

ORDINANCE NO. 19-8(1)

AN ORDINANCE TO AMEND CHAPTER 8, LICENSES, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 8, Licenses, is hereby amended and reordained as follows:

By Amending:

8-100 Purpose.

By Amending and Renumbering/Renaming:

<u>Old</u>	<u>New</u>	
8-102	8-101	Powers and duties of the d Director of f Finance.
8-103	8-102	Definitions.
8-104	8-103	Violations and penalties.
8-201	8-300	License application.
8-202	8-300	Information to be provided on <u>License application.</u>
8-204	8-301	Prerequisites to issuance of license.
8-205	8-302	Privilege of engaging in business may be exercised only by person licensed.
8-207	8-303	Presentation or display of license or license receipt <u>Retaining and showing license or license receipt; providing subcontractor information.</u>
8-208	8-304	Revocation of license.
8-300	8-400	Submittal of <u>Reporting of gross receipts or gross expenditures purchases.</u>
8-301	8-401	Estimated gross receipts or gross expenditures purchases because of failure to maintain adequate records <u>report.</u>
8-302	8-402	Estimated gross receipts or gross expenditures purchases for beginning business.
8-305	8-403	Amounts excluded from gross receipts.
8-306	8-404	Amounts deducted from gross receipts or gross expenditures purchases.
8-307	8-208	Duty to maintain and produce records of gross receipts <u>Recordkeeping and audits.</u>
8-400	8-500	Levy of license tax.
8-402	8-501	License fee.
8-408	8-502	Collection fees on delinquent license tax.
8-500	8-600	Assessment when license tax not previously assessed <u>Omitted license taxes.</u>
8-503	8-601	Correction of <u>Correcting an</u> erroneous assessment.
8-504	8-602	Correction of <u>Correcting an</u> assessment based on estimated gross receipts or gross expenditures purchases.
8-505	8-603	Refund of license tax if business terminated.
8-600	8-800	Alcoholic beverages.
8-601	8-700	Bondsmen.
8-602	8-701	Building or savings and loan associations <u>Savings institutions and State-chartered credit unions.</u>
8-603	8-702	Contractors, developers, electricians, plumbers, steamfitters and speculative builders.
8-605	8-703	Pawnbrokers; limitation on numbers of licenses issued in County.
8-606	8-704	Public service corporations.
8-607	8-705	Vending machine or coin-operated device operators <u>Amusement machines.</u>
8-609	8-706	Carnivals and circuses.
8-610	8-707	Fortunetellers, clairvoyants and practitioners of palmistry or phrenology.
8-611	8-708	Peddlers and itinerant merchants.
8-612	8-709	Show and sale.
8-613	8-710	Peddlers at wholesale.
8-615	8-711	Financial, real estate, and professional services.
8-616	8-712	Repair, personal, business, amusement and other services.
8-617	8-713	Retailers or retail merchants <u>sales.</u>

- 8-618 8-714 ~~Wholesalers or wholesale merchants sales.~~
- 8-619 8-715 Renting of houses, apartments or commercial property.
- 8-620 8-716 Federal research and development contractors.

By Adding:

- 8-200 License requirement.
- 8-201 When license application and license tax are due; penalties.
- 8-202 Situs of gross receipts.
- 8-203 Extensions for assessments and collections.
- 8-204 Administrative appeals to the Director of Finance.
- 8-205 Administrative appeal to the Tax Commissioner.
- 8-206 Judicial review of determination of Tax Commissioner.
- 8-207 Rulings.
- 8-801 Going-out-of-business sales.

By Repealing:

- 8-101 Applicability.
- 8-200 General.
- 8-203 Application due date.
- 8-206 Transfer of license.
- 8-303 Gross receipts attributed to single definite place of business; activities outside of definite place of business.
- 8-304 Gross receipts attributed to more than one definite place of business.
- 8-401 Date license tax due and payable.
- 8-404 Failure to obtain license does not relieve tax liability.
- 8-405 Effect of payment of license tax on tax liability of officers and employees.
- 8-406 Penalty on delinquent license tax or license fee.
- 8-407 Interest of delinquent license tax or license fee.
- 8-501 Assessment when license tax previously under-assessed.
- 8-502 Assessment when license tax not assessed or under-assessed; fraudulent intent.
- 8-506 Credit or refund if overpayment of license tax.
- 8-507 Licensee initiated correction of assessment; appeals and rulings.
- 8-614 Certain peddlers, itinerant merchants and peddlers at wholesale exempt from license tax.

Article 1. Business Licenses

Division 1. Administration

Sec. 8-100 Purpose.

The purpose of this article is to require all persons engaging in a business in the County to obtain a license, to establish the sole means by which the County imposes a license fee or levies a license tax for the privilege of engaging in a business, to provide for collecting license fees and license taxes, and to impose penalties for failure to comply with the provisions of this article.

(3-15-73, §§ 1, 2; 4-21-76; Ord. 96-11(1), 11-13-96, §§ 11-1, 11-1.1, 11-4; Code 1988, §§ 11-1, 11-1.1, 11-4; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3703.

