

TOWN OF MAXTON

Business Registration Ordinance

Ordinance # 2017-03-21

1-1 PURPOSE

Adopt a new Town of Maxton Business Registration Ordinance, based upon finding of the following purposes or justifications in accordance with North Carolina GS 106A-194.

The Board of Commissioners hereby finds that businesses and occupations located within the municipal limits should be required to obtain an annual certificate from the Town so that the following public purposes may be accomplished: ensuring compliance with zoning and land use regulations; enabling the public safety to be aware of the building being used for commercial purposes so as to assist in fire protection; identify businesses that should be listing property for taxation; protecting the public from scam artists or con men; and any other lawful purpose related to the exercise of the Town's general police power, and the public health, welfare and safety.

Enact entire new Ordinance (?), titles "Maxton Business Registration Ordinance", as follows:

1-2 Definitions

Whenever used in this Ordinance (unless the context requires a different meaning):

AGENT means a person authorized to promote, represent, and/or sell for an agency or business.

BUSINESS includes each trade, occupation, profession, business and franchise or other activity engaged in by any person for gain, profit, benefit or advantage, taxes under this Ordinance.

FISCAL YEAR means the period beginning with July 1 and ending on June 30.

LICENSEE means a person who has paid the business registration levied by this ordinance and obtained a business certificate.

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

BUSINESS REGISTRATION ADMINSTRATOR (Clerk) means the individual(s) in the Town of Maxton who is (are) charged with the responsibility of administering this Ordinance.

TOWN means the Town of Maxton

1-3 ADMINISTRATION & APPLICATION

APPLICATION OF BUSINESS REGISTRATION

The provisions of this Ordinance shall apply to all businesses within the Town of Maxton municipal jurisdiction unless specifically exempted or excluded from registering by this Ordinance or by the law of North Carolina.

1-4 APPLICATION OF OTHER PROVISIONS

All certificates provided for by this Ordinance shall be granted subject to any other applicable Town ordinances, or State or Federal law.

1-5 EXCLUSIONS

This Ordinance shall not apply to, and certificate hereunder shall be required of:

Any person holding a license issued by any occupational licensing board of this State as to the profession or trade that the person has been licensed to pursue by the State; or

Any digital dispatching service for pre-arranged transportation service for hire. See N.C.G.S/ 160A-19A (b) and (c)

1-6 CONTINUING AUTHORITY OF COUNCIL

Nothing contained within this Ordinance shall be construed to prevent the Town Council from imposing from time to time any license taxes allowed by law as are not specifically herein defined or required, nor from prohibiting or regulating any business or acts licensed hereunder.

1-7 CERTIFICATE PREREQUISITE TO CONDUCT OF BUSINESS

It shall be unlawful for any person to engage in any business or profession, unless excluded from the effect of this Ordinance by 1-5 Exclusions, without first having secured the required certificate and paid the requisite fee therefore.

1-8 APPLICATION TO BE MADE

Except as otherwise provided by this Ordinance, every business located within the Town shall make application in writing to the Town's Business Registration Administrator, or Clerk, for the registration certificate required by this Ordinance. The application shall be upon a form provided by the Town, and shall be filled out and signed by the applicant. All information requested on the application shall be provided.

1-9 STANDARD FOR GRANTING REGISTRATION CERTIFICATE

Before issuing any registration certificate, the official charged with consideration of such applications shall be satisfied that the applicant is of good character, or if the applicant is a corporate entity, that the officers or managers thereof are of good character. No license shall be issued if the applicant has failed or refused to complete the application form and all required parts thereof, or has failed to pay the full required certificate fee as set by the Town Council.

1-10 ISSUANCE OF CERTIFICATE

Provided the applicant has completed the application form and paid the required certificate fee, and has met all the requirements of this Ordinance, the Town Clerk, or designee, shall issue to the applicant a certificate on a form prepared by the Town. The license shall show on its face the name of the registering business, the nature of business, the location of the business (if it has fixed location), the time period for which it is issued, and the amount of fee paid by the license.

1-11 RECORDS KEPT

The Town's Clerk or designee shall keep an exact copy of each certificate issued, including the approval of any board or official endorsed on the face of same.

1-12 REFUSAL TO ISSUE REGISTRATION CERTIFICATE; APPEAL.

Any applicant refused or denied a certificate under this Ordinance may appeal to the Town Council for review of such refusal or denial. Such appeal shall be in writing, and shall be delivered to the Town Clerk within 30 days after notice of such refusal or denial.

1-13 ASSIGNMENT OF REGISTRATION CERTIFICATE

Every certificate issued under this Ordinance shall be a personal privilege and shall not be assignable; except that when a business is carried on at a fixed location designated in the application therefore, and is then sold as a unit to a purchaser who is to carry on the same business at the same location, the certificate for such business may be assigned to such purchaser. In such case, the purchaser shall deliver the existing license, properly assigned, to the Town Clerk, together with a written statement affirming the purchaser intends to continue the business at that location, and upon payment of the transfer fee as set from time to time by the Town Council, the purchaser shall be entitled to issuance of a new appropriate certificate.

1-14 SEPARATE BUSINESSES; SEPARATE LOCATIONS

Every person engaged in more than one line business, or having more than one place of business (even if same type or line), shall secure a separate certificate for each separate line of business or business location, and shall pay a separate application fee for each certificate.

1-15 EFFECT OF CHANGE OF BUSINESS

When a certificate is issued to carry on a certain line of business, and subsequently the certificate holder shall so change or alter its business as to bring it under a different classification, the certificate holder shall, before making such change, deliver the certificate to the Town Clerk, together with a written application for a new certificate for the new or altered line of business, and the appropriate schedule fees. The Clerk shall thereupon cancel the old certificate and issue a new appropriate certificate.

