

ARTICLE VII (Amend. 7/16/20)

COMMERCIAL SOLICITATION

Section 8-60 Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the following words and phrases shall have the meaning indicated when used in this article:

- (1) Administrator: The Chief of Police of the Carrboro Police Department, or the Chief's designee.
- (2) Door-To-Door Salesman or Solicitor: Any person who, for himself or as an agent for any other person or entity not otherwise exempt from this Article, without prior appointment with the occupants thereof, travels from dwelling to dwelling or place to place selling or offering for sale or taking orders for the sale of any services, goods, wares magazines, periodicals, or other merchandise of any kind.
- (3) Itinerant merchant: A person, other than a merchant with an established retail store in the county, who transports an inventory of goods to a building, vacant lot, or other location in a county and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail. G.S. 66-250(1))
- (4) Peddler: 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 retail, and who delivers the identical goods. (G.S. 66-250(2))

Section 8-61 Commercial Solicitation Permit Required.

(a) Pursuant to authority granted by, *inter alia*, General Statutes 160A-178, and for the purpose of protecting the public from fraudulent, unfair or unsafe practices of some individuals or entities engaged in door-to-door commercial solicitation, the Town has adopted the following regulation: Peddlers, solicitors, and itinerant merchants doing business inside the Town limits shall be required to secure a permit issued by the Commercial Solicitation Administrator prior to the sale of goods.

(b) A permit issued under this article shall be valid for the period specified in the permit, which period shall be the period the permittee intends to conduct business within the town. Permits may be issued for a period of up to sixty (60) consecutive calendar days, with one renewal period of up to sixty (60) additional, consecutive days.

Section 8-62. Application Requirements; Grounds for Denial.

(a) To obtain the permit required by Section 8-61 above, a permit applicant shall

- (1) Provide a government-issued form of photographic identification;
- (2) Submit to the administrator his or her name, address, telephone number, photograph, and social security number;
- (3) Submit the name, address, and telephone number, taxpayer identification number and/or employer identification number, of any company, firm, organization, or person for whom the applicant is acting as an agent or employee;
- (4) State the type of service(s) or product(s) being sold or offered;
- (5) State the time period (not to exceed sixty [60] consecutive calendar days) for which the permit is sought;
- (6) Provide a statement of whether the applicant has been convicted of any misdemeanor or felony in any jurisdiction in any state in the past ten [10] years, and if so, provide details for each conviction;
- (7) State his or her date of birth, place of birth, height, weight, eye color, hair color and/or other unique identifying information (scars, tattoos, etc.); and
- (8) Pay the permit application fee and security deposit in such amount(s) as may be established by the Town.

(b) Upon receipt of a complete application, the administrator shall conduct a criminal background check through the North Carolina State Bureau of Investigation's Division of Criminal Investigation Network and shall otherwise investigate the applicant's background based on the following criteria:

- (1) For all applicants, a "NC Only – Criminal/Investigative Name Inquiry," shall be conducted.
- (2) For applicants that present an out of state identification, an additional "Out-of-State Name Query," from the applicant's state of origin shall be conducted.

Information obtained through this process shall be prima facie evidence that the applicant possess a documented criminal history.

(c) The administrator shall issue the permit requested under this article unless he finds that:

- (1) Within the preceding ten years (for felonies) or five years (for misdemeanors), the applicant has been convicted of a Class A, B, C, D, E, F, or H felony as defined by G.S. 14-1 (or its equivalent from the applicant's state of origin), or of any crime involving moral turpitude, or other crimes of like nature; or
- (2) The applicant is not in fact a legitimate agent or employee of the company, firm, organization, or person that the applicant purports to represent; or
- (3) Any of the information provided by the applicant pursuant to subparagraph (a) above is false or incorrect; or
- (4) The applicant has had a permit revoked within one year prior to the date of application.

(d) Upon completion of the investigation, the administrator shall forthwith either (i) issue the permit or (ii) deny the permit and provide the applicant with a written statement of the reasons for denial.

(e) An applicant to whom a commercial solicitation permit has been issued shall have such permit on his person, available for display, at all times while engaging in commercial solicitation activities.

Section 8-62.1 Revocation of Permit

(a) If after a permit has been issued, the administrator (i) finds that any of the information provided pursuant to Section 8-62(a)(2), (a)(3), (a)(4), (a)(6) or (a)(7), is incorrect, or (ii) makes any finding described in Section 8-62(c)(1) through (4) above, or (iii) determines that it is in the interest of public health or safety to do so, the administrator shall revoke the permit.

(b) If the administrator determines that a permit should be revoked, he shall give the permittee written notice of such determination, which notice shall state the reason(s) for revocation. Such revocation shall become effective two (2) days after the date such written notice is given.