Sec. 8-101 Powers and duties of the Director of Finance.

In administering and enforcing this chapter, the Director of Finance has all powers and duties conferred on directors of finance by general law, including but not limited to Virginia Code § 15.2-500 *et seq.*; and

on commissioners of revenue and treasurers by general law, including but not limited to Virginia Code §§ 58.1-3100 *et seq.* and 58.1-3900 *et seq.*

(3-15-73, § 22; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-22; Code 1988, § 11-22; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 15.2-519 *et seq.*, § 58.1-3100 *et seq.*, § 58.1-3900 *et seq.*

Sec. 8-102 Definitions.

All terms defined in Virginia Code § 58.1-3700.1 have the same definitions for purposes of this article. In addition, the following definitions apply to this article:

Contractor. The term “contractor” shall be as defined in Virginia Code § 58.1-3714.

Locality means a city, county or town of the State other than the County.

Person means individuals, firms, co-partnerships, corporations, companies, associations, or joint stock associations, and includes any trustee, receiver or assigned personal representative thereof carrying on or continuing a business, profession, trade, or occupation, but does not include a trustee, receiver, or other representative duly appointed by a court to liquidate assets for immediate distribution, or a sergeant or sheriff, or any deputy, selling under authority of process or writ of a court of justice.

Retailer or retail merchant means any person or merchant who conducts retail sales, as that term is defined in 23 Virginia Administrative Code (“VAC”) 10-500-10.

Services shall be as defined in 23 VAC 10-500-10.

Wholesaler or wholesale merchant means any person or merchant who conducts wholesale sales, as that term is defined in 23 VAC 10-500-10.

(3-15-73, § 1; 6-13-73; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-2; Code 1988, § 11-2; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3700.1, § 58.1-3724; 23 VAC 10-500-10.

Sec. 8-103 Violations and penalties.

- A. *Failure to obtain required license unlawful.* It is unlawful for any person to engage in a business within the County without first obtaining a license required by this article. Any violation of this subsection is punishable as a class 2 misdemeanor.
- B. *Willful failure to file return or making false statement with intent to defraud.* It is unlawful for any person to willfully fail or refuse to file a required return for license tax purposes, or to make any false statement with the intent to defraud in any return. Any violation of this subsection is punishable as: (i) a class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000.00 or less; or (ii) a class 1 misdemeanor if the amount of tax lawfully assessed in connection with the return is more than \$1,000.00.
- C. *Violation of any provision of this article.* It is unlawful for any person to violate any provision of this article not otherwise subject to subsections (A) or (B). Any violation of this subsection is punishable as a class 2 misdemeanor.

(3-15-73, § 26; 4-21-76; 4-13-88; Ord. 96-11(1), 11-13-96, § 11-23; Code 1967, § 11-6; Ord. 96-11(1), 11-13-96, § 11-51; Code 1988, §§ 11-23, 11-51; Ord. 98-A(1) 8-5-98)

State law reference--Va. Code §§ 58.1-3700, 58.1-3916.1.

Division 2. License Requirement, Situs of Gross Receipts, Appeals, and Recordkeeping

Sec. 8-200 License requirement.

Each person engaged in a business subject to this article shall obtain a license as follows:

- A. *Requirement to obtain license.* Every person shall apply for and obtain a license for each business when engaging in a business in the County if: (i) the person has a definite place of business in the County; (ii) there is no definite place of business anywhere and the person resides in the County; or (iii) there is no definite place of business in the County but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to Virginia Code § 58.1-3715, or public service corporation.
- B. *Separate license required.* A separate license is required for each definite place of business and for each business.
- C. *License when two or more businesses or professions carried on at same place of business.* A person engaged in two or more businesses carried on at the same place of business may elect to obtain one license for those businesses if all of the following criteria are satisfied: (i) each business is subject to licensure at the location and has satisfied any requirements imposed by State law or other provisions of the County Code or any uncodified ordinance; (ii) all of the businesses are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses at the highest rate; and (iii) the taxpayer agrees to supply any information the Director of Finance may require concerning the nature of the several businesses and their gross receipts.
- D. *When license requirements waived.* Notwithstanding the foregoing, the license requirement is waived for any business with gross receipts not exceeding \$25,000.00.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-201 When license application and license tax are due; penalties.

Each person subject to a license tax shall apply for a license and pay the license tax as follows:

- A. *When license application is due.* Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensure in the County on or before January 1 of the license year, or no later than March 1 of the license year if he had been issued a license for the preceding year. The application shall be on forms prescribed by the Director of Finance.
- B. *When license tax is due.* The tax shall be paid with the license application in the case of any license tax not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before June 15 of the license year; provided that each motor vehicle dealer who separately states the amount of the license tax applicable to each sale of a motor vehicle and adds the tax to the sales price of the motor vehicle shall pay the tax on or before the twentieth day of the month following the close of each calendar quarter.
- C. *Extensions.* The Director of Finance may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of 10 percent of the portion paid after the due date.
- D. *Penalty for failure to timely file an application or pay the license tax.* The Director of Finance will impose a penalty for failure to timely file an application or pay the license tax as follows:

1. *When late penalty imposed.* A penalty of 10 percent of the tax may be imposed by the Director of Finance upon the failure of any person to file an application or the failure to pay the tax by the appropriate due date. The Director of Finance shall impose only the late filing penalty if both the application and license tax payment are late; provided that the Director may impose both penalties if the Director determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the Director of Finance, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless, or intentional disregard of the law by the taxpayer, the Director shall not impose a late payment penalty with the additional tax. If any assessment of tax by the Director of Finance is not paid within 30 days, the Director may impose a 10 percent late payment penalty.
 2. *When late penalty not imposed.* If the failure to file or pay was not the fault of the taxpayer, the Director of Finance shall not impose a late penalty, or if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.
 - a. *Acted responsibly defined.* “Acted responsibly” means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business; and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.
 - b. *Events beyond the taxpayer’s control defined.* “Events beyond the taxpayer’s control” include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (*e.g.*, due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer’s reasonable reliance in good faith upon erroneous written information from the Director who was aware of the relevant facts relating to the taxpayer’s business when he provided the erroneous information.
- E. *Interest on late payments.* The Director of Finance shall charge interest on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the Director is found to be erroneous, all interest and any penalties charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax collected pursuant to this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under Virginia Code § 58.1-3916.
1. *When interest does not accrue.* No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year.
 2. *When interest not refunded or charged.* No interest shall be refunded or charged on a late payment, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-202 Situs of gross receipts.

The situs of gross receipts is determined as follows:

- A. *General rule.* When the license tax is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a privilege subject to licensure at a definite place of business within this County. If activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which the activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:
1. *Contractors.* The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of Virginia Code § 58.1-3715.
 2. *Retailers or wholesalers.* The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares, and merchandise are made to customers. Any wholesaler who is subject to a license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.
 3. *Businesses renting tangible personal property.* The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then to the definite place of business at which the rental of the property is managed.
 4. *Services.* The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then to the definite place of business from which the services are directed or controlled.
- B. *Apportionment.* If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule in subsection (A) occurred at, or were controlled from, the definite place of business. Gross receipts attributable to a definite place of business in another locality shall not be attributed to the County solely because the other locality does not impose a tax on the gross receipts attributable to the definite place of business in the other locality.
- C. *Agreements.* The Director of Finance may enter into agreements with any other locality concerning the manner in which gross receipts are apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement.
1. *Apportionment agreement when methodology applied by localities could result in taxes on more than 100 percent of taxpayer's gross receipts.* Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of the County or one or more other localities in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from

all locations in the affected localities, the Director shall make a good faith effort to reach an apportionment agreement with the other localities involved.

2. *Advisory opinion may be requested if apportionment agreement not reached.* If an agreement cannot be reached, either the Director or the taxpayer may seek an advisory opinion from the Department of Taxation pursuant to Virginia Code § 58.1-3701; notice of the request shall be given to the other party.
3. *Judicial relief may be sought if apportionment agreement not reached.* Notwithstanding Virginia Code § 58.1-3993, when a taxpayer demonstrates to a court that the County and one or more localities have assessed taxes on gross receipts that may create a double assessment within the meaning of Virginia Code § 58.1-3986, the court shall enter any orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.
State law reference-Va. Code § 58.1-3703.1

Sec. 8-203 Extensions for assessments and collections.

Assessments and collections may be extended as follows:

- A. *Extension to assess by agreement.* Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this chapter, both the Director of Finance and the taxpayer have consented in writing to its assessment after time prescribed, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.
- B. *Extension to assess because of fraud or failure to apply.* Notwithstanding Virginia Code § 58.1-3903, the Director of Finance shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding license years.
- C. *Extension to collect when assessment period extended or stayed.* The period for collecting any local license tax shall not expire: (i) prior to the period specified in Virginia Code § 58.1-3940; (ii) two years after the date of assessment if the period for assessment has been extended pursuant to this section; (iii) two years after the final determination of an appeal for which collection has been stayed pursuant to County Code § 8-204(A); or (iv) two years after the final decision in a court application pursuant to Virginia Code § 58.1-3984 or a similar law for which collection has been stayed, whichever is later.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-204 Administrative Appeals to the Director of Finance.

Any person assessed with a license tax as a result of an appealable event as defined in this section may file an administrative appeal (an “appeal”) of the assessment with the Director of Finance. The taxpayer may also file an appeal of the classification applicable to the taxpayer’s business, including whether the business properly falls within a business license subclassification established by the County, with the Director of Finance. Any appeal must be filed in good faith. Any appeal is also subject to the following:

- A. *When the appeal must be filed.* The taxpayer shall file an appeal of an assessment within one year after the last day of the tax year for which the assessment is made, or within one year after the date of the appealable event, whichever is later. The taxpayer may file an appeal of the classification applicable to the taxpayer’s business at any time; provided that the appeal of the classification of the business shall not apply to any license year for which the Tax Commissioner has previously issued a

final determination relating to any license fee or license tax imposed upon the taxpayer's business for the year; and further provided that any appeal of the classification of a business shall in no way affect or change any limitations period prescribed by law for appealing an assessment.