1-16 DISPLAY OF CERTIFICATE

Every certificate issued under the Ordinance shall be kept prominently displayed at the place of business of the registered business named therein, or if such registered business has no fixed place of business,

the certificate shall be kept wherever such business is being operated, and in a place where it can be seen by any Town official desiring to inspect the same.

1-17 REVOCATION AND SUSPENSION OF CERTIFICATE

Any certificate issued under this Ordinance shall be subject to revocation, or to suspension for a definite or indefinite time, by the Town Council if the registered business shall violate any section of the Code of Ordinance, or any State law, relative to such business, or if the registered owner is convicted of any felony or of any Class 1 misdemeanor, or if in the judgment of the Town Council the nature or manner or place of business of the registered business constitutes a nuisance or is a menace to the public health, safety or moral. Upon revocation or suspension of any such certificate, it shall be unlawful for the person whom such certificate was issued to conduct such business until and unless the suspensions is lifted or a new certificate duly issued.

1-18 CERTIFICATE FEE SCHEDULE

The fee required of every applicant for any business conducted or engaged in within the Town as required by Sections 1-7 and 1-9 of this Ordinance shall be as set forth in and made a part Town's annual budget, as amended from time to time.

Appendix A

Itinerant Merchants, Peddlers, and Specialty Market Operators Chapter 66, Ordinance 32 of the North Carolina General Statutes defines and regulates itinerant Merchants, Peddles, and Specialty Market Operates. G.S. 66-258 also authorizes the Town to enact additional regulations on Itinerant Merchants, Peddles, and Specialty Market Operates by an ordinance adopted under GS 153A-125 or GS 160A-78

It is unlawful for an itinerant merchant, peddler, or specialty market operator to sell, display or offer for sale any food, beverage, goods, or merchandise without obtaining a license from the Town unless exempt under the Ordinance or by State stature. A separate license is required for each location, vehicle or stand from which the merchant is authorized to conduct business. The issuance date and expiration date of the license will coincide with the issuance and expiration date on the Temporary Use Permit issued by the Town Clerk. The Town of Maxton reserves the right to do a background check on all applicants.

Classification

Itinerant Merchant (Stationary Location): \$100 per location

A merchant, other than a merchant with an established retail store in the Town of Maxton, who transports an inventory of goods to a building, vacant lot, or other location in the Town and who, at that location, displays, sells, or offers the goods for sale or provides services for a fee. A merchant who sells goods, other than farm products, in the Town for less than six consecutive months is considered an itinerant merchant unless he stopped selling goods in the Town because of his death or disablement, the insolvency of his business, or destruction of his inventory by fire or other catastrophe.

NOTE: Pursuant to G.S. 66-251, an Itinerant Merchant must obtain written permission from the property owner in order to conduct business on property not owned by the merchant. Additionally, sidewalk vendors who sell food, beverages, or merchandise from a stand, motor vehicle, or from a person must obtain a temporary use permit from the Town's Planning Department.

Peddler (mobile-non stationary location): \$10.00 per person (foot); \$25.00 per person by vehicle/trailer including produce/farm products)

A peddler on foot is someone who carries the goods on them as they go door-to-door. A peddler by vehicle or pushcart is someone who goes door-to-door carrying goods using one of those means. In general, a peddler is a person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retails, who delivers the identical goods he/she carries with him/her or provides their service.

Specialty Market Operator: \$100 per location

A person, other than the State or a unit of local government, who rents space, at a location other than a permanent retail store, to others for the purpose of selling goods at retail or offering goods for sale at retail. (Example: Flea Market)

License/Fees

In order to obtain a license, Itinerant Merchant, Peddlers, and Specialty Market Operators must:

Provide a current and valid State issued photo ID of actual applicant;

Provide a copy of the North Carolina State sales & use tax certificate referencing State tax number issued;

Provide a copy of Health Department Food Service Permit for food vendor if applicable;

If itinerant Merchant applicant, must produce copy of written permission from property owner if applicable;

Provide a copy of Temporary Use Permit from Town's Planning & Zoning Department if Itinerant Merchant or Peddler if applicable;

If using a tent or canopy or other temporary structure to cook or heat food, in conjunction with the business, applicant must contact the Queheel Volunteer Fire and Rescue, Inc. at 910 844-5667 for approval before a license is issued; and

If using a sound system of any kind in conjunction with the business, an applicant must contact the Maxton Police Department and follow the Town of Maxton noise ordinance.

Fees are not pro-rated regardless of the date of issuance. Itinerant Merchant and Peddlers licenses, which require a Temporary Use Permit.

The license, along with the North Carolina Retail Sales Tax License, must be properly displayed in a prominent, visible place at all times. Hours of operation are from 8:00am to 7:00pm, Sunday through Saturday. The Town can prohibit business on specified public ways for the protection of public health and safety. Licenses can be suspended or revoked for fraud or misrepresentation on the application in the course of conducting business; creating a public nuisance or danger to public health, safety or welfare, conviction of moral turpitude; cancellation of health authorization or sanitation violation; as well as be fined and/or imprisoned for violations of any provision in the ordinance. The Town has the authority to restrict the number of licenses issued to a particular merchant or may limit the total number of licenses outstanding at any given time to all merchants.

Appendix A Exemptions

All registered non-profit organizations

Persons who sells farm/bursary products

Persons who sells their own, handmade items

Anyone selling printed material or distributing free samples

Permanent residents who conduct private states at their residence for a limited time (i.e. yard sales) – see Maxton Development Ordinance (MDO) for any other standards

Adopted this the 21th day of March, 2017.

X

Emmett Morton
Mayor

Attested by:

X

Jacqueline Johnson
Town Clerk