as provided in this chapter, it shall be unlawful for any person, firm or corporation to sell, or offer for sale, any goods, wares, merchandise, food, prepared or otherwise, or carbonated or cold drinks from a concession stand, booth, on foot or from a vehicle in the town, on the fourth Saturday and the fourth Sunday in the month of June.

(1990 Code, § 114.05) (Ord. passed 5-8-1967)

## CHAPTER 115: PEDDLERS AND SOLICITORS

### Section

- 115.1 Permit required
- 115.2 Application for permit
- 115.3 Issuance of permit; possession and exhibition
- 115.4 Appeal from refusal to issue permit
- 115.5 Duration and renewal
- 115.6 Transferability
- 115.7 Revocation of permit
- 115.8 Appeal and review
- 115.9 Sales to minors
- 115.10 Itinerant merchants; specific regulations
- 115.11 Exceptions

### **§ 115.01 PERMIT REQUIRED.**

It shall be unlawful for any person, firm or corporation, without first obtaining a permit as hereinafter provided, to go in or upon or permit its representatives to go in or upon any private residence or premises in the town as solicitor, peddler, hawker, not having been requested or invited so to do by the occupants of the private residence or having secured their permission so to do for the purpose of soliciting orders for the sale of goods, wares, periodicals or merchandise or for the purpose of distributing, disposing of, peddling or hawking the same. (1990 Code, § 115.01) (Ord. passed 5-11-1993) Penalty, see § 10.99

### **§ 115.02 APPLICATION FOR PERMIT.**

Any person, firm or corporation desiring to engage in the business or practices referred to in § 115.01 shall file with the Chief of Police an application for a permit to do so. The application shall be in writing, under oath and shall show the applicant's name, age, fingerprints, current address and his or her place of residence and nature of employment during the preceding year, the address and nature of business of his or her employer or principal, if any, and shall specify in detail the goods, wares, periodicals or other merchandise to be offered for sale and shall state whether or not the applicant has been convicted of any crime involving moral turpitude, and if so the nature of the crime and the place and time of conviction. The applicant shall also furnish, at the time of filing his or her application, a photograph made within one year of the date of the application. The applicant shall also give to the Chief of Police at the time of the filing of the application, the other information requested as may be of assistance in passing upon the qualifications of the applicant. If the application is filed by an employer, there shall also be filed a separate application for each solicitor giving the information set forth above as to the qualifications of the solicitor and the same shall be signed and sworn to by each solicitor and a separate permit shall be issued for each applicant. (1990 Code, § 115.02)

**§ 115.03 ISSUANCE OF PERMIT; POSSESSION AND EXHIBITION.**

If, upon investigation reasonably made, the Chief of Police ascertains and determines that the applicant for a permit, as herein required, is a person of good moral character and proposes to engage in a lawful commercial or professional enterprise during hours that will not unduly disturb the occupants of residences, the Chief of Police shall issue to him or her a permit to engage in the business which the permit shall contain substantially the information set forth in his or her application and to which shall be attached the applicant's photograph and fingerprints. The permit shall be carried at all times by the applicant to whom issued when soliciting or canvassing in the town and shall be exhibited by the applicant whenever requested to do so by any police officer or any person solicited. If the Chief of Police shall, upon investigation, determine that the applicant is not a person of good moral character and that he or she does not propose to engage in a lawful commercial or professional enterprise during hours reasonably convenient for the occupants of residences, he or she shall refuse to issue the permit.

(1990 Code, § 115.03)

**§ 115.04 APPEAL FROM REFUSAL TO ISSUE PERMIT.**

Upon the refusal of the Chief of Police to grant a permit as hereinbefore required, the applicant thereafter may appeal to the Board of Commissioners and if the Board shall be satisfied that the applicant and his or her proposed business and hours of work meet the requirements herein set forth, it shall direct the Chief of Police to issue the permit, otherwise, the same shall be refused.

(1990 Code, § 115.04)

**§ 115.05 DURATION AND RENEWAL.**

The Chief of Police shall determine from the application and from the facts as may be developed in connection with the application, the period for which the permit shall be approved and granted, provided, however, that the period shall in no case exceed 12 calendar months. Upon the expiration of the permit the Chief of Police may, upon application filed in the form and giving the information required in the original application, renew and extend the permit for additional periods not to exceed 12 calendar months for any period.

(1990 Code, § 115.05)

**§ 115.06 TRANSFERABILITY.**

No permit approved and issued as herein provided shall be transferable.

(1990 Code, § 115.06)

**§ 115.07 REVOCATION OF PERMIT.**

If it should thereafter appear that the facts set forth in the applicant's application are untrue or if the applicant is thereafter convicted of a crime involving moral turpitude, or if he or she engages in business other than as set forth in his or her permit or fails to utilize the same in good faith and for the purpose issued, the permit shall be revoked by the Chief of Police and from the revocation, the applicant may, if he or she desires, appeal to the Board of Commissioners.  
(1990 Code, § 115.07)

**§ 115.08 APPEAL AND REVIEW.**

In case any applicant has been denied a license, or if his or her license has been revoked or suspended, the applicant or licensee as the case may be, shall, within three business days, have the right to appeal to the Board of Commissioners from the denial, revocation or suspension. Notice of appeal shall be filed in writing with the Town Manager who shall fix the time and place for a hearing which shall be held not later than one week thereafter. The Town Manager shall notify the Mayor and all members of the Board of Commissioners of the time and place of the hearing not less than 24 hours in advance thereof. A majority of the Commissioners shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the Board of Commissioners present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the order appealed from shall become final.  
(1990 Code, § 115.08)

**§ 115.09 SALES TO MINORS.**

(A) It shall be unlawful for any person, firm, corporation or organization to sell or offer to sell from trucks or other vehicles, any article of food or any other commercial article of whatever description to any children under the age of 16 years within the corporate limits of the town.

(B) Any violation of the provisions of this section shall be punishable as a misdemeanor.  
(1990 Code, § 115.09) (Ord. passed 5-15-1962) Penalty, see § 10.99

**§ 115.10 ITINERANT MERCHANTS; SPECIFIC REGULATIONS.**

(A) An *ITINERANT MERCHANT* shall be defined as an itinerant merchant, peddler by vehicle or specialty market operator who transports an inventory of goods to a building, vacant lot or other location in a county, city or town, and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail. The term *ITINERANT MERCHANT* shall include those people or companies who, during Mule Day Celebration Week, set up temporary tents, stands, trailers and or other apparatus for the playing of games for a fee.

(B) *Closed street setback.* No itinerant merchant shall set up or caused to be set up or allow any part of his or her operation or goods offered for sale to be placed within five (5) feet from the back of curb along streets that have curb and gutter, nor within five (5) feet from the edge of the street pavement along paved streets with no curb and gutter. For those streets that have sidewalks, no part of the sidewalk can be blocked or used for the sale of goods. Entire operations must be behind the sidewalk regardless of the distance from the back of the curb or the edge of street pavement. This section shall apply only to streets that have been duly, legally and properly closed by the Town of Benson Chief of Police, the Town of Benson Board of Commissioners, or other officer of the Town of Benson authorized by these ordinances to close streets.

(C) *Opened street setback.* No itinerant merchant shall set up or caused to be set up or allow any part of his or her operation or goods offered for sale to be placed within ten (10) feet from the back of curb along streets that have curb and gutter, nor within ten (10) feet from the edge of the street pavement along paved streets with no curb and gutter. For those streets that have sidewalks, no part of the sidewalk can be blocked or used for the sale of goods. Entire operations must be behind the sidewalk regardless of the distance from the back of the curb or the edge of street pavement. This section shall apply only to streets that have *not* been duly, legally and properly closed by the Town of Benson Chief of Police, the Town of Benson Board of Commissioners, or other officer of the Town of Benson authorized by these ordinances to close streets.