- B. *Contents of the appeal.* The appeal must be in writing and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments or classification, the amount in dispute, the remedy sought, each alleged error in the assessment or classification, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention.
- C. *Conference and request for additional information.* The Director may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the appeal. The assessment placed at issue in the appeal shall be deemed prima facie correct. The Director shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of his decision.
- D. *Notice of right of appeal and procedures.* Every assessment made by the Director pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to file an appeal and the specific procedures to be followed in the County, the name and address to which the appeal should be directed, an explanation of the required content of the appeal, and the deadline for filing the appeal. To facilitate appeals of the classification applicable to a taxpayer's business, the County shall maintain on its website the specific procedures to be followed in the County to appeal the classification and the name and address to which the appeal should be directed.
- E. *Suspension of collection activity during appeal.* Provided a timely and complete appeal is filed, collection activity with respect to the amount in dispute relating to any assessment by the Director shall be suspended until he issues a final determination, unless the Director: (i) determines that collection would be jeopardized by delay as defined in this section; (ii) determines that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) determines that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with County Code § 8-201(E), but no further penalty shall be imposed while collection activity is suspended.
- F. *Procedure in event of nondecision.* Any taxpayer whose appeal to the Director has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the Director, elect to treat the appeal as denied and appeal the assessment or classification of the taxpayer's business to the Tax Commissioner in accordance with the provisions of County Code § 8-205. The Tax Commissioner shall not consider an appeal filed pursuant to this section if he finds that the absence of a final determination by the Director of Finance was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by Director to make his determination.
- G. *Terms defined.* For purposes of this division:
 - 1. *Amount in dispute*, when used with respect to taxes due or assessed, means the amount specifically identified in the appeal or application for judicial review as disputed by the party filing such appeal or application.
 - 2. *Appealable event* means an increase in the assessment of a license tax payable by a taxpayer, the denial of a refund, or the assessment of a license tax where none previously was assessed, arising out of the Director of Finance's: (i) examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of an erroneous assessment attendant to the filing of an amended

application for a license. An appealable event includes a taxpayer's appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the County, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the County.

3. *Frivolous* means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is: (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.
4. *Jeopardized by delay* means a finding, based upon specific facts, that a taxpayer designs to: (i) depart quickly from the County; (ii) remove his property therefrom; (iii) conceal himself or his property therein; or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-205 Administrative appeal to the Tax Commissioner.

Any person assessed a license tax, or who received a determination from the Director of Finance, in an administrative appeal pursuant to County Code § 8-204 that is adverse to the position asserted by the taxpayer in that appeal, may appeal the assessment or determination to the Tax Commissioner.

- A. *When the appeal must be filed.* The appeal shall be filed with the Tax Commissioner within 90 days after the date of the determination by the Director.
- B. *Contents of the appeal.* The appeal shall be in a form as the Tax Commissioner may prescribe.
- C. *Procedure.* The taxpayer shall serve a copy of the appeal upon the Director of Finance. The Tax Commissioner shall permit the Director to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days after receipt of the taxpayer's application, unless the taxpayer and the Director are notified that a longer period will be required. The appeal shall proceed in the same manner as an application pursuant to Virginia Code § 58.1-1821. The Tax Commissioner, pursuant to Virginia Code § 58.1-1822, may issue an order correcting the assessment or correcting the license classification or subclassification of the business and the related license tax or fee liability.
- D. *Suspension of collection activity during appeal.* On receipt of a notice of intent to file an appeal to the Tax Commissioner under subsection (C), the Director shall suspend collection activity with respect to the amount in dispute relating to any assessment until a final determination is issued by the Tax Commissioner, unless the Director of Finance: (i) determines that collection would be jeopardized by delay as defined in this division; (ii) determines, or is advised by the Tax Commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) determines that the appeal is frivolous as defined in this division. Interest shall accrue in accordance with the provisions of County Code § 8-201(E), but no further penalty shall be imposed while collection activity is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to this section is filed and served on the necessary parties within 30 days after the notice of the appeal is served on the Director pursuant to subsection (C).
- E. *Implementing the determination of the Tax Commissioner.* Promptly upon receipt of the final determination by the Tax Commissioner in an appeal under this section, the Director of Finance shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer

consistent with the Tax Commissioner's determination and shall provide that information to the taxpayer in accordance with the provisions of this section.

