

CHAPTER 10

Businesses and Trades

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ARTICLE 2**Taxicabs****Section 10.10 Definitions.**

(a) Persons. When used in this Article shall mean and include both singular and plural, and shall also mean and include persons, individuals, firms, corporations, partnerships and associations.

(b) Taxicab. When used in this Article shall be defined as any motor vehicle seating nine or fewer passengers, operated upon any street or highway on call or on demand, accepting or soliciting passengers indiscriminately for hire between such points along streets or highways as may be directed by the passenger or passengers so being transported, and shall not include motor vehicles or motor vehicle carriers as defined in Sub-Section (k) of Section 62-103 of the General Statutes of North Carolina.

Section 10.11 Application required.

Every person desiring to operate a taxicab business within the Town shall file on forms supplied by the Town Clerk an application for the Certificate of Convenience and Necessity.

Section 10.12 Unlawful to operate without certificate.

It shall be unlawful for any person to operate a taxicab business within the Town without first having applied for and secured from the Board a certificate of convenience and necessity.

Section 10.13 Board issues certificates.

The Town Board shall have power and it will be its duty to order certain certificates issued or refuse to issue certain certificates or to issue certificates for partial exercise of the rights granted, only on such terms and conditions as in its judgement the public convenience and necessity may require.

Section 10.14 Duration of certificate.

A certificate shall constitute a franchise from the Town for the operation of taxicabs within the Town subject to the provisions of this Article for one year, unless a shorter period of time is specified in the certificate. Applications for renewal shall be filed annually and hearing conducted as herein provided.

Section 10.15 Determination of convenience and necessity.

In determining whether the public convenience and necessity require the franchising of such

taxicab or taxicabs, the Town Board shall, among other things, take into consideration the following factors:

(a) Whether or not the public convenience and necessity require such proposed or additional taxicab service within the Town of Hudson.

(b) The financial responsibility of the applicant and the likelihood of the proposed service being permanent, responsible, and satisfactory.

(c) The number and condition of equipment.

(d) The schedule of proposed rates.

(e) The number of taxicabs now operated and the demand for increased service, if any, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved, and whether or not adequate provision has been made for off street parking of said taxicabs.

(f) The experience of applicant in the taxicab business.

(g) Such other relative facts as may be deemed necessary and advisable.

Before making any decision with respect to the issuance of a certificate of convenience and necessity, the Town Board, or a committee thereof, shall make a full and complete investigation of all facts, if it so desires, subpoena witnesses and utilize the services of the Chief of Police or any other officer or employee of the Town.

Section 10.16 Hearing, notices.

Each application for Certificate of Convenience and Necessity shall be scheduled for a hearing not later than thirty days after the same is filed, and the applicant shall be notified by the Town Clerk by mail to the business address set forth in the application of the date and time of such hearing, such notification to be sent at least ten days before the date set for the hearing. The Town Clerk shall also, within the same time, notify all persons who at the time hold certificates of convenience and necessity for the operation of taxicabs within the municipality, of the date and time for such hearing and the name of the applicant. In addition, the Town Board shall have the power to have published at least once in a newspaper of general circulation at least ten days before the hearing, a notice setting forth the name of the applicant and the date and time of hearing. The cost of such publication to be paid by the applicant.

Section 10.17 Burden of proof.

The burden of proof shall be upon the applicant to establish the existence of public con-

venience and necessity for the operation of the taxicab or taxicabs specified in his application, and all other facts required for the granting of a certificate.

Section 10.18 Failure to begin operations.

If a certificate is granted to an applicant, and said applicant shall fail, in accordance with the provisions of the certificate, to begin operations within sixty days after the date of said certificate, then said certificate shall become null and void, and no refund of any amount paid by the applicant will be made by said Town.

Section 10.19 Transfer.

A certificate is not transferable without the consent and approval of the Town Board. Applications for a permit to transfer shall be filed in the same manner as an application for a certificate of convenience and necessity. The proceedings upon such application for transfer shall be the same as those prescribed for the issuance of a certificate, except that the question of public convenience and necessity need not be proved. No certificate will be issued to any applicant unless such applicant be the holder in due course and for value of the title to such taxicab, and only the holder of such certificate shall be permitted to operate such taxicab business.

Section 10.20 Revocation of certificate.