(D) No itinerant merchant shall conduct business within the town without first obtaining the appropriate privilege license from the town, which privilege license shall cost \$25 per year plus a \$10 garbage fee per site and for each operation period.

(E) An itinerant merchant must also pay all applicable garbage fees and fire inspection fee as required by Town of Benson for each 72-hour period prior to operating.

(F) An itinerant merchant shall obtain an operation permit which will allow the obtainee to retail his or her merchandise during the Mule Days Celebration, between the hours of 11:00 a.m. and 11:00 p.m. on Thursday; 9:00 a.m. and 11:00 p.m. on Friday, 9:00 a.m. and midnight on Saturday and 9:00 a.m. through 5:00 p.m. on Sunday. Failure to comply with operating hours will result in revocation of operating permit. (Ord. revised 7-27-2017)

(G) At least 20 calendar days must elapse following a designated 72-hour retailing period before another operation permit can be issued to the same itinerant merchant and no more than five operation permits shall be issued to any one person during any fiscal year; a **FISCAL YEAR** is defined as running from July 1 through June 30, the period of time for which a given privilege license is valid.

(H) No itinerant merchant shall receive a privilege license and operation permit without first displaying a state license and notarized, written permission from the property owner on which the business shall be conducted; in addition, the property on which business shall be conducted shall be an appropriately commercially zoned property for the merchandise desired to be sold. The notarized, written permission shall designate the dates for which the operation of the business is permitted.

(1990 Code, § 115.10) (Ord. passed 12-15-1983; Ord. passed 5-26-1988; Ord. passed 5-11-1993; Ord. passed 5-14-2002; Ord. passed 12-14-2004; Ord. passed 8-8-2006) Penalty, see § 10.99

**§ 115.11 EXCEPTIONS.**

The provisions of this chapter shall not apply to the sale or solicitation of farm or dairy products by the producer or to organizations or representatives of organizations organized and operated exclusively for educational, benevolent, religious, fraternal, charitable or civic purposes and not operating for profit and where the solicitation or sales are made without remuneration to the solicitor.

(1990 Code, § 115.11)

## CHAPTER 116: VEHICLES FOR HIRE

### Section

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## **GENERAL PROVISIONS**

### **§ 116.01 DEFINITIONS.**

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

**DRIVER.** Every person in charge of operating a taxicab.

**DRIVER'S PERMIT.** A permit granted to the driver of a taxicab.

**OWNER.** Any person having control of the operation or maintenance and collection of the revenue of taxicabs, person who holds the legal title of a vehicle, or, in the event a vehicle is subject to an agreement of conditional sale or lease thereof, with the right of purchase upon performance of the conditions stated in the agreement and with the immediate mortgagor of a vehicle entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.

**OWNER'S PERMIT.** A permit granted to the operator of a taxicab business.

**RATE CARD.** The card issued by the town to a taxicab owner and operator for display within each taxicab for which an owner's permit has been issued containing the schedule of fares to be charged by the taxicab.

**STREET.** Any street, alley, avenue, land, public place or highway within the limits of the town and within a radius of a mile and a half beyond the town limits in all directions as the town limits may now exist or may be hereafter extended.

**TAXICAB.** Every vehicle driven or propelled by gasoline or other motor fuel, other than motor buses operating in and through the town, which shall be used for the purpose of carrying, transporting or conveying any person or persons from one place to another, for whose services a charge or fee is made.  
(1990 Code, § 116.01) (Ord. passed 1-11-1971)

## **OWNER'S PERMIT**

### **§ 116.15 PERMIT AND CENTRAL PLACE OF BUSINESS REQUIRED FOR OPERATION OF TAXICAB BUSINESS.**

(A) It shall be unlawful for any person within the corporate limits of the town to engage in the business of operating one or more taxicabs or permit to be driven any taxicab of which the person is the owner, unless an owner's permit shall have been issued and shall be in effect. The permit shall constitute a certificate of convenience and necessity.

(B) All persons engaged in the taxicab business in the town operating under the provisions of this chapter shall render an overall service to the public desiring to use taxicabs. Holders of taxicab owner's permit shall maintain a central place of business, as approved by the Town Manager, for the purpose of receiving calls and dispatching taxicabs. Two or more permit holders may enter into an agreement for the joint utilization of a taxi business location. At no time, however, shall more than three permit holders operate from the same location in order to meet conditions set forth in this section. The issuance of additional taxicab owner's permit shall be withheld if a prospective holder anticipates to function from a location whose joint usage is in excess of the total number of permit holders allowed, until the number has been reduced to comply with this section. All taxicab business locations shall be maintained in a safe and sanitary condition. All grounds shall be kept up with grass and weeds regularly mowed and trash and litter removed on a daily basis. Business facilities shall be kept in a good state of repair. Taxicab business parking lots or spaces may be shared with another business, as approved by the Town of Benson Manager. Taxicab businesses and parking lots or spaces shall not be sites for the general public to gather or for the conduction of activities which may produce an unusual amount of unrest, volume of noise or generally disturb the privacy of the surrounding property. (1990 Code, § 116.15) (Ord. passed 1-11-1971; Ord. passed 9-14-1982; amended 10-23-2008) Penalty, see § 10.99

#### **§ 116.16 PRIVILEGE LICENSE TAX.**

Every taxicab owner operating in the town who shall be issued an owner's permit for the operation of motor vehicles for hire, shall pay the required annual privilege tax. (1990 Code, § 116.16) (Ord. passed 1-11-1971) Penalty, see § 10.99

#### **§ 116.17 APPLICATION FOR OWNER'S PERMIT.**

No owner's permit shall be issued to any person until and unless the person shall have made and filed with the Town Manager an application therefore, sworn to before a notary public or other officer authorized to administer oaths, on application forms provided by the town. The sworn application for the permit thereof shall contain the following information:

(A) The name and address of the applicant (owner), and in the event that the applicant shall be a corporation, a certified copy of the articles of incorporation;

(B) The number of vehicles actually owned and the number of vehicles actually operated by the owner on the date of the application, if any;

(C) The number of vehicles to be operated under the owner's permit applied for;

(D) The make, type, year of manufacture, serial number, engine number and passenger capacity of each taxicab to be operated under the owner's permit applied for;

(E) Court record of applicant. If the applicant is a corporation, the court record of the officers, directors and supervisors of employees thereof;

(F) The experience of the applicant in the transportation of passengers for hire; and

(G) Location of taxicab business and parking lot or spaces may be shared with another business as approved by the town manager.

(1990 Code, § 116.17) (Ord. passed 1-11-1971; Ord. passed 9-14-1982 amended 10-23-2008)

**§ 116.18 ISSUANCE OF OWNER'S PERMIT.**

(A) After giving due consideration to the information set forth in the application and the other pertinent information and evidence as may be presented, the Town Manager shall authorize the issuance of an owner's permit to the applicant, upon the conditions as the Manager may deem that the public interest and welfare require, unless the Town Manager shall find and determine:

- (1) That the applicant (owner) has not complied with all the provisions of this chapter;
- (2) That there are unpaid or unbounded judgments of record against the applicant (owner); and

(3) That the criminal record of the applicant (or of the officers, directors or supervising employees of a corporate applicant), if any, is such that it would be against the public interest and welfare for the application to be granted.

(B) If the Town Manager shall so find and determine adversely to the applicant in any instance, the Town Manager may refuse to grant and to authorize the issuance of an owner's permit.

(C) The Town Manager may refuse to issue an owner's permit to any person who has been convicted of a felony, or of a violation of any federal or state statute relating to the use, possession or sale of intoxicating liquors, or any federal or state statute relating to prostitution, or any federal or state statute relating to the use, possession or sale of any habit forming drugs or narcotic drugs, or to a person who has been a habitual violator of traffic laws and ordinances.