1. *When specific amount of tax is due.* If the determination of the Tax Commissioner states a specific amount of tax due, the Director shall certify the amount and issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this division, within 30 days after the date of the determination of the Tax Commissioner.
2. *When specific amount of refund is due.* If the determination of the Tax Commissioner states a specific amount of refund due, the Director shall certify the amount and issue a payment to the taxpayer for the amount due, together with interest accrued pursuant to this division, within 30 days after the date of the determination of the Tax Commissioner.
3. *When specific amount of tax due is not stated, or Director required to undertake a new or revised assessment.* If the determination of the Tax Commissioner does not state a specific amount of tax due, or otherwise requires the Director to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the Director shall promptly commence the steps necessary to undertake the new or revised assessment, and provide that assessment to the taxpayer within 60 days after the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The Director shall certify the new assessment and issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this division, within 30 days after the date of the new assessment.
4. *When specific amount of refund due is not stated, or Director required to undertake a new or revised assessment.* If the determination of the Tax Commissioner does not state a specific amount of refund due, or otherwise requires the Director to undertake a new or revised assessment that will result in an obligation by the County to make a refund of taxes previously paid, the Director shall promptly commence the steps necessary to undertake a new or revised assessment or to determine the amount of refund due in the case of a correction to the license classification or subclassification of the business, and provide the assessment or determination to the taxpayer within 60 days after the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The Director shall certify the new assessment or refund amount and issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days after the date of the new assessment or determination of the amount of the refund.

Sec. 8-206 Judicial review of determination of Tax Commissioner.

After the Tax Commissioner issues a final determination pursuant to County Code § 8-205, the taxpayer or the Director of Finance may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to Virginia Code § 58.1-3984. In any judicial proceeding to review the determination of the Tax Commissioner, the burden is on the party challenging the determination, or any part thereof, to show that the ruling of the Tax Commissioner is erroneous with respect to the part challenged. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it. In addition:

- A. *Suspending payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.* On receipt of a notice of intent to file an application for judicial review pursuant to this section and Virginia Code § 58.1-3984, and upon payment of the amount of the tax relating to any assessment by the Director that is not in dispute together with any penalty and interest then due with

respect to the undisputed portion of the tax, the Director shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that: (i) the taxpayer's application for judicial review is frivolous, as defined in this division; (ii) collection would be jeopardized by delay, as defined in this division; or (iii) suspending collection would cause substantial economic hardship to the County. For purposes of determining whether substantial economic hardship to the County would arise from suspending collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the County by different taxpayers that allege common claims or theories of relief.

1. *When court may require taxpayer to pay amount in dispute, or portion thereof, or provide surety.* Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspending collection would result in substantial economic hardship to the County, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.
 2. *When suspending collection activity is not required.* Suspending collection activity is not required if the application for judicial review fails to identify with particularity the amount in dispute or the application does not relate to any assessment by the Director.
 3. *When the requirement to suspend collection activity ceases.* The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to Virginia Code § 58.1-3984 is filed and served on the necessary parties within 30 days after service of the notice of intent to file the application.
 4. *When the requirement to suspend collection activity does not apply.* The requirement to suspend collection activity does not apply to any appeal of a license tax that is initiated by the direct filing of an action pursuant to Virginia Code § 58.1-3984 without prior exhaustion of the appeals provided by County Code §§ 8-204 and 8-205.
- C. *Suspending payment of disputed amount of refund due upon County's notice of intent to initiate judicial review.* The Director's obligation to pay any refund determined to be due pursuant to the determination of the Tax Commissioner of an appeal pursuant to County Code § 8-205 is suspended if the County serves upon the taxpayer, within 60 days after the date of the determination of the Tax Commissioner, a notice of intent to file an application for judicial review of the Tax Commissioner's determination pursuant to Virginia Code § 58.1-3984 and pays to the taxpayer the amount of the refund not in dispute, including tax and accrued interest. Payment of the refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the County's application for judicial review is frivolous, as defined in this division.
1. *When suspending refund activity is not required.* Suspending refunding activity is permitted if the County's application for judicial review fails to identify with particularity the amount in dispute.
 2. *When the requirement to suspend the obligation to refund ceases.* The requirement to suspend the obligation to make a refund ceases unless an application for judicial review pursuant to Virginia Code § 58.1-3984 is filed and served on the necessary parties within 30 days after service of the notice of intent to file the application.
- D. *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of County Code § 8-201(E), but no further penalty shall be imposed while collection action is suspended.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-207 Rulings.

Any taxpayer or authorized representative of a taxpayer may request a written ruling from the Director of Finance regarding the application of the license tax to a specific situation. In addition, the taxpayer or authorized representative may request a written ruling from the Director regarding the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the County.

- A. *Information provided by the taxpayer.* Any person requesting a ruling must provide all facts relevant to the situation at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer.
- B. *When ruling may be invalidated.* Any misrepresentation, or any change in the applicable law or the factual situation as presented in the ruling request, invalidates the ruling issued.
- C. *When ruling may be revoked.* The Director may revoke or amend a ruling prospectively if: (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based; or (ii) the Director notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based.
- D. *Effect of good faith reliance on invalidated ruling.* Any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-208 Recordkeeping and audits.