The Town Board may at any time after a public hearing revoke any certificate issued by authority of this Article for any one, or more, of the following causes:

(a) Failure to operate the taxicab specified in the certificate in such manner as to serve the public adequately and efficiently.

(b) Failure to maintain motor equipment in good repair.

(c) Failure to carry liability insurance or bond as required by law.

(d) Failure to pay to the Town taxes or license fees imposed upon such taxicabs.

(e) Violation by the taxicab drivers of traffic and safety ordinances, or state laws relating to alcoholic beverages, other drugs, firearms, gambling or prostitution.

(f) Failure to report accidents.

(g) Willful failure to comply with any provision of this Article or ordinances or State laws relating to the operation of taxicabs, whether such ordinances and laws be now in force or hereafter enacted into ordinance and into laws.

No certificate shall be revoked until the owner has had at least five days' notice by personal

service or registered mail of the charges against him, and of the time and place of the hearing. If, after the hearing, it is found that the owner is guilty of one or more of the offenses listed herein, the Board shall have the power to revoke the certificate, or to condition a revocation upon compliance of its order within any time fixed by it.

Section 10.21 Substitution of vehicles.

The person to whom a certificate has been issued may, by proper endorsement thereon by the Town Clerk, substitute another vehicle, or other vehicles, for the vehicle or vehicles for which certificate was granted. In such instance, the liability insurance or bonds shall also be transferred to such substitute vehicle or vehicles.

Section 10.22 No person to hold more than one certificate.

The Town Board reserves the right to issue only one such certificate to any one person, and the person holding such certificate shall be required to operate his taxicab himself and shall have no power or authority by virtue of his certificate to delegate the operation of such business to any person.

ARTICLE 3

Sunday Regulations

Section 10.23 and 10.24 reserved.

ARTICLE 4

Pool Rooms and Bowling Alleys

Section 10.25 Permit required.

No person shall maintain or operate any pool or billiard table, bowling alley, or other table or alley for any game or play for which a charge is made, either directly or indirectly, unless he shall first have secured a permit from the Board to do so. Such permit shall expire on June 30 each year, and shall not be transferable.

Section 10.26 Application for permit.

Applications for such permit shall be made upon forms provided by the Town Clerk, and shall contain all information necessary for the Board to act intelligently upon such applications.

Section 10.27 When permit refused.

The Board shall not issue such permit to any person:

- (a) Who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or
- (b) Who is not a citizen and resident of North Carolina; or
- (c) Who is of immoral character; or
- (d) Who is a habitual user of intoxicating liquor or narcotic drugs.

Section 10.28 Form and content of permit.

Every permit issued pursuant to this Article 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 permit begins and shall expire. Such permit shall be posted in a prominent place on the premises at all times.

Section 10.29 Certain prohibitions to be observed by permit holder and employees.

Permit holders under this Article shall not, and neither shall their employees:

- (a) Permit any gambling on the premises at any time; nor the sale or use of any racing, football or other parlay cards or gambling boards.
- (b) Permit the premises to become disorderly; or permit any profane, obscene or indecent language thereon.
- (c) Permit any intoxicating liquors or narcotic drugs to be sold or kept or consumed on

the premises.

(d) Permit any person under the age of sixteen years to enter or remain upon the premises, unless such person be accompanied by his parent or guardian.

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

(f) Permit any keeley board, keno board, or any other such board or device to be attached to or placed upon any pool or billiard tables.

(g) Permit any illegal or immoral act or acts.

Section 10.30 Rules for operation of pool rooms.

The following rules shall be observed by all operators of pool rooms within the Town.

(a) All pool rooms shall close by 1 o'clock A. M. each morning, Monday through Friday and 12 o'clock midnight on Saturdays and no person other than the owner, operator or employees shall be permitted on the premises from that hour until 7 o'clock a.m. the following morning.

(b) No play on any table shall be allowed during the times when pool rooms are required by this Article to remain closed.

(c) Pool rooms shall remain closed on Sundays.

(d) All pool rooms shall be operated only on the ground floor of a building, and clear glass windows shall be in those parts of the building facing any street, so that a clear view inside may be had from the street.

(e) No screens, curtains, blinds, partitions, or other obstructions shall be placed between the entrance to the room where pool is played and the rear wall of such room. A clear view of the interior from the entrance to the rear of the room must be maintained at all times.