(1990 Code, § 116.18) (Ord. passed 1-11-1971)

**§ 116.19 FORM OF OWNER'S PERMIT.**

The owner's permit shall contain the name and address of the owner to whom it is granted, the number, kind and description of the vehicles the operation of which is authorized by the owner's permit and a statement that the permit is issued subject to full compliance with the provisions of this chapter, and subject to revocation as provided by this chapter. Each owner's permit shall bear the signature of the Town Manager and the official seal of the town.

(1990 Code, § 116.19) (Ord. passed 1-11-1971)

**§ 116.20 EXPIRATION OF OWNER'S PERMIT.**

Subject to the provisions of this chapter and amendments thereto, an owner's permit shall remain in force and effect until midnight on December 31 following the date of issue. If permit is issued after October 1, then the permit is good until December 31 of the next calendar year following issue date and the applicant shall pay two-years' privilege license. Application for a renewal of an owner's permit shall be filed with the Town Manager on or before the first day of October next following the date of the issuance of the permit and annually thereafter on or before October 1.

(1990 Code, § 116.20) (Ord. passed 1-11-1971)

**§ 116.21 CHANGE OF OWNERSHIP.**

Change of ownership of, or title to, any taxicab or taxicabs shall automatically revoke any permit previously granted to the extent applicable to the operation of the taxicab or taxicabs. The purchaser of any taxicab or taxicabs shall not operate the vehicles as taxicabs unless and until he or she has applied for, and has been granted, an owner's permit in the manner provided by this chapter.

(1990 Code, § 116.21) (Ord. passed 1-11-1971) Penalty, see § 10.99

**§ 116.22 SUSPENSION AND REVOCATION OF OWNER'S PERMIT.**

(A) An owner's permit may be suspended or revoked by the Town Manager at any time in case the Town Manager finds and determines:

(1) If as many as three traffic law violation convictions plus one additional for each taxicab line operated, or one liquor or narcotics law violation conviction occur among the drivers of applicant's company or by the owner or owners themselves, within the 12 months from January 1 through December 31;

(2) That the past record of the holder of the owner's permit is unsatisfactory and that it is detrimental to and not in the public interest to permit the continued operation of a taxicab business by the person;

(3) That the owner has failed to operate a taxicab or taxicabs in accordance with the provisions of this chapter;

(4) That the holder of a permit has failed to register properly with the state or with the town in the correct and true owner's name, any taxicab covered in the owner's permit;

(5) That the holder of the permit is using private cars, or cars not licensed to be operated as taxicabs, either not having state or town license for the purpose of transporting passengers for various sums or fees, whether fees are reported or not; and

(6) That the holder of an owner's permit has been convicted of a felony, or a violation of any federal or state statute or municipal ordinance relating to prostitution, any federal or state statute or municipal ordinance relating to the use, possession or sale of narcotic drugs, intoxicating liquors or is acting as the intermediary agent in transporting narcotic drugs or intoxicating liquors or beer or wine from seller or user, repeated violations of traffic laws or ordinances or become a habitual user of intoxicating liquors or narcotic drugs.

(B) No owner's permit shall be suspended or revoked unless and until the owner shall have been given the opportunity of a hearing and after at least five-days' written notice of the time and place of the hearing shall have been given to the holder of the permit.

(1990 Code, § 116.22) (Ord. passed 1-11-1971)

**§ 116.23 SURRENDER OF OWNER'S PERMIT; RETIREMENT OF TAXICABS.**

(A) Owners' permits which shall have been suspended or revoked by the Town Manager shall be surrendered to the Town Manager and the operation of any taxicab or taxicabs covered by the permits shall cease.

(B) Any owner who shall permanently retire any taxicab or taxicabs from taxicab service and not replace same within 45 days thereafter, shall immediately surrender any permits granted for the operation of the taxicab or taxicabs to the Town Manager.

(1990 Code, § 116.23) (Ord. passed 1-11-1971) Penalty, see § 10.99

**§ 116.24 RECORD OF OWNER'S NAME, ADDRESS AND OTHER INFORMATION.**

Every owner shall maintain on file with the Town Manager his or her name, business address, all business telephone numbers and the names of all his or her drivers, their license numbers and addresses, and shall within two days report any change to the Town Manager.

(1990 Code, § 116.24) (Ord. passed 1-11-1971) Penalty, see § 10.99

***TAXICAB DRIVER'S PERMIT***

**§ 116.35 PERMIT REQUIRED.**

No person shall drive any taxicab within the corporate limits of the town or within a radius of a mile and a half beyond the corporate limits in all directions unless he or she shall have been issued by the Town Manager a taxicab driver's permit which is then in force and effect.

(1990 Code, § 116.35) (Ord. passed 1-11-1971) Penalty, see § 10.99

**§ 116.36 FORM OF APPLICATION FOR DRIVER'S PERMIT.**

(A) Each applicant for a driver's permit shall file application with the Chief of Police, directed to the Town Manager, on forms to be provided by the town and shall, among other things, show his or her full name, address, physical condition with particular reference to hearing, eye sight and use of intoxicating liquors and drugs, physical description, age, color, place of birth, length of time he or her has resided in the town, whether acitizen of the United States, previous places of employment for three years prior to date of application, whether married or single, his or her court record and his or her state chauffeur's license number. The application and statement shall be signed and sworn to by the applicant, and any false statement made by an applicant in applying for a driver's permit shall invalidate the permit issued to the applicant, and upon conviction, the applicant shall be guilty of a misdemeanor.

(B) The applicant's fingerprints shall be impressed on each application form or other form furnished by the town in the space provided.

(C) Each application shall have attached thereto two recent photographs of the applicant of the size as may, from time to time, be designated by the Town Manager.

(1990 Code, § 116.36) (Ord. passed 1-11-1971) Penalty, see § 10.99

**§ 116.37 EXAMINATION OF APPLICANT FOR DRIVER'S PERMIT.**

Each applicant for a taxicab driver's permit may be examined by the Chief of Police as to his or her knowledge of the provisions of this chapter, and each applicant may be required to have a medical examination as to his or her physical condition and to exhibit a current health certificate.

(1990 Code, § 116.37) (Ord. passed 1-11-1971)

**§ 116.38 INVESTIGATION OF APPLICANTS BY POLICE DEPARTMENT.**

It shall be the duty of the Chief of Police to cause a thorough investigation to be made of each applicant for a taxicab driver's permit. In the discretion of the Chief of Police, or at the direction of the Town Manager, the Chief of Police shall cause to be made the examination authorized by this chapter.  
(1990 Code, § 116.38) (Ord. passed 1-11-1971)

**§ 116.39 REFUSAL OF TAXICAB DRIVER'S PERMIT.**

(A) The Town Manager shall refuse to grant or renew a taxicab driver's permit in the case of an application from any person:

(1) Who, within a period of five years immediately prior to the date of his or her application, has been convicted of a felony;

(2) Whose state automobile driver's license or chauffeur's license or permit to operate has, within a period of three years immediately prior to the date of his or her application, been suspended or revoked;

(3) Who, within a period of three years immediately prior to the date of his or her application, shall have been convicted of driving a motor vehicle while intoxicated;

(4) Who, within a period of three years immediately prior to the date of his or her application, shall have been convicted of a violation of any law, municipal, state or federal, relating to the use, possession or sale of intoxicating liquors;

(5) Who, within a period of three years immediately prior to the date of his or her application, shall have been convicted of any laws, municipal, state or federal, relating to prostitution;

(6) Who is, or, within a period of three years immediately prior to the date of his or her application, has been an habitual user of intoxicating liquors or narcotic drugs or barbituric drugs;

(7) Who has been convicted in any criminal court of two or more violations of traffic laws or ordinances within any period of 12 months during the 36 months immediately preceding the date of the application for the taxicab driver's permit; or

(8) Who is a person of such bad character or reputation that it would be clearly contrary to the public interest, safety and welfare to permit the applicant to drive a taxicab.