Each person subject to a license tax shall maintain and produce records as provided herein:

- A. *Maintenance.* Each person shall maintain sufficient records, including books of account and other information to enable the Director of Finance to verify the correctness of the tax paid for the license years assessable or to enable the Director to ascertain what was the correct amount of tax that was assessable for each of those years.
 - 1. *Additional records for trailer camps or parks.* Each trailer camp or park, or the manager thereof, shall maintain a registration book and shall register all trailers using, occupying, or present in, the trailer camp or park, which book shall be available for inspection at all times. The term "trailer camp or park" means any site, lot, field, or tract of land upon which is located one or more trailers, or is held out for the location of any trailer, and shall include any building, structure, tent vehicle, or enclosure used or intended for use as a part of the equipment for the trailer camp or park.
 - 2. *Separate records and accounts for each business.* Each person engaged in two or more businesses which are subject to more than one rate or computed on more than one basis shall maintain separate records and accounts for each such business.
- B. *Production.* All records, books of accounts, and other information required by subsection (A) to be maintained shall be open to inspection and examination by the Director in order to allow him to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the County. The Director shall provide the person with the option to conduct the audit in the person's local business office, if the records are maintained there. If the records are maintained outside the County, the person shall send copies of the appropriate records and books to the Director upon demand.

- C. *Retention period.* All records, books of accounts, and other information required to be maintained pursuant to this section shall be retained for a period of five years after the license year for which the records, books of account, and other information pertain.

(3-15-73; § 8; 3-10-82; 5-11-83; 4-20-88; Ord. 3-20-91; Ord. 96-11(1), 11-13-96, § 11-13; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-76; Code 1988, § 11-76; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3703.1(A)(9).

Division 3. License Application, Issuance, and Revocation

Sec. 8-300 License application.

Each person required to obtain a license shall submit a written application to the Director of Finance and shall pay the applicable license fee or license tax.

- A. *Application form and contents.* The application shall be submitted on a license application form provided by the Director of Finance. The application shall state the person's correct name and trade name, if any, the correct physical address and mailing address, if different, the nature of the business to be pursued, and the place where the business will be pursued. The application shall also contain any other information required by the Director. The application shall be properly and fully executed by the applicant.
- B. *Sworn statement from applicant.* If the license tax is based upon the gross receipts or (in the case of wholesalers or wholesale merchants) purchases of the business to be licensed, the Director of Finance shall require a sworn statement from the applicant of the amount of such gross receipts or (in the case of wholesalers or wholesale merchants) purchases, except in the case of a beginning business as provided in County Code § 8-402.

(3-15-73, § 4; Ord. 96-11(1), 11-13-96, § 11-6; Code 1988, § 11-6; Ord. 98-A(1), 8-5-98)

(3-15-73, § 5; Ord. 96-11(1), 11-13-96, § 11-7; Code 1988, § 11-7; Ord. 98-A(1), 8-5-98, § 8-202)

State law reference--Va. Code § 58.1-3703.1(A)(2)(a).

Sec. 8-301 Prerequisites to issuance of license.

The Director of Finance shall not issue a license to an applicant pursuant to this article until the applicant has produced satisfactory evidence that all delinquent business license, real estate, personal property, meals, transient occupancy, severance, and admissions taxes owed by the business to the County which have been properly assessed by the County against the applicant have been paid.

(3-15-73, § 13; Ord. 96-11(1), 11-13-96, §§ 11-4.1, 11-20; Code 1988, § 11-20; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3700.

Sec. 8-302 Privilege of engaging in business may be exercised only by person licensed.

Each license issued pursuant to this article confers a personal privilege to engage in business, and the privilege may be exercised only by the persons licensed.

(3-15-73, § 20; Ord. 96-11(1), 11-13-96, § 11-5; Code 1988, § 11-5; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3700.

Sec. 8-303 Retaining and showing license or license receipt; providing subcontractor information.

Each license or license receipt issued shall be presented or displayed as provided herein:

- A. *Retaining and showing the license receipt; generally.* Each person who obtains a license shall keep the license receipt issued by the Director of Finance in a convenient place. The person shall show the license receipt when required to do so by any authorized enforcement officer of the County.
- B. *Showing license and providing subcontractor information; contractors, electrical contractors, plumbers, steam fitters, building wreckers, developers, speculative builders.* Each person who is a contractor, electrical contractor, plumber, steam fitter, building wrecker, developer, or speculative builder who proposes to do work in the County for which a license is required by this article, or pursuant to a contract let by a department, bureau, or office of the County, shall, upon making application for the license or upon the award of the contract, show to the proper County official the license issued pursuant to this article authorizing him to engage in the business for the license year, or in which the contract is awarded, and shall provide to that official a list of his subcontractors and the amounts of those subcontracts. If any of the subcontracts have not been closed or awarded at the time of applying for the license required by this article or the award of the contract, he shall furnish the list in writing immediately upon awarding the subcontract or contracts.

(3-15-73, § 5; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-11; Code 1967, § 11-13; 4-21-76; 3-10-82; Ord. 8-11-93; Ord. 96-11(1), 11-13-96, § 11-21; Code 1988, § 11-21; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3703.1.

Sec. 8-304 Revocation of license.

The Director of Finance may revoke any license issued pursuant to this article upon the failure of the licensed person to comply with any requirement of this article. When the Director revokes a license, there shall be no refund of any license fee or tax already paid.

(3-15-73; § 13, 66; Ord. 96-11(1), 11-13-96, §§ 11-19, 11-20; Code 1988, § 11-20; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3700.

Division 4. Determining Gross Receipts

Sec. 8-400 Reporting gross receipts or purchases.