(f) No partitions forming rooms, stalls or other enclosures where the public congregate shall be permitted. Provided, this shall not be construed so as to prohibit the maintenance of closets used exclusively for storage purposes, or of toilets.

(g) There shall not be permitted or maintained any open or secret connections through doors, windows, trap doors, hidden doors, panels, stairways, or other devices with any place where gambling is conducted or where persons meet or congregate for immoral purposes.

Section 10.31 Permit holder responsible.

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

Section 10.32 Revocation of permit.

A second conviction of a permit holder or his agent or employee, for any violation of any provision of this Article shall by operation of law constitute an automatic revocation of the permit of such permit holder. In addition, the Board may at any time, for cause, and after a hearing, of which such permit holder shall be given such reasonable notice as the Board may direct, revoke any permit issues pursuant to this Article.

Section 10.32.1 Arcades *(Adopted 2/2000)*

Definition – An arcade shall be defined as an area that allows no more than two (2) pool tables and is operated and intended for occupancy by children and other youth. Permitted items in an Arcade may include mechanical and electrical games, air hockey, table tennis, foosball, and other similar devices intended for persons under twenty-one (21) years of age.

Permit holders under this Article shall not, and neither shall their employees:

- A) Permit any gambling on the premises at any time; nor the sale or use of any racing, football or other parlay cards or gambling boards.
- B) Permit the premises to become disorderly; or permit any profane, obscene or indecent language thereon.
- C) Permit any intoxication liquors or narcotic drugs to be sold or kept or consumed on the premises. Further, no intoxicating liquors or illegal narcotic drugs are to be possessed or consumed at the location by customers of the establishment.

The following conditions will apply to the arcade owner:

- A) No person shall be permitted to carry on the business of an Arcade who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs.
- B) There shall be no keeley boards, keno boards, or any other such board or device to be attached to or placed upon any pool or billiard tables.

- C) There shall be no illegal acts.
- D) The applicant is required to apply for a permit with the Chief of Police in the same process as issued by the Town Clerk in Section 10.26, stating that they are acquainted with and have knowledge of the restrictions and conditions herein set forth, and will, in the operation of the arcade, fully and completely abide by and obey the restrictions and conditions in their entirety.
- E) All property owners within one hundred (100) feet of the proposed location shall be notified following application by the Town Manager or by the Town Manager's designee.
- F) Separate restroom facilities shall be provided for men and women.
- G) Plate Glass windows shall be installed to those parts of newly constructed buildings facing any street, so that a clear view of the interior may be had from the street.
- H) Shall not violate the County or Town noise ordinance.
- I) A manager of at least the age of twenty-one (21) be on the premises at all times.
- J) That a yearly permit be granted through a Conditional Use by the Board of Commissioners for reinstatement upon review and a report from Town Manager and Chief of Police.
- K) That the operator of the Arcade shall be closed at all times between the hours of 12:00 a.m. and 7:00 a.m. on all days of the week, and not be open before 12:00 p.m. on Sundays.
- L) That the Hudson Police Department be permitted to enter the establishment for administrative inspection purposes to ensure the compliance with these regulations.

ARTICLE 5

Peddling and Soliciting at Private Residences

Section 10.33 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, itinerant merchant or transit vendor of merchandise, not having been requested or invited so to do by the occupants of said 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.

Section 10.34 Application for permit.

Any person, firm or corporation desiring to engage in the business or practices referred to in Section 10.33 hereof shall file with the Town Clerk an application for a permit to do so. The application shall be in writing, and shall show the applicant's name, age, current address and his place of residence and nature of employment during the preceding year, the address and nature of business of his employer or principal, if any, and shall specify in detail the goods, wares, periodicals or other merchandise to be offered for sale. The applicant shall also furnish, at the time of filing his application, a photograph made within one year of the date of the application. The applicant shall also give to the Town Clerk, at the time of filing of the application such 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.

Section 10.35 Issuance of permit, possession and exhibition.

If, upon investigation reasonably made, the Town Clerk 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 Town Clerk shall issue to him a permit to engage in such business which permit shall contain substantially the information set forth, in his application

and to which shall be attached the applicant's photograph. Such 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 such applicant whenever requested to do so by any police officer or any person solicited. A record of such permit shall be kept on file in the Town hall. If the Town Clerk shall, upon investigation, determine that the applicant is not a person of good moral character and that he does not propose to engage in a lawful commercial or professional enterprise during hours reasonably convenient for the occupants of residences, he shall refuse to issue the said permit.