(c) The permittee may request a conference with the administrator in writing. Such request for a conference shall be made within ten (10) days of permittee's receipt of the notice of revocation. If the permittee fails to request a conference, the administrator's determination shall become final.

(d) If the permittee requests a conference, the administrator shall conduct the conference within five (5) business days of the request. The administrator shall notify the permittee in writing of his determination on the permittee's revocation conference within two (2) business days after completion of the conference.

(e) The permittee may appeal the administrator's written determination to the Town Council by submitting a written notice of appeal to the administrator with a copy to the Town Clerk, within five (5) business days of the administrator's written determination.

(f) The Town Council shall hear and decide the appeal within thirty (30) days after the Notice of Appeal is filed, unless the hearing is continued for good cause. The permittee/applicant shall be given at least five (5) business days' notice of the date and time of hearing and shall be served with a written copy of the Council's decision following the hearing. The burden of establishing the correctness of the administrator's decision to revoke the permit shall be on the administrator.

(g) Unless the administrator expressly suspends or delays enforcement of the permit revocation, the permit revocation shall be effective during any appeal.

(h) If the permittee fails to request a conference with the administrator pursuant to subparagraph (c) above, then the administrator's revocation determination becomes final.

Section 8-63 Exemptions.

The permit requirements of this Article shall not apply to:

- (1) Delivery of goods or services which have been ordered before delivery;
- (2) Circulation of petitions for signatures or lawful distribution of advertising materials, flyers, or materials expressing views on political, social or religious matters;
- (3) Lawful promotion or expression of views concerning political, social, religious and other matters;
- (4) The solicitation of contributions or pledges thereof for bona fide nonprofit organizations;
- (5) The sale or delivery of goods to a business establishment.

Sections 8-64 through 8-69 reserved.

ARTICLE VIII
(Amend. 10/12/93)

Regulation of Smoking

Section 8-70 Findings and Purpose

(a) The Board finds that:

- (1) Exposure to environmental tobacco smoke (ETS) is a hazard to the public health. Scientific and medical evidence exists which documents this hazard including the 1992 report of the US Environmental Protection Agency on "Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders" which classified ETS as a Class A carcinogen and as one of the few agents known to cause cancer in man; and
- (2) Studies have found that breathing ETS is a cause of disease, including lung cancer, in healthy nonsmokers. At special risk are children, elderly people, individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.

(b) The purpose of this article is to protect and promote the public health and welfare by regulating smoking in public places, eating establishments, and places of employment to minimize the public's exposure to ETS. In fulfilling this purpose, this article recognizes that where individual needs conflict, the need to breathe smoke-free air shall have priority.

Section 8-71 Definitions

The following words and phrases shall have the meaning indicated when used in this article.

- (1) "Art/Entertainment Facility" includes, but is not limited to, "theaters" meaning any enclosed facility engaged in the business of exhibiting motion pictures, plays or performances to an audience; concert halls, art galleries, auditoriums, indoor recreational areas, libraries, and museums.
- (2) "Eating Establishment" means an establishment open to the public which is engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises. Eating establishments shall include businesses that are referred to as restaurants, cafeterias, or cafes. Eating establishments shall also include lunch stands, drink stands, grills, bars, lounges, snack bars, fast-food businesses, and other establishments (such as drugstores) which have a lunch counter or other section where food is sold to be eaten on the premises.
- (3) "Educational Facility" means any public or private facility that is used for the principal purpose of providing instruction or training in a trade, craft, business, skill,

or athletic or sports activity; or of providing child care; or primary, secondary, or higher education.

- (4) “Employee” means any person who is employed by any employer for compensation, direct or indirect.
- (5) “Employer” means any person, business, partnership, corporation, or non-profit entity, who employs the services of one or more individual persons.
- (6) “Enclosed Area” means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passageways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, or similar structures.
- (7) “Health Care Facility” means any facility associated with the rendition of health care, including, but not limited to, laboratories, hospitals, public and private health care facilities.
- (8) “Place of Employment” means any enclosed area where an employee is engaged to work for an employer, except that:
 - a. A private residence is not a “place of employment” unless it is used as a licensed child care facility, licensed health care facility, or domiciliary home.
 - b. The dining area of an eating establishment is not a “place of employment.”
- (9) “Private Club” means an establishment which maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member’s guest, and is not profit oriented.
- (10) “Private Residence” includes a resident’s room within a rest home or long-term care facility, a dormitory room, or a rooming house, or homeless shelter as long as the room is not shared by a non-smoker.
- (11) “Public place or area” means any enclosed area to which the public is invited or in which the public is generally permitted. The term does not include private residences, places generally restricted to employees, private offices, or other areas not generally available to the public except when accompanied by a person in charge of such premises or one who is employed by such person.
- (12) “Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, lighted cigarette, or other lighted tobacco product in any manner or in any form.
- (13) “Sports Facility” means an enclosed sports facility including, but not limited to, sports pavilions, bowling alleys, gymnasiums, health spas, swimming pools, roller

and ice skating rinks, where members of the general public assemble either to engage in or witness physical exercise or events.