(B) In the case of refusal by the Town Manager to grant a permit under this section, the applicant shall have the right within ten days after the refusal to appeal to and be heard by the Board of Commissioners, whose decision, on the question of granting or refusing the permit, shall be final and conclusive. Notice of appeal to the Board of Commissioners shall be given in writing and filed with the Town Clerk-Treasurer.  
(1990 Code, § 116.39) (Ord. passed 1-11-1971)

**§ 116.40 QUALIFICATIONS OF DRIVERS.**

No taxicab driver's permit shall be issued or renewed unless the applicant for a driver's permit shall meet the following requirements:

(A) The applicant must be at least 21 years of age;

(B) Produce on forms provided by the town, affidavits establishing his or her good character from three reputable citizens of the town who have known him or her personally and observed his or her conduct during the one year just previous to date of his or her application;

(C) Hold an automobile chauffeur's license issued by authority of the state;

(D) Be clean in dress and in person;

(E) Be not addicted to the use of narcotic or other habit-forming drugs or intoxicating liquors;

(F) Be of sound physique, with good eyesight and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him or her unfit for the safe operation of a taxicab; and

(G) Pay a fee of \$15 for the issuance of a permit, payable to the town.  
(1990 Code, § 116.40) (Ord. passed 1-11-1971)

#### **§ 116.41 ISSUANCE OF TAXICAB DRIVER'S PERMIT.**

(A) Should the Town Manager find that the applicant has satisfactorily complied with the conditions and requirements of this chapter, he or she shall cause to be issued a driver's permit in the form as the Town Manager may prescribe.

(B) The driver's permit shall bear a recent photograph of the driver to whom it is issued, and shall show the name, address, height, weight, age and expiration date of the permit. The driver's permit shall specify the holder of an owner's permit for whom the driver shall drive and no driver shall operate a cab for any other holder without securing a new permit from the Town Manager designating the new owner.  
(1990 Code, § 116.41)

#### **§ 116.42 REVOCATION OF TAXICAB DRIVER'S PERMIT BY TOWN MANAGER.**

At any time after the issuance of a driver's permit to any person to drive a taxicab, the Town Manager may revoke the permit if the person holding the permit is convicted of a felony, a violation of any federal or state statute or town ordinance relating to the use, possession, transportation or sale of intoxicating liquors, a violation of any federal or state statute or town ordinance relating to the use, possession or sale of narcotic drugs or barbiturate drugs, two or more violations of traffic laws or ordinances of the town, one violation of liquor or narcotic laws; or if he or she becomes a habitual user of intoxicating liquors or narcotic drugs. The Town Manager may suspend the permit for the time as it may deem proper on any ground sufficient for a revocation of a permit or if he or she shall be found to have in his or her possession or custody, any quantity whatsoever of intoxicating liquor or narcotic drugs, within his or her cab or on his or her person, or if he or she has violated any provision of this chapter.  
(1990 Code, § 116.42) (Ord. passed 1-11-1971)

#### **§ 116.43 SUSPENSION OF TAXICAB DRIVER'S PERMIT BY TOWN MANAGER.**

The Town Manager shall have the authority to suspend any taxicab driver's permit and require the surrender thereof for a period not to exceed 30 days upon conviction of a violation of this or any town ordinance, or of any statute dealing with the public safety or public morals or upon any grounds sufficient for a revocation of license.  
(1990 Code, § 116.43) (Ord. passed 1-11-1971)

## ***STANDARDS OF OPERATION***

### **§ 116.55 COMPLIANCE WITH LAWS AND ORDINANCES.**

(A) Every taxicab shall be operated in accordance with the state laws and the ordinances of the town and with due regard for safety, comfort and convenience of passengers and for the safe and careful transportation of property and for the safety of the general public.

(B) No taxicab shall be operated at a rate of speed greater than that established by state laws, or by ordinances of the town, not in any event without proper regard for the general safety of the passengers or the public.

(1990 Code, § 116.55) (Ord. passed 1-11-1971) Penalty, see § 10.99

### **§ 116.56 INSPECTION OF TAXICABS.**

(A) Every owner shall institute a system of regular weekly inspection of all taxicabs under his or her control, shall inspect the equipment and keep all taxicabs and their equipment in proper repair and in sanitary condition at all times.

(B) The Chief of Police may inspect or cause to be inspected any taxicab on any occasion and refusal on the part of any taxi driver to allow the inspection shall be cause for a revocation of his or her permit to drive a taxicab for hire in the town.

(1990 Code, § 116.56) (Ord. passed 1-11-1971) Penalty, see § 10.99

### **§ 116.57 EQUIPMENT REQUIREMENT.**

(A) In addition to equipment required of motor vehicles by the General Statutes of North Carolina, every taxicab for which an owner's permit is issued under this chapter shall be equipped with a card frame or frames for the proper display of the taxicab driver's permit and rate card. The card frame shall be placed on the right side sun visor or center of partition between driver's compartment and passenger's compartment and shall face the passenger and be so located as to be, at all times, in plain view of the passenger.

(B) All taxicabs must have attached to the roof thereof an electric taxi sign or light of the type and kind now in general use upon taxicabs within the state.

(1990 Code, § 116.57) (Ord. passed 1-11-1971) Penalty, see § 10.99

### **§ 116.58 DESIGNATION OF TAXICABS.**

Subject to the approval of the Town Manager, each owner of a taxicab business shall adopt a color scheme for painting his or her cabs distinct from that of any other owner or may adopt an identifying design, monogram or other insignia. All taxicabs of each owner shall be of the same color scheme. A name identifying the taxicab company, taxicab number and telephone number shall be painted with permanent paint on both sides and rear of each cab with letters and numbers at least four inches high. Colors of paint to be used for lettering, and numbers shall be in sharp contrast with colors of surface paint to which this is applied, so as to be evenly visible at a reasonable distance especially at nighttime with street lights. No lettering or numbers shall be acceptable which have been painted upon a sheet of metal or other material which in turn can be removed or detached to conceal the identification of the cab company and cab number.

(1990 Code, § 116.58) (Ord. passed 1-11-1971) Penalty, see § 10.99

**§ 116.59 RESTRICTION OF PASSENGERS IN DRIVER'S COMPARTMENT.**

No driver shall permit or cause any person to ride in the front seat of any taxicab unless the rear seat is occupied to full seating capacity, and at no time shall more than one person, in addition to the driver, ride in the front seat of any taxicab, a child in arms excepted; however, this section shall not apply to the transportation of crippled persons and unattended children under ten years of age.  
(1990 Code, § 116.59) (Ord. passed 1-11-1971) Penalty, see § 10.99

**§ 116.60 TAXI FARES RATE CARD; ISSUANCE AND DISPLAY.**

(A) For every taxicab for which an owner's permit shall be granted, the Town Manager shall issue a rate card stating all the elements of the schedule of fares approved by the Town Manager. The rate card shall at all times be displayed in the card frame within the taxicab.

(B) Every taxicab operated under this chapter shall have a rate card setting forth the rates of fare for the distance traveled and the waiting time displayed in a conspicuous place inside of each taxicab. The card shall also set forth any charges for carrying packages or similar articles or for carrying each passenger of a party in excess of any base number (for example, one or two passengers) set on the rate card.  
(1990 Code, § 116.60) (Ord. passed 1-11-1971; Ord. passed 9-14-1982) Penalty, see § 10.99

**§ 116.61 REPORT OF ACCIDENTS.**

All accidents from or in connection with the operation of taxicabs which result in personal injury or damage to any property shall be reported to the Police Department as soon as possible.  
(1990 Code, § 116.61) (Ord. passed 1-11-1971)

**§ 116.62 PUBLIC LIABILITY INSURANCE.**

(A) The operator of every taxicab engaged in the business of transporting passengers for hire over the public streets of the town shall furnish and keep in effect for each taxicab a policy of insurance to be in the sum of not less than \$25,000 to cover damages for any liability incurred on account of any injury to any one person in any one accident; or in the sum of not less than \$50,000 to cover damages for the injury of two or more persons in any one accident and in the sum of \$10,000 for damage to property in any one accident, the insurance policy to be conditioned on the operator responding in damages for any liability incurred on account of any injury to persons or damage to property resulting from the operation of any taxicab and the policy of insurance shall set forth a description of each and every taxicab operating under the terms of the policies, including the make, model, motor number and the state license number for each and every taxicab.