Section 10.36 Appeal from the refusal to issue permit.

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

Section 10.37 Duration and renewal.

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

Section 10.38 Transferability.

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

Section 10.39 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 engages in business other than as set forth in his permit or fails to utilize the same in good faith and for the purpose issued, the said permit shall be revoked by the Town Clerk and from said revocation

the applicant may, if he desires, appeal to the Board.

Section 10.40 Exceptions.

The provisions of this Article 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 such solicitation or sales are made without remuneration to the solicitor.

Section 10.41

Businesses and Trades

ARTICLE 6

Beer and Wine Sales

**Section 10.41 Sell of Beer, Wine and
Mixed Beverages**

It shall be unlawful for any person, firm, establishment or corporation to sell alcohol within the corporate limits of the Town, without a valid Alcohol Beverage Control Commission (ABC) permit issued by the Alcohol Law Enforcement (ALE) Branch of the Department of Public Safety.
(Amended Ord. of 12/15/2015)

Section 10.42 through 10.50 reserved.

ARTICLE 7

**Shows, Exhibits or Publications –
Indecent or Illicit****Section 10.51 Unlawful to show, exhibit,
sell or distribute indecent
or illicit material.**

(a) No show or exhibit which offends public decency or morals shall be shown or exhibited in the Town, nor shall any publication depicting illicit sexual conduct or which otherwise offends the public decency or morality be shown, exhibited, sold, or distributed in the Town.

(b) Any person violating this section shall be guilty of a misdemeanor and be subject to a fine of not more than \$500 or imprisoned for a period not to exceed 30 days or both. (Ord. of 2/6/79)

Article 8**FESTIVALS AND EVENTS***(Adopted 8-17-2010)***Sec. 10-61. The Hudson Butterfly Saturday Festival Arts & Crafts Festival; activities prohibited.**

(a) *Purpose.* The Hudson Butterfly Saturday Festival Arts & Crafts Festival (hereafter referred to as "The Butterfly Saturday Festival") is an event of the Town of Hudson that attracts a large number of people and which often continues for a longer time period than most organized events. Due to the congestion and the length of Butterfly Festival, the town enacts this article to promote the public health, safety and welfare, and to provide orderly recreation at Butterfly Festival.

Additionally, the town desires to permit and regulate the vendors appearing at the events to protect the public safety. The Butterfly Saturday Festival frequently features organized activities, live entertainment, food concessions and many authorized exhibitors who display and offer for sale artwork, crafts, food and related items. The Hudson Community Development Association (hereafter referred to as "HCDA") issues permits to persons desiring to place or maintain booths or concession stands at The Butterfly Saturday Festival. The exhibition or offering for sale 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 ordinance and detracts from the authorized exhibits and concessions.

(b) *Applicability.* This section shall apply from 6:00 a.m. on the first day of The Butterfly Saturday Festival through 12:00 midnight on the last day of The Butterfly Saturday Festival, or the rain dates, if necessary, to cover all of the period of time encompassed by the event.

The area and boundaries of The Butterfly Saturday Festival to which these provisions shall be made to apply shall be determined by the HCDA with the approval of the town manager or his or her designee, and shall include any public street, sidewalk or other publicly owned area that is within or constitutes the boundary of that event.

(c) *Unlawful to operate bicycle or other wheeled vehicle.* It shall be unlawful for any person to operate a bicycle, tricycle, unicycle, moped, skateboard or any other wheeled vehicle, roller skates or roller blades (all hereafter referred to as "wheeled vehicle") on or within the boundaries of The Butterfly Saturday Festival. For purposes of this section, "operate" shall mean the use, putting into action, or causing to function of a wheeled vehicle by a person mounted thereon. This section shall not apply to wheelchairs, baby strollers, or baby carriages.

(d) *Unlawful to throw balls, shoot projectiles, etc. except as otherwise permitted herein as part of a permitted or approved activity.* It shall be unlawful for any person to shoot projectiles, toss or throw a ball, Frisbee, model airplane or similar object on or within the boundaries of The Butterfly Saturday Festival.