Section 8-72 Smoking Prohibited In Public Places

(a) Smoking is prohibited within the enclosed areas of public places. Such public places include, but are not limited to, the following:

- (1) Elevators
- (2) Public rest rooms
- (3) Polling places
- (4) Lobbies, hallways, and other common areas in apartment buildings, condominiums, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- (5) Busses and taxicabs
- (6) Public areas of art/entertainment facilities.
- (7) Public areas of retail stores, shopping malls, service establishments, offices, and other businesses or commercial facilities.
- (8) Public areas of sports facilities.
- (9) Public areas of health care facilities.
- (10) Public areas of educational facilities, including classrooms, gymnasiums, auditoriums, and other common areas.

(b) The smoking ban set forth in subsection (a) shall not apply to eating establishments of those areas within places of employment that are not generally open to the public.

Section 8-73 Smoking In Eating Establishments

(a) All eating establishments with a seating capacity of 30 or more patrons shall designate nonsmoking areas in accordance with the provisions of this subsection. The seating capacity of any bar or lounge located within the dining area of an eating establishment shall be included in the calculation of the total capacity of the eating establishment.

- (1) Eating establishments with an enclosed seating capacity of 30 or more patrons shall have posted a conspicuous sign or signs clearly stating that a nonsmoking area is available.

- (2) The nonsmoking area shall be separate and contiguous, containing at all times one-third (1/3) or more of the seating capacity of the dining area. Effective July 1, 1994, the nonsmoking area shall contain one-half (1/2) or more of the seating capacity of the dining area. Effective July 1, 1995, smoking will not be permitted in the dining area unless a designated smoking area has a separate and adequate heating, ventilation, and air conditioning system (HVAC) according to current standards established by the American Society of Heating, Refrigeration, and Air Conditioning Engineers.

(b) Eating establishments with a seating capacity of fewer than 30 patrons shall designate the entire facility as either smoking or nonsmoking and post signage to that effect at the patron entrance. Effective July 1, 1995, all public eating establishments with fewer than 30 seats shall prohibit smoking in the dining area unless a designated smoking area has a separate and adequate heating, ventilation, and air conditioning system (HVAC) according to current standards established by the American Society of Heating, Refrigeration, and Air Conditioning Engineers.

(c) Notwithstanding any other provision of this article, any owner, operator, manager or other person who controls any eating establishment may declare the entire eating establishment as a nonsmoking eating establishment at any time.

Section 8-74 Smoking In Places of Employment

(a) Employers shall make reasonable efforts to provide a smoke-free environment for nonsmoking employees. Each employer shall have the right to designate any place of employment as a nonsmoking place of employment.

(b) Employers may define designated smoking areas for employees within their places of employment in accordance with this article. Effective July 1, 1995, any and all smoking areas in places of employment, other than individual, enclosed offices, must be (i) outside of the facility, or (ii) serviced by a separate and adequate heating, ventilation, and air conditioning (HVAC) system according to current standards established by American Society of Heating, Refrigeration, and Air Conditioning Engineers so as to provide a smoke-free environment for nonsmoking employees in enclosed buildings.

Section 8-75 Signage

(a) The owner of every public place or eating establishment where smoking is prohibited under the provisions of Sections 8-72 and 8-73 shall ensure that signs are conspicuously posted at the entrance to or within such places to give reasonable notice of the smoking ban to persons entering or occupying such places. Such signs shall have letters at least one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it).

(b) No person may remove or deface any placard required to be erected by or under the authority of this section.

Section 8-76 Exclusions

The provision of this article shall not apply to private residences, private clubs, or properties owned, leased, or occupied by the federal, state, county or town governments.

Section 8-77 Enforcement

(a) The proprietor, employer, or other person in charge of an eating establishment, public place or place of employment where smoking is regulated shall make reasonable efforts to prevent smoking in nonsmoking areas.

(b) No person may engage in smoking in violation of the provisions of this article. However, a violation of the provision of this article shall not subject the violator to the penalties set forth in Section 8-80 unless the violation occurs in an area where signs have been posted in accordance with Section 8-75 or the

violator persists in smoking after having been informed by any person that smoking is unlawful in the location in question.