(B) Any person, firm or corporation failing to comply with this chapter and failing to furnish the policy of insurance as herein provided shall be guilty of a misdemeanor and each and every day's violation shall constitute a separate offense.  
(1990 Code, § 116.62) (Ord. passed 1-11-1971) Penalty, see § 10.99

**§ 116.63 USE OF UNLICENSED VEHICLES AS TAXICABS.**

The use of any unlicensed vehicles for taxicab purposes is hereby prohibited. Any vehicle used for the transportation of passengers for hire in any manner shall have the necessary state and town license. Any violation of this section shall be sufficient cause for the suspension or revocation of the owner's permit to operate taxicabs in the town.

(1990 Code, § 116.63) (Ord. passed 1-11-1971) Penalty, see § 10.99



## CHAPTER 117: YARD AND GARAGE SALES

### Section

- 117.1 Definitions
- 117.2 Conformance
- 117.3 Permit required; application; fee
- 117.4 Consignment sales prohibited
- 117.5 Signs
- 117.6 Number of sales limited
- 117.7 Hours
- 117.8 Exception
  
- 117.99 Penalty

### § 117.01 DEFINITIONS.

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

**YARD SALE** or **GARAGE SALE**. A display and sale from a residence or residential property of personal property which has been owned or previously used. The terms **YARD SALE** or **GARAGE SALE** does not include the mere incidental sale of one or two items of personal property when the sale is not part of a general sale of a number of items of personal property.

(1990 Code, § 117.01) (Ord. passed 2-10-1981)

### § 117.02 CONFORMANCE.

All the sales shall be subject to the following rules and regulations of this chapter.

(1990 Code, § 117.02) (Ord. passed 2-10-1981; Ord. passed 3-10-1981; Ord. passed 8-11-1981)

### § 117.03 PERMIT REQUIRED; APPLICATION; FEE.

(A) No person shall conduct any yard sale or garage sale without first obtaining a permit therefore from the town.

(B) All persons conducting a sale shall obtain a permit therefore from the Tax Collector. Applications for the permit shall be made to the Tax Collector in the form as may be required by the town and shall be accompanied by a permit fee in the amount of \$1.

(1990 Code, § 117.03) (Ord. passed 2-10-1981; Ord. passed 3-10-1981; Ord. passed 8-11-1981) Penalty, see § 117.99

#### **§ 117.04 CONSIGNMENT SALES PROHIBITED.**

No person shall accept or take in for sale, any goods from any commercial business or enterprise on a consignment basis for sale in a yard sale.

(1990 Code, § 117.04) (Ord. passed 2-10-1981; Ord. passed 3-10-1981; Ord. passed 8-11-1981) Penalty, see § 117.99

#### **§ 117.05 SIGNS.**

Two off-site directional signs may be permitted, but only during the hours the sale is actively being conducted. Off-site signs must be removed at the close of the sale activities, or by the end of daylight, whichever first occurs, each day of the sale. No freestanding signs may be placed in the public right-of-way.

(1990 Code, § 117.05) (Ord. passed 2-10-1981; Ord. passed 3-10-1981; Ord. passed 8-11-1981) Penalty, see § 117.99

#### **§ 117.06 NUMBER OF SALES LIMITED.**

(A) Not more than four yard sales or garage sales per year shall be held at the premises if occupied by the same family or any member of the family.

(B) No single sale shall be conducted for longer than two consecutive weekends, or 72 hours, whichever is the lesser.

(1990 Code, § 117.06) (Ord. passed 2-10-1981; Ord. passed 3-10-1981; Ord. passed 8-11-1981) Penalty, see § 117.99

#### **§ 117.07 HOURS.**

Yard sales and garage sales may be conducted during daylight hours only.

(1990 Code, § 117.07) (Ord. passed 2-10-1981; Ord. passed 3-10-1981; Ord. passed 8-11-1981) Penalty, see § 117.99

#### **§ 117.08 EXCEPTION.**

The provisions of this chapter shall not apply to or affect persons selling goods pursuant to an order of a court of competent jurisdiction or persons acting in accordance with their powers and duties as public officials.

(1990 Code, § 117.08) (Ord. passed 2-10-1981)

**§ 117.99 PENALTY.**

Anyone violating this chapter shall be guilty of a misdemeanor and can be confined for no more than 30 days or fined in the excess of \$50. Each days' continuing violation of this chapter shall be a separate and distinct offense.

(1990 Code, § 117.99) (Ord. passed 2-10-1981)

## **CHAPTER 118: Internet Sweepstakes and/or Gaming Facilities**

Section:

§ 118.01 Definitions

§ 118.02 Privilege License Required

§ 118.03 Establishment of a Privilege License Tax

§ 118.04 Establishment of an Excise Tax

§ 118.05 Annual Reports

### **§ 118.01 DEFINITIONS.**

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

1. **Electronic Gaming Operation.** Any business enterprise, whether as a principal or accessory use greater than two (2) video sweepstakes machines, where persons utilize electronic machines, including but not limited to computers and gaming terminals, whether connected to the internet or not, to conduct games of chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, which have a finite pool of winners. Electronic gaming operations include, but are not limited to, internet cafes, internet sweepstakes, business centers, electronic gaming machines and/or operations, video sweepstakes, cybercafés, or other such terminology an establishment might be known or named. This definition explicitly excludes operation of any lottery or lottery terminal approved by the State of North Carolina Lottery Commission.

2. **Video sweepstakes machine or device.** – A mechanically, electrically, or electronically operated machine or device that is owned, leased, or otherwise possessed by a sweepstakes sponsor or promoter, or any of the sweepstakes sponsor's or promoter's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes entrant, that uses energy, and that is capable of video display on a screen or other mechanism.

### **§ 118.02 PRIVILEGE LICENSE REQUIRED.**

1. **License Required for Operation.** No person, firm, corporation, limited liability company, or other entity shall maintain or operate any Electronic Gaming Operation or

Video Sweepstakes Machine or device unless such entity shall first have secured a license from the Town Manager to do so. Said license shall expire on January 1<sup>st</sup> following the issuance of the license. Said license shall not be transferrable. Any licensee under this section shall make application for said license or renewal no less than thirty (30) days prior the expiration of said license, or before commencement of maintaining or operation of any establishment of any Electronic Gaming Operation or Video Sweepstakes.

2. Application for License. Applications for the license shall be made upon forms provided by the Town Manager, and shall contain all information necessary for the Town Manager to intelligently act upon such application. The Town Manager is authorized to promulgate such application forms and to inquire of applicants any information he or she finds necessary to act intelligently upon such application, and may base issuance or non-issuance of such licenses upon such information, to include, but not being limited to, the following: whether the applicant or any person who is engaged in operation of any Electronic Gaming Operation or Video Sweepstakes Machine on behalf of the applicant:

(a) Has been convicted of a crime of moral turpitude;

(b) Has made willful misstatements in the application;

(c) Has committed prior violations of ordinances or laws pertaining to Electronic Gaming Operations or Video Sweepstakes Machines.

(d) Has committed prior fraudulent acts;

(e) Has failed to comply with the laws of the State of North Carolina pertaining to Electronic Gaming Operations or Video Sweepstakes Machines.