(e) *Unlawful to use fireworks.* It shall be unlawful for any person to purchase, sell, deal in, transport, possess, receive, use or cause to be used or discharged, any fireworks on or within the boundaries of The Butterfly Saturday Festival. For the purpose of this section, "fireworks" shall include all devices that are legal or illegal in the State of North Carolina, including items that explode and non-exploding items that produce heat, smoke, noise, light or movement. This section shall not apply to fireworks displays conducted by a licensed professional pyrotechnician contracted by the town or the HCDA as part of The Butterfly Saturday Festival.

(f) *Unlawful to conduct outside sales.* It shall be unlawful for any person or business other than Town of Hudson existing merchants to sell any merchandise or other item, any service, food or beverage from any outside location (hereafter referred to as "outside sales") on public property in or within five hundred (500) feet of the boundaries of The Butterfly Saturday Festival, without the issuance of a permit or permission by the Town of Hudson or the HCDA.

(g) *Failure to cease activities.* It shall be unlawful for a person on or within the boundaries of The Butterfly Saturday Festival to fail to obey the

command of a law enforcement officer to:

- (1) Cease the operation of a wheeled vehicle;
- (2) Cease the shooting or throwing of a ball, Frisbee, model plane, or other projectile; or
- (3) Cease exhibiting, displaying, offering for sale or selling any merchandise, service, food or beverage, on public property in or within five hundred (500) feet of the boundaries of The Butterfly Saturday Festival without a valid permit or written permission from the Town of Hudson or the HCDA.

(h) *Exception.* This section shall not apply to the operation of a wheelchair for the benefit of the handicapped or to the operation of any wheeled vehicle or the throwing or tossing of any ball, Frisbee or other object if the otherwise prohibited activity is part of an authorized exhibit, activity or display. The director of the Hudson Community Development Association or his or her designee or the town manager or his or her designee as it relates to The Butterfly Saturday Festival shall have the authority to specify the conditions under which wheeled vehicles may be operated and balls, Frisbees, or objects may be thrown or tossed for the protection of the public.

(i) *Animals.* Pursuant to section 3-4 of the Town Code, which requires animal owners to keep their dog or cat under restraint, animals, except leashed dogs, or cats or dogs carried by their owners, are prohibited at The Butterfly Saturday Festival. This section shall not apply to animals in a petting zoo or animal rides if the otherwise prohibited animals are part of an authorized exhibit, activity or display. Dogs or cats designated under section 11.18 of the Town Code as "fierce, dangerous, or vicious" are not permitted within the boundaries of the festival unless they are securely muzzled.

(j) *Enforcement.* A violation of this article is a misdemeanor.

Sec. 10-62. Other specially designated town or HCDA sponsored events; activities prohibited.

(a) *Purpose.* Specially designated Town of Hudson or HCDA sponsored parades, concerts and festivals and events of the Town of Hudson (hereafter jointly referenced as "town events") are events that attract a large number of people and which continue for variable time periods. Due to the congestion and the duration of such events, the town enacts this article to promote the public health, safety and welfare, and to provide orderly recreation at town events to which these provisions are made to apply.

Additionally, the town desires to permit and regulate the vendors appearing at the events to protect the public safety. Town events frequently feature organized activities, live entertainment, food concessions and many authorized exhibitors who display and offer for sale artwork, crafts, food and related items. The HCDA or the appropriate town department, depending on the event, issues permits to persons desiring to place or maintain booths or concession stands and the Town of Hudson issues itinerant business licenses to peddlers or roving-type vendors. The exhibition or offering for sale 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.

(b) *Applicability.* This section shall apply to town events other than The Butterfly Saturday Festival.

This section shall apply during the times listed on an approved Town of Hudson application permit for parades, picket lines and group demonstrations, or on the rain dates, if necessary, to cover all of the period of time encompassed by the event, provided that no event shall extend beyond 12:00 midnight without the approval of the town council.

The area and boundaries of any town event to which these provisions shall be made to apply shall be determined by the appropriate town

department or the downtown business association as designated by the town manager or his or her designee, depending on the event, and shall include any public street, sidewalk or other publicly owned area that is within or constitutes the boundary of that event.

(c) *Unlawful to operate bicycle or other wheeled vehicle.* It shall be unlawful for any person to operate a bicycle, tricycle, unicycle, moped, skateboard or any other wheeled vehicle, roller skates or roller blades (all hereafter referred to as "wheeled vehicle") on or within the boundaries of any town event to which these provisions have been made to apply. For purposes of this section, "operate" shall mean the use, putting into action, or causing to function of a wheeled vehicle by a person mounted thereon. This section shall not apply to wheelchairs, baby strollers, or baby carriages.