Article IX
(Amend. 7/31/08)

TOWING OF MOTOR VEHICLES FROM PRIVATE PROPERTY

Section 8-78 Applicability

The provisions of this article shall apply only to persons who are engaged in the business of towing motor vehicles, and only when such persons tow a motor vehicle from private property at the request of a person who is not the owner or operator of the motor vehicle that is towed. (Amend. 10/4/11, 4/24/12)

Section 8-78.1 Limitation on Fees for Towing from Private Property

The towing or storage firm must accept payment by major credit and debit cards in addition to cash for all fees charged for services regulated by this article (including fees charged under Section 8-78.3). A refusal by a towing operator to accept payment by a major credit or debit card shall constitute a waiver by such operator of any entitlement to receive payment of such fee. The towing or storage firm must provide a receipt for each payment at the time the payment is made. (Amend. 4/24/12, 9/2/14)

Section 8-78.2 Report to Police Department

Within thirty (30) minutes after a vehicle has been placed at a storage site pursuant to this Article, the tow truck operator who removed the vehicle shall report by telephone to the Carrboro Police Department that the vehicle has been removed, a license tag number and description of the vehicle, and its present location.

Section 8-78.3 Release Prior to Tow

If, prior to the tow truck and vehicle having left the private property at which the vehicle was parked, the owner or operator or other person able to move the vehicle returns to the property, the tow truck operator shall release the vehicle to that person. No fee may be charged unless the vehicle has been attached to the tow truck prior to the arrival of the person. (Amend. 9/2/14)

Section 8-78.4 Signs Informing that Credit and Debit Cards Okay for Towing Fees (Created 10/4/11, Amend. 4/24/12)

(a) Subject to subsection (b) of this section, no person may charge a fee for towing a motor vehicle from privately owned parking lots or areas unless the property from which the vehicle is towed contains signs that (i) (in accordance with Section 8-4(b) of the Town Charter) warn that vehicles parked on that property in violation of applicable parking restrictions will be

towed at the owner's expense, and (ii) state towing operators are required by town ordinance to accept payment by major credit and debit cards for vehicle towing and storage services.

(b) The limitations of subsection (a) of this section shall not apply to the towing of motor vehicles from (i) a driveway or parking area that is manifestly designed to serve up to four dwelling units on a single lot, or (ii) any other area on private property that is manifestly not designed or intended for the parking of motor vehicles.

Section 8-79 Reserved

ARTICLE X (Amend. 1/14/82)

PENALTIES AND REMEDIES

Section 8-80 Penalties and Remedies.

(a) A violation of the following sections of Subchapter II shall constitute a misdemeanor, punishable as provided in G.S.14-4: 8-41, 8-51(a), 8-52, 8-53, 8-61(a), 8-62(a) and (b), 8-63 through 8-66, and 8-70 through 8-77, and 8-78 through 8-78.4. (Amend. 10/12/93, 7/31/08, 10/4/11)

(b) A violation of the provisions listed in subsection (a), other than Sections 8-78 through 8-78.4, shall also subject the offender to a civil penalty of twenty-five dollars (\$25.00). A violation of the provisions of Sections 8-78 through 8-78.4 shall subject the offender to a civil penalty of fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense, and two hundred fifty dollars (\$250.00) for each subsequent offense. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt. (Amend. 7/31/08, 10/4/11)

(c) Each day that a violation continues after notification that such violation exists shall constitute a separate offense for purposes of the penalties and remedies in this section.

(d) This subchapter may be enforced by any appropriate equitable action.

(e) This subchapter may be enforced by any one, all, or any combination of the remedies authorized by this section.

SCHEDULE A
SCHEDULE OF EXEMPT BUSINESSES

Amusements - manufacturing, selling, leasing or distributing moving picture films. (G.S. 105-36).

Attorneys, physicians, land surveyors, engineers, architects, photographers real estate brokers, accountants, morticians, and similar professionals. (G.S. 105-41).

Private detective services. (G.S. 105-42).

Alarm system businesses. (G. S. 105-51.1).

Persons engaged in the business of reporting the financial standing of persons, firms, and corporations. (G.S. 105-57).

Persons operating, maintaining, or placing on location music machines. (G.S. 105-65).

Operators or distributors of merchandise dispensing machines. (G.S. 105-65.1).

Installment paper dealers. (G.S. 105-83).

Wholesale distributors of motor fuels. (G.S. 105-99).

Certain cooperative associations. (G.S. 105-102.1).

Banks. (G.S. 105-102.3).

Dealers in office machines, home appliances, burglar alarms, smoke alarms or other warning devices. [G.S. 105-102.5(e)]

Businesses that sell or lease computers [G.S. 105-102.5)

Soft drink manufacturers and bottlers. [G.S. 105-113.50(a)]

Railroads. (G.S. 105-115).

Utility companies (electrical power, gas, water, and sewer). (G.S. 105-116).

Telephone companies. (G.S. 105-120).

Bus companies. (G.S. 105-120.1).

Insurance companies and associations. (G.S. 105-228.10).

Building and loan associations. (G.S. 105-228.25).