3. A license shall not be issued to any person, corporation, partnership or other legal entity that is in default or has failed to comply with any ordinance or regulation of the town or has failed to pay any obligation due and owing to the town, including all fines, delinquent taxes, licenses or other fees.

4. Every license issued pursuant to this chapter shall specify the premises for which it is issued, the number of machines to be operated thereunder, the name of the owner or operator and the dates upon which the license begins and shall expire. One license is required for each location operated by an applicant. The license shall be posted in a prominent place on the premises at all times

### **§ 118.03 ESTABLISHMENT OF A PRIVILEGE LICENSE TAX**

The tax for each license granted under this article shall be One Thousand Dollars (\$1,000.00). No proration shall be given for any partial period of licensure.

#### **§ 118.04 ESTABLISHMENT OF AN EXCISE TAX**

There is hereby levied an excise tax upon each Video Sweepstakes Machine or device at the rate of Five Hundred Dollars (\$500.00) per machine per year. This tax shall be due on or before January 1 of any calendar year during which a licensee puts into operation any Video Sweepstakes Machine or device. No proration shall be given for any partial taxable period. This section applies only to establishments operating three (3) or more video sweepstakes machines or devices.

#### **§ 118.05 ANNUAL REPORTS**

Any entity granted a license hereunder shall provide annual reports containing the location and number of Video Sweepstakes Machines or devices in operation therein to the Town Manager with its application or renewal of any license granted hereunder. (Ordinance passed 9-11-2012)

**CHAPTER 119: Food Vendor Sales - *Annual Endless Yard Sale Event***

§ 119.01 Certain Vendors Prohibited

§ 119.02 Permitted Businesses

§ 119.03 Penalty

**§ 119.01 CERTAIN BUSINESSES PROHIBITED.**

It shall be unlawful for any person, firm, or entity to operate a concession stand or offer for sale any food items from a mobile conveyance within the corporate bounds of the Town of Benson during the days of the Annual Endless Yard Sale Event, held annually in June, unless such person, firm or entity be a charitable, religious, or non-profit organization organized under Section 501(c)3 of the Internal Revenue Code. This section shall not be construed to prohibit a restaurant from operating in a permanent building or structure within the corporate limits of the Town of Benson.

**§ 119.02 PERMITTED BUSINESS.**

Nothing in this chapter shall be construed to prohibit the conduct of lawful privileges licensed by the town or which may hereafter be licensed by the town; neither shall it be construed to prevent those groups or individuals participating in the Annual Endless Yard Sale Event for the purpose of offering for sale non-food items.

**§ 119.03 PENALTY.**

Any person, firm, or entity operating a food stand or offering for sale any food items during the Annual Endless Yard Sale Event in violation of this section shall be punished as provided in §10.99 of these Ordinances. (Ordinance passed 4-30-2013)

## **CHAPTER 120: Annual Benson Mule Days Festival and Special Event Ordinance**

### **§ 120.01 Purpose**

### **§ 120.02 Applicability**

### **§ 120.03 Definitions**

### **§ 120.04 Disclaimer of Ownership, Control and Authority in favor of the Benson Area Chamber of Commerce**

### **§ 120.05 Requirement of a Permit to Conduct a Special Event**

### **§ 120.06 Regulations**

### **§ 120.07 Fees**

### **§ 120.08 Preemption**

### **§ 120.09 Penalty**

### **§ 120.10 Application form**

### **§ 120.11 Effective Date**

**§ 120.01 Purpose.** The Annual Benson Mule Days Festival, a town-sanctioned, town-wide festival, attracts an extraordinarily large number of persons who, during the course of the festival, perambulate and go about the entirety of the corporate limits and extra-territorial jurisdiction of the Town of Benson and which lasts a greater duration than other community events. Because of crowded conditions, certain activities, such as the riding of horses, mules and other equines on horseback and via equine-drawn wagonry, and the riding of golf carts pose hazards presenting the possibility of injury to persons and damage to property. Additionally, Benson Mule Days features organized activities, live entertainment, food concessions, widespread camping, and hundreds of authorized exhibitors who display and offer for sale artwork, crafts, and related items. The Town of Benson issues permits to persons desiring to place or maintain an exhibit or concession stand or to otherwise engage in outdoor sales. The exhibition, offering for sale and selling of merchandise or food and beverages by unauthorized vendors poses a threat to the public safety and welfare, interferes with planned traffic flow and the maintenance of order, frequently violates the town zoning code, and detracts from the authorized exhibits and concessions. The purpose of this section is to protect and promote the public health, safety, welfare, and recreation, by regulating certain commercial activities at Benson Mule Days and other Special Events, whether they be town-sanctioned, town-sponsored, or events of a

private nature to which these provisions are made to apply by action of the Town of Benson Board of Commissioners.

§ **120.02 *Applicability.*** This Chapter shall apply to that town-sanctioned festival known as Benson Mule Days, held annually the last week of September and may be made to apply to any other town-sanctioned or sponsored festival or event by action of the Town of Benson Board of Commissioners.

A. As to Mule Days, this Chapter shall apply from 12:00 noon on the Sunday preceding the event weekend, to wit: the Sunday which begins the fourth week of September, through 5:00 P.M. on the following Sunday, or the rain date, if necessary, to all of the corporate limits of the Town of Benson, North Carolina. Insofar as the provisions of this Chapter conflict with other Town of Benson Ordinances or policies, during the aforementioned applicable time the terms and provisions of this Chapter shall control and be paramount to any provision of any ordinance or policy not herein contained.

B. The time, area, and boundaries of any other event to which these provisions shall be made to apply shall be determined by the Town Board of Commissioners.

§ **120.03 *Definitions.***

For the purposes of this Chapter, the following definitions shall apply:

A. *Mule Days.* The term “Mule Days,” “Benson Mule Days,” or “Annual Benson Mule Days Festival” shall be construed to mean the annual festival held each September during the fourth week of said month.

B. *Special Event.* The term “Special Event” shall construed to mean the following:

1. An event or assembly:

(i) of ONE HUNDRED (100) or more people gathered together in a public or private place; *and*

(ii) which interferes with the normal flow or regulation of traffic upon streets, sidewalks, rights-of-way, or the normal use of parks or other public areas; *and*

(iii) which includes some sort of performance or production open to the public; *and*

(iv) which is commercial in nature.

2. Special Events include, but are not limited to, festivals, demonstrations, concerts, fairs, carnivals, circuses, street dances, or events for which music is broadcast. A Special Event shall not include events held on private property which do not interfere with normal flow or regulation of traffic upon streets, sidewalks, or rights-of-way, or the normal use of parks or other public areas, sporting events, any town-sponsored event, or events which

are not held for a commercial purpose. For the purpose of this Chapter, “Commercial” shall be construed to mean an event that is produced with the intention of producing income or financial benefit to some entity.

3. The Town Manager may, if he or she deems an event to be of sufficient size or significance, or if he or she expects an event to attract a significant number of people to a particular portion of the Town, deem an event to be a Special Event subject to the terms of this Chapter.

- C. *Town-sanctioned.* A Special Event which is Town-sanctioned carries the formal approval and support of the Town of Benson Board of Commissioners but is not paid for or conducted at the direction of the Town of Benson or an officer, employee, agent or subsidiary entity thereof acting in their official town capacity.
- D. *Town-sponsored.* A Special Event which is Town-sponsored is paid for in major part by the Town of Benson and is conducted at the direction of an officer, employee, agent or subsidiary entity thereof acting in their official town capacity.
- E. *Town Property.* Any property owned, leased, or occupied by the Town of Benson.
- F. *Sponsoring Entity.* Any entity which pays for in major part and which conducts or controls the conducting of any Special Event.
- G. *Applicant.* The Entity making the application for a Special Event Permit.
- H. *Proposed Event.* The Special Event as set forth in the Applicant’s application.
- I. *Event Area.* The area delineated on the Applicant’s Special Event Permit as the boundary of the Special Event.