Each person subject to a license tax shall report the amount of gross receipts or (in the case of wholesalers or wholesale merchants) purchases as provided herein:

- A. *Reporting due by March 1; generally.* Except as provided in subsection (B), each person whose license is measured by gross receipts or (in the case of wholesalers or wholesale merchants) purchases shall report to the Director of Finance, not later than March 1 of the license year, the amount of his gross receipts or (in the case of wholesalers or wholesale merchants) purchases for the preceding license year.
- B. *Reporting due following each calendar quarter; certain motor vehicle dealers.* Each motor vehicle dealer who separately states the amount of the license tax applicable to each sale of a motor vehicle and adds such tax to the sales price of the motor vehicle shall report to the Director on or before the twentieth day of the month following the close of each calendar quarter his gross receipts, trade-in allowances, and taxes collected from the sale of motor vehicles.

(3-15-73; § 8; 3-10-82; 5-11-83; 4-20-88; Ord. 3-20-91; Ord. 96-11(1), 11-13-96, § 11-13; Code 1988, § 11-13; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3703.1.

Sec. 8-401 Estimated gross receipts or purchases because of failure to report.

If a person fails to report the amount of his gross receipts or to supply other requested information as provided herein, the Director of Finance shall estimate the taxpayer's gross receipts or (in the case of wholesalers or wholesale merchants) purchases on the basis of the best evidence he can obtain, and shall make an assessment on the basis of that determination.

(3-15-73; § 8; 3-10-82; 5-11-83; 4-20-88; Ord. of 3-20-91; Ord. 96-11(1), 11-13-96, § 11-13; Code 1988, § 11-13; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3903.

Sec. 8-402 Estimated gross receipts or purchases for beginning business.

Each person beginning a business which is subject to a license tax pursuant to this article that is based in whole or in part on gross receipts or (in the case of wholesalers or wholesale merchants) purchases shall estimate the amount of the gross receipts he will receive or (in the case of wholesalers or wholesale merchants) the purchases he will make between the date of beginning business and the end of the then current license year, and his license tax for the then current year shall be computed on that estimate.

- A. *Amending the estimate.* The Director of Finance may, at any time he determines appropriate, require any person to amend his estimate of gross receipts or (in the case of wholesalers or wholesale merchants) purchases.
- B. *Correcting an erroneous estimate.* The Director may require any person who provides an erroneous estimate of gross receipts or (in the case of wholesalers or wholesale merchants) purchases to correct it.
- C. *Credit when overestimate.* The Director shall provide to each person who overestimates gross receipts or (in the case of wholesalers or wholesale merchants) purchases a credit upon his license tax payable the following year.

(3-15-73, § 9; Ord. 96-11(1), 11-13-96, § 11-9; Code 1988, § 11-9; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3703.1.

Sec. 8-403 Amounts excluded from gross receipts.

For purposes of determining a license tax, gross receipts shall not include any exclusion or deduction listed in Virginia Code § 58.1-3732, and shall be subject to all limitations of Virginia Code § 58.1-3732.2.

(3-15-83, § 65; 6-13-73; 5-15-75; 4-21-76; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-18; Ord. 97-11(1), 5-7-97, § 11-18; Code 1988, § 11-18; Ord. 98-A(1), 8-5-98; Ord. 07-8(1), 10-3-07, effective 1-1-08)

State law reference--Va. Code §§ 58.1-3732, 58.1-3732.2.

Sec. 8-404 Amounts deducted from gross receipts or purchases.

For purposes of determining a license tax, the following shall be deducted from a person's gross receipts or (in the case of wholesalers or wholesale merchants) purchases:

- A. *Definite place of business in another locality.* The gross receipts or (in the case of wholesalers or wholesale merchants) purchases attributable to any definite places of business of the person in any other locality.

B. *Exclusions for nonprofit organizations.* Those receipts, contributions, and membership dues for nonprofit organizations excluded from local license taxation pursuant to Virginia Code § 58.1-3703(C)(18).

(3-15-83, § 65; 6-13-73; 5-15-75; 4-21-76; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-18; Ord. 97-11(1), 5-7-97, § 11-18; Code 1988, § 11-18; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code §§ 58.1-3708(B), 58.1-3732.

Division 5. License Tax and License Fee

Sec. 8-500 Levy of license tax.

For each and every year beginning with January 1 of each year and ending December 31 following, unless otherwise expressly excepted in this article, and until otherwise changed, an annual license tax is hereby levied on each person who is: (i) required to obtain a license; and (ii) whose gross receipts in the County in a license year from a business subject to licensure are equal to or greater than \$100,000.00. The Director of Finance shall collect the annual license tax.

(3-15-73, § 3; Ord. 96-11(1), 11-13-96, § 11-3; Code 1988, § 11-3; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3703(A)

Sec. 8-501 License fee.

Each person who is required to obtain a license but not required to pay a license tax based on gross receipts or (in the case of wholesalers or wholesale merchants) purchases, shall pay a license fee of \$50.00. The license fee must be paid with the license application.