(d) *Unlawful to throw balls, shoot projectiles, etc. except as otherwise permitted herein as part of a permitted or approved activity.* It shall be unlawful for any person to shoot projectiles, toss or throw a ball, Frisbee, model airplane or similar object on or within the boundaries of any town event to which these provisions have been made to apply.

(e) *Unlawful to use fireworks.* It shall be unlawful for any person to purchase, sell, deal in, transport, possess, receive, use or cause to be used or discharged, any fireworks on or within the boundaries of any town event. For the purpose of this section, "fireworks" shall include all devices that are legal or illegal in the State of North Carolina, including items that explode and non-exploding items that produce heat, smoke, noise, light or movement. This section shall not apply to fireworks displays conducted by a licensed professional pyrotechnician contracted by the town or the HCDA as part of a town event.

(f) *Unlawful to conduct outside sales.* It shall be unlawful for any person or business other than Town of Hudson existing merchants to exhibit, display, offer for sale or to sell any merchandise or other item, any service, food or beverage from any outside location (hereafter referred to as "outside sales") on public property in or within five hundred (500) feet of the boundaries of a town event, without the issuance of a permit or permission by the

Hudson Community Development Association. Any person issued a permit to conduct outside sales shall display the permit issued by the Town of Hudson in a conspicuous place at the location of the outside sales.

(g) *Town exhibit permits.* Upon the request of a law enforcement officer, a town employee or a member of the Hudson Community Development Association, any person shall produce or exhibit any permit from the HCDA or the Town of Hudson for outside sales or permitted activities at a town event so that the town may ensure compliance with this section. The permit may include limits on hours of display issued by the HCDA and the Town of Hudson.

(h) *Failure to cease activities.* It shall be unlawful for a person on or within the boundaries of a town event to which these provisions have been made to apply, to fail to obey the command of a law enforcement officer to:

- (1) Cease the operation of a wheeled vehicle;
- (2) Cease the shooting or throwing of a ball, Frisbee, model plane, or other projectile; or
- (3) Cease exhibiting, displaying, offering for sale or selling any merchandise, service, food or beverage, on public property in or within five hundred (500) feet of the boundaries of the town event without a valid permit or written permission from the HCDA or the Town of Hudson.

(i) *Exception.* This section shall not apply to the operation of a wheelchair for the benefit of the handicapped or to the operation of any wheeled vehicle or the throwing or tossing of any ball, Frisbee or other object if the otherwise prohibited activity is part of an authorized exhibit, activity or display. The director of the HCDA or his or her designee or the town manager or his or her designee as it relates to the town event shall have the authority to specify the conditions under which wheeled vehicles may be operated and balls,

Frisbees, or objects may be thrown or tossed for the protection of the public.

(j) *Animals at town events.* Pursuant to section 3-4 of the Town Code, which requires animal owners to keep their dog or cat under restraint, animals, except leashed dogs, or cats or dogs carried by their owners, are prohibited at town events. This section shall not apply to animals in a petting zoo or animal rides if the otherwise prohibited animals are part of an authorized exhibit, activity or display. Dogs or cats designated under section 11.18 of the Town Code as "fierce, dangerous, or vicious" are not permitted within the boundaries of the festival unless they are securely muzzled.

(k) *Enforcement.* A violation of this article is a misdemeanor.

Businesses and Trades**Article 9****10-70**

**AN ORDINANCE
LEVYING A TAX ON GROSS
RECEIPTS DERIVED FROM
RETAIL SHORT-TERM LEASE OR
RENTAL OF VEHICLES**

(Adopted 7/18/2000)

WHEREAS, the North Carolina General Assembly has ratified Senate Bill 1076, which has been designated as Session Law 2000-2 [the "Act"] and made effective for taxable years beginning on or after July 1, 2000; and,

WHEREAS, the Act repealed the property tax on certain vehicles leased or rented under retail short-term leases or rentals and authorized municipalities to replace the lost tax revenue through enactment of a local tax on gross receipts derived from retail short-term leases or rentals.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Hudson, North Carolina that:

Section 1. Definitions. In addition to the common meanings of words, the following definitions shall be applicable herein:

(a) "Customer" shall mean any person that leases or rents a vehicle on a short-term lease or rental basis.