**§ 120.04** *Disclaimer of Ownership, Control and Authority in favor of the Benson Area Chamber of Commerce.* The term “Benson Mule Days” has traditionally been used by the Benson Area Chamber of Commerce, Inc., a North Carolina non-profit corporation in connection and association with said organization’s promotion and production of the Annual Mule Days festival. The Town of Benson assumes no responsibility for any event the Benson Area Chamber of Commerce or any other entity sponsors or conducts during the Annual Mule Days Festival nor any other event or festival.

**§ 120.05** *Requirement of a Permit to Conduct a Special Event.* No entity shall hold, conduct, or participate in a special event unless a permit for the same has been issued for such event upon timely written application for such event has been made to the Town of Benson as set forth herein. This permit shall be referred to as a “Special Event Permit.”

- A. *Town Manager Authorized to Issue or Deny Permit.* The Benson Town Manager shall have the authority to issue a Special Event Permit if in his or her opinion the permit application meets all the requirements as set forth herein and if in his or her

opinion it is appropriate to do so considering the effect such a Special Event may have on public safety and private property rights.

The Town Manager shall have the authority to deny a Special Event permit or to revoke a previously issued Special Event Permit for any reason if in his or her opinion it is appropriate to do so in order to protect lives and property, to prevent breaches of the peace, when police resources are incapable of maintaining order, and/or when the Applicant is in non-compliance with the terms and provisions of this Chapter.

- B. *Requirements for Application for Special Event Permit.* Applications may be approved by the Town Manager upon meeting the following requirements:
1. *Application.* A written application for a Special Event Permit, including street closures, must be submitted to the Town Manager no less than NINETY (90) days prior to the event, however, in the Town Manager's sole discretion, the ninety (90) day requirement may be waived if good cause is shown. A detailed site map shall be included in the application indicating, at a minimum, the following information as applicable:
    - i. Stage area;
    - ii. Concessions;
    - iii. Tables and seating area;
    - iv. Designated beer and wine gardens;
    - v. Parking areas;
    - vi. Location of any events; and
    - vii. Number and location of sanitation and potable water facilities.
  2. *Alcoholic Beverages.* A statement of the Applicant's intent whether to serve or to allow the consumption of beer and wine shall be submitted. If serving alcoholic beverages, a copy of the applicant's North Carolina Alcoholic Beverage Control (ABC) permit demonstrating that the applicant is properly licensed to allow the consumption of alcohol within the application-defined area, and a verified statement by the applicant that:
    - i. The applicant's ABC permit is in good standing;
    - ii. The Applicant has not been cited for any violation of any ABC permit within the previous three (3) year period. If the applicant has been cited, the Applicant must provide a statement describing the circumstances for which the Applicant was cited and describing what, if any, penalty was imposed for the incident.
  3. If the Applicant intends to serve alcoholic beverages, a statement that the Applicant has informed the North Carolina Department of Public Safety Alcohol Law Enforcement Agent (ALE) responsible for the area wherein the event will take place and complied with any requirements, permits, or regulations required by the ALE.

4. *Indemnity.* The Applicant, or an duly and legally authorized officer or member of the sponsoring entity, must execute an agreement to wholly indemnify and hold harmless the Town of Benson from any and all claims which may arise incidental to or be occasioned by any occurrence or happening at, on, or during the time and place set forth in the Permit Application.
5. *Notification to Appropriate Town Departments; Review by Town Attorney.* The Town Manager shall notify all department heads he or she deems appropriate given the nature and character of the Special Event proposed in any application for Special Event Permit he or she receives before a Special Event Permit is issued to make said department heads aware of the application and to provide the department heads time to determine if there are any issues for their respective departments to address incidental to the application and the Special Event for which it is made. The Town Manager is expressly authorized to present the entire Special Event Permit Application, including any attachments or exhibits thereto, to the Town Attorney for review and shall request the Town Attorney to pass upon the Special Event Permit Application's conformance to this Chapter.
6. *Police Officers.* The Town Manager shall present the Benson Chief of Police the application for Special Event Permit and related documents and provide the Chief of Police adequate time to review same and render an opinion to the Town Manager as to the number of police officers required to maintain peaceful order for the proposed Special Event. In rendering this decision, the Benson Chief of Police shall consider, but is not limited in his or her consideration, the following:
  - i. His or her own prior knowledge and experience;
  - ii. Previously issued permits of a similar nature;
  - iii. Attendance estimates; and
  - iv. The location of the proposed Special Event.
7. *Liability Insurance Requirements.* The Applicant, or a duly authorized representative of the sponsoring entity, shall provide, to the complete satisfaction of the Town of Benson, a current general liability or short term special event liability insurance policy written by a reputable insurance company licensed to do business in the State of North Carolina and which contains an endorsement specifically naming the Town of Benson as an additional insured and provides a waiver of subrogation in favor of same. The policy shall include:
  - i. premises/operations and products liability coverage;
  - ii. hired and non-owned auto liability coverage;
  - iii. owned auto liability coverage (if applicable);
  - iv. Property damage liability;

- v. Coverage for event employees and/or volunteers;
  - vi. dram-shop or liquor liability coverage (if applicable); and,
  - vii. any other policies, coverage, and/or endorsements as the Town Manager, in his or her sole discretion, shall require.
8. To be acceptable, in addition to the requirements set forth in this subsection (f), the insurance policy required by this section shall include the following which are minimum requirements not intended to be an exhaustive list:
- i. Affirmative language that the activities to be held at the Special Event by Applicant or any entity Applicant may grant license to at the proposed event are covered by said policy(ies);
  - ii. Minimum coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence with no aggregate limit;
  - iii. Language stating that the required coverage set forth herein shall be in full force and effect for the entirety of the proposed event, including any preparation or set-up activities as well as any break-down or cleanup activities, for the entire premises of the proposed event, and that all activities and ancillary preparatory and/or cleanup, if any, that Applicant proposes to conduct at the proposed Special Event are covered by such policy or policies of coverage.
- C. *Factors for Town Manager to Consider when Determining whether to Grant or Deny Permit Application.* In the review of any application for a Special Event Permit, the Town Manager shall be guided by, but shall not be limited to, the following considerations:
1. The number of permits issued and the area for which such permits are issued in relation to:
    - i. crowd density;
    - ii. traffic control;
    - iii. the ability to protect persons and property;
    - iv. fire prevention and control;
    - v. general safety and availability of Town of Benson assets and resources to ensure the reasonable protection of the general public;
    - vi. the disruption of normal business for merchants in the area; and,
    - vii. Noise level of the proposed event and the effect of any noise emitted on surrounding areas.
  2. In those instances in which the Town Manager, or his or her designee, considers Town of Benson resources to be insufficient to meet the above considerations, the Town Manager, or his or her designee, may require, at his or her sole discretion, the applicant for a Special Event permit to provide, at Applicant's expense, Benson Police officers or those officers designated by the Town of Benson Chief of Police, in his or her sole discretion, for the duration Special Event at the prevailing hourly rate then charged for each

officer required. In considering the number of officers required by this Section, the Town Manager shall use standards promulgated by the Town of Benson Chief of Police.

D. *Authority to Define Special Event Area; Close Streets.* The Town Manager shall have the authority to designate the boundaries of any Special Event area. To accommodate such an event, the Town of Benson Chief of Police shall have the authority to temporarily close a public right-of-way or other Town owned properties. Whether incidental to a Special Event or otherwise, the procedure for a street closure during Mule Days shall be as follows:

1. Applicant shall provide in the Special Event Application a provision outlining any requested street, road, sidewalk, or other right-of way closures Applicant desires to close to normal traffic during the term of the Special Event. This provision shall contain detailed maps, drawings or schematics depicting the proposed closure area as well as a plan of ingress and egress for vehicular, pedestrian, golf cart, and equestrian traffic, if applicable, to the proposed Special Event Area.
2. If Applicant seeks to so close a street, road, sidewalk, or other right-of-way to normal traffic and such street, road, sidewalk, or other right-of-way is under the control of and regulated by the North Carolina Department of Transportation, Applicant shall demonstrate the North Carolina Department of Transportation's express written permission to so close said street, road, sidewalk, or other right-of-way including the time and location of said closure together with any stipulations placed thereon, if any. The burden to determine if a street, road, sidewalk, or other right-of-way is under the control of or regulated by the North Carolina Department of Transportation rests solely upon the Applicant and not the Town of Benson.
3. If approved, Applicant must, at its sole expense, notify all affected property owners who may be inconvenienced by any road closure.

**§ 120.06 Regulations.**

1. *Maintenance of the Event Area.* The Applicant shall be solely responsible for maintenance the Event Area, all debris and/or refuse shall be removed by the Applicant at regular intervals to ensure such debris and/or refuse does not accumulate, to maintain an orderly appearance, and to prevent the attraction of vermin, insects, or other pests to the Event Area. The Applicant shall indicate in the Application for Special Event conformance with this provision and provide a detailed plan for how such conformance with be undertaken by Applicant.
2. *Special Event Area to be Maintained Free of Obstructions.* The Applicant shall ensure that all paths, sidewalks and other pedestrian rights-of-way are maintained free from any obstruction. The Applicant shall maintain any street that remains

open to vehicular traffic during the term of the Special Event within the delineated special event area.

3. *Removal of Structures and Debris.* Applicant shall remove all obstructions and additions to the event area immediately upon the completion of the Special Event in order to open the streets and rights-of-way to public use as soon as possible. The Applicant shall remove all remaining debris or refuse within four (4) hours after the conclusion of the Special Event.
4. *Conformity with Town Fire Code and related Regulations.* Applicant shall obey and observe all applicable provisions of the fire code and shall provide the Town of Benson Fire Chief or his or her designee the right and opportunity to inspect the Special Event area for conformity therewith. The Town of Benson Fire Chief is authorized to promulgate rules and standards for conducting a Special Event that relate to requirements for fire safety and safety inspections. Any rule, regulation or standard so promulgated by the Town of Benson Fire Chief shall be observed and abided by as if same were herein contained.
5. *Camping, Utility, Peddler/Itinerant Merchant, and Golf Cart Permits; Fees.*
  - a. *Camping.* During Mule Days, any camping activities which may occur anywhere in the corporate limits of the Town of Benson shall occur as set forth in Town of Benson Ordinance Chapter 98, *except* as to the fees charged for such Camping Activities, which shall be charged as per Section 120.07 of this Chapter.
  - b. *Utility Connection Fees.* Any entity wishing to establish any utility connection during a Mule Days to a temporary structure, pole, or similar temporary building or apparatus shall only do so in accordance with this section. This section shall not apply to the establishment or hooking up of any utility service to a permanent structure which is not being utilized in any way incidental to a Mule Days related activity. To establish any utility connection to a temporary structure, pole, or similar temporary building or apparatus, the following procedure shall be followed:
    - i. Any person wishing to so establish service shall apply to the Town of Benson Public Works Department for such service;
    - ii. Such application shall occur no less THIRTY (30) days prior to the first instance the temporary structure, pole, or similar temporary building or apparatus will be utilized; or, if such temporary structure, pole, or similar temporary building or apparatus will be utilized for any camping, peddler or itinerant merchant activity, no less than THIRTY (30) days prior to the commencement of said activity. If the THIRTY (30) day requirement is not complied with, the Town of Benson shall charge additional fees for the establishment of said service, as set forth in Section 120.07 of this Chapter.

- iii. Before any utility service may be provided, any entity requesting said service shall provide representatives and/or employees of the Town of Benson opportunity to inspect any temporary structure, pole, or similar temporary building or apparatus to which utilities will be provided. This inspection shall determine whether the requested utility(ies) can be safely delivered to the requested location. If utility services cannot be safely delivered to the requested temporary structure, pole, or similar temporary building or apparatus, the requested activation will not be performed.
  - c. *Peddler/Itinerant Merchants*. If any Peddler or Itinerant Merchant wishes to operate or conduct business in any fashion anywhere in the corporate limits of the Town of Benson during Mule Days, such an entity shall only do so as set forth in Town of Benson Ordinance Chapter 115, *except* as to the fees charged for such Peddler or Itinerant Merchant activities, which shall be charged as per section 120.07 of this Chapter.
  - d. *Application for Golf Cart Permit*. If any entity wishes to operate a golf cart anywhere in the corporate limits of the Town of Benson during any Special Event, such an entity shall only do so as set forth in Town of Benson Ordinance Chapter 70.70, *except* as to the fees charged for such golf cart permit and operation, which shall be charged as per section 120.07 of this Chapter.
- 6. *Limitations on Noise, Concerts, Broadcasts, Loudspeakers, and the Like*. Town of Benson Ordinance Chapter 96 and all the provisions therein contained shall be controlling during the duration of Mule Days *except* the following language will also control in addition to, or in preemption of where the provisions conflict, the provisions of Chapter 96:
  - a. During any Special Event, the loud noises specified in Town of Benson Ordinance Chapter 96 shall be unlawful if they continue, persist, or occur during the hours of 1:00 a.m. and 7:00 a.m.
- 7. *Alcohol at Special Events*. Town of Benson Ordinance Chapter 112 shall control during any Special Event.
- 8. *Parades*. Town of Benson Ordinance Chapter 99.06 *et. seq.* and all the provisions therein contained shall control during any Special Event.
- 9. *Rules Concerning Horses and other Equine*. Town of Benson Ordinance Chapter 91.03 shall control during any Special Event *except* the following language will also control in addition to, or in preemption of where the provisions conflict, the provisions of Chapter 91.03:
  - a. No horse, mule, donkey or equine animal of any type or species shall be allowed to travel or remain within 10 feet of any closed street, pedestrian thoroughfare, area where food and/or beverages are served, area where

people typically loiter, repose, or remain for periods of time greater than one (1) hour, and/or other areas as may be defined by the Town Manager.

§ 120.07 *Fees for Required Permits and Services.*

The following table of fees shall be charged for any permit or other service required by this Chapter:

PERMIT/ SERVICE	FEE
Special Event Permit	\$100.00 application fee plus applicable cost recovery for required services (ie: security, environmental impact, etc.)
Golf Cart Permit	\$35.00 per cart
Utility Pole Hook Up (greater than 30 days prior to event)	\$50.00 permit; \$25 to energize and \$25 to de-energize
Utility Pole Hook Up (30 days or less prior to event)	\$75.00 permit; \$35 to energize and \$35 to de-energize
Camping Permit	\$100.00 application fee plus \$10 per campsite environmental fee
Parade Permit	
Itinerant Merchant Permit	\$25.00 application fee plus \$20 environmental fee
Fire Inspection	\$50.00 per inspection

§ 120.08 *Preemption of other Ordinances, Rules, Procedures and Regulations in Favor of this Ordinance during Special Events.* As to any Special Event and only as to Special Events, as herein defined, where any provision of this Chapter conflicts with any provision of any of the Town of Benson Ordinances, this Chapter shall preempt any other provision and shall control and be paramount as to any Special Event.

§ 120.09 *Penalty.* Any violation of any of the provisions of this Chapter shall be punished as provided in Chapter 10.99 of this Code of Ordinances.

§ 120.10 *Application Form.* The Town Manager is authorized to promulgate rules, standards and establish any forms he or she deems necessary or expedient to the effective implementation and administration of this Chapter, and any such rules, standards and/or forms shall be required as though they were set forth herein in their entirety.

§ 120.11 *Effective Date.* This Chapter shall commence effectiveness 12:01 A.M. January 1, 2015.