(b) "General Statutes" shall refer to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.

(c) "Gross receipts" shall mean the amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.

(d) "Lease or rental" shall mean a transfer, for consideration, of the use but not the ownership of property to another for a period of time. [G.S. 105-164.3(7a)]

(e) "Long-term lease or rental" shall mean a lease or rental made under a written agreement to lease or rent property to the same person for a period of at least three hundred sixty-five (365) continuous days. [G.S. 105-187.1(3)]

(f) "Person" shall mean any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

(g) "Short-Term lease or rental" shall mean any lease or rental of a vehicle that is not a long-term lease or rental. [G.S. 160A-215.1(e)(2) and G.S. 105-187.1(4)]

(h) "Tax Collector" shall refer to that individual appointed by the governing body pursuant to (G.S. 105-349)(the provisions of the municipal charter), to collect taxes on behalf of the Town of Hudson and any other person

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authorized to carry out the duties and functions of such individual.

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

Section 2. Levy of Tax. A tax is hereby imposed and levied in an amount equal to one and one-half percent (1.5%) of the gross receipts derived from the short-term lease or rental of vehicles at retail to the general public. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. 160A-211.

Section 3. Collection of the Tax. Every person engaged in the business of the short-term lease or rental of vehicles at retail to the general public shall collect at the time of the lease or rental the tax herein levied, place the tax so collected in a segregated account, and thereafter remit such tax to the Tax Collector in accordance with the provisions of this Ordinance. The taxpayer shall include a provision in each retail short-term lease or rental agreement stating that the percentage amount enacted by this Ordinance of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer's records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of the Town of Hudson. The taxpayer shall be liable for the collection thereof and for its payment to the Tax Collector and the taxpayer's failure to charge or to collect said tax from the customer shall not affect such liability.

Section 4. Report and Payment of Tax. Taxes levied under this Ordinance are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the Tax Collector on the form prescribed by the Tax Collector. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to the Tax Collector each month on or before the fifteenth (15th) day of the month following the month in which the tax accrues. As provided in G.S. 160A-208.1, a return shall not be considered a public record and information contained

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in a return may be disclosed only in accordance therewith.

Section 5. Taxpayer to Keep Records. The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this Ordinance. It shall be the duty of the taxpayer to keep and preserve for a period of three years all such records of gross receipts and other books and accounts described. All records, books and accounts herein described shall be open for examination at all reasonable hours during the day by the Tax Collector or his duly authorized agent.

Section 6. Tax Collector to Provide Forms. The Tax Collector shall design, prepare, print and make available to all taxpayers operating within the municipal boundaries of the Town of Hudson forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.

Section 7. Situs. The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle. [G.S. 160A-215.1(b)]

Section 8. Penalties and Remedies. The provisions with respect to remedies and penalties applicable to Subchapter VIII (Local Government

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

Section 9. Administration. In addition to the provisions herein, the levy and collection of the taxes herein imposed shall be otherwise administered in the same manner as the Sales and Use Tax as provided in Article 5, Subchapter 1, Chapter 105 of the General Statutes. [G.S. 160A-215.1(d)]

Section 10. Severability. If any section, clause, or provision of this Ordinance shall be found to be invalid, the validity of the remaining sections, clauses or provisions shall not be affected thereby.

Section 11. Authority. This Ordinance is enacted pursuant to the provisions of G.S. 160A-215.1.

Section 12. Effective Date. This Ordinance and the taxes thereby levied and imposed shall become effective July 1, 2000.

Adopted this the 18th day of July, 2000.

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Ordinance Notes:

Note: The General Assembly enacted Session Law 2000-2 entitled "An Act to Repeal the Property Tax on Certain Vehicles Leased or Rented Under Retail Short-Term Leases or Rentals and to Replace the Tax Revenue with a Local Tax on Gross Receipts Derived from Retail Short-Term Leases or Rentals" (the "Act"). The Act designates certain vehicles offered at retail for short-term lease or rental as property classified and excluded from the tax base. It also amends G.S. Chapter 160A by adding a new section, 160A-215.1, which authorizes municipalities to levy a gross receipts tax on short-term lease or rentals of vehicles.

The Act provides that the gross receipts tax levied by a municipality may not exceed one and one-half percent (1.5%).