(Ord. 96-11(1), 11-13-96, § 11-4.2; Code 1988, § 11-4.2.; Ord. 98-A(1), 8-5-98; Ord. 16-8(1), 7-13-16)

State law reference--Va. Code § 58.1-3703(A).

Sec. 8-502 Collection fees on delinquent license tax.

The collection fees provided in Chapter 15 shall apply to each person chargeable pursuant to this chapter having delinquent taxes or other delinquent charges.

(Ord. 94-11(2), 11-2-94; Ord. 96-11(1), 11-13-96, § 11-22.1; Code 1988, § 11-22.1; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3958.

Division 6. Correcting Tax Assessments

Sec. 8-600 Omitted license taxes.

The Director of Finance shall list and assess omitted license taxes pursuant to Virginia Code § 58.1-3903.

(3-15-73, §§ 16, 18, 19; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-15; Code 1988, § 11-15; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3903.

Sec. 8-601 Correcting an erroneous assessment.

The Director of Finance shall correct any erroneous license tax assessments pursuant to Virginia Code § 58.1-3981.

(3-15-73, § 17; 4-21-76; 4-13-88; Ord. 96-11(1), 11-13-96, § 11-16; Code 1988, § 11-16; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3981.

Sec. 8-602 Correcting an assessment based on estimated gross receipts or purchases.

Each person subject to County Code § 8-402 who provides an estimate of gross receipts or (in the case of wholesalers or wholesale merchants) purchases is obligated to correct the estimate when actual gross receipts or (in the case of wholesalers or wholesale merchants) purchases are available. The Director of Finance shall adjust the person's estimated tax liability to actual liability at the conclusion of the base year, and assess the person with any additional license tax found to be due after the end of the base year, and shall at the same time correct the estimate for the then current license year, until a full year of operation has been completed.

(3-15-73, § 9; Ord. 96-11(1), 11-13-96, § 11-9; 3-15-73, § 7; 4-21-76; 3-10-82; 4-13-88; 4-20-88; Ord. 3-20-91; Ord. 94-11(9), 8-3-94; Ord. 96-11(1), 11-13-96, § 11-12; Code 1988, § 11-12; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3703.1.

Sec. 8-603 Refund of license tax if business terminated.

Any person whose license tax is based on gross receipts or (in the case of wholesalers or wholesale merchants) purchases shall be entitled to a refund if the person goes out of business before the end of the current license year, subject to Virginia Code § 58.1-3710 and all of the following:

- A. *License tax based on gross receipts or purchases for preceding year.* The license tax for the current license year shall be based on gross receipts or (in the case of wholesalers or wholesale merchants) purchases obtained throughout the preceding calendar or fiscal year.
- B. *Going out of business not connected with violation of law.* The reason for going out of business is connected in any manner with the violation of any State law or local ordinance or of the violation of any rules and regulations made pursuant thereto.
- C. *When interest on refund allowed.* A person is entitled to interest on the refund of a license tax pursuant to this section, provided that the refund is made ~~not~~ more than 30 days after: (i) the date of the payment that created the source of refund; or (ii) the date of the person's application for a refund, whichever is later. Interest on the refund shall be paid at the rate of 10 percent per year.
- D. *County may apply refund to other indebtedness.* If a person seeking a refund is indebted to the County or any department or office thereof, or is indebted to any State constitutional office of the County for a local levy, the refund, or so much the refund as is necessary, shall first be applied to such indebtedness.

(3-15-73, § 17; 4-21-76; 4-13-88; Ord. 96-11(1), 11-13-96, § 11-16; Code 1988, § 11-16; Ord. 98-A(1), 8-5-98; Ord. 17-8(2), 8-2-17)

State law reference--Va. Code § 58.1-3703.1.

Division 7. Schedule of Taxes

Sec. 8-700 Bondsmen.

Each person who, for compensation, enters into any bond or bonds for others, whether as a principal or surety, shall obtain a revenue license in the amount of \$150.00, which shall not be prorated or transferred.

Except as otherwise provided in this section, bondsmen's licenses shall be subject to Virginia Code § 58.1-3724.

(Ord. 96-11(1), 11-13-96, § 11-31; Code 1988, § 11-31; Ord. 98-A(1), 8-5-98; Ord. 07-8(1), 10-3-07, effective 1-1-08)

State law reference-Va. Code §§ 58.1-3724

Sec. 8-701 Savings institutions and State-chartered credit unions.

Each savings institution or State-chartered credit union having its main office in the County is subject to a license tax of \$50.00.

(3-15-73, § 46; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-32; Code 1988, § 11-32; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3730.

Sec. 8-702 Contractors.

Each contractor, as defined in Virginia Code § 58.1-3714, is subject to a license tax as follows:

- A. *Amount.* The license tax is \$0.16 for each \$100.00 of gross receipts from the business conducted during the preceding fiscal or calendar year. The gross receipts shall include all of the work done by the contractor, whether it was done by contract, subcontract, day labor, or time and material.
- B. *When license tax or license fee paid to another locality; exemption and exceptions.* Each contractor who has paid a local license tax or license fee to another locality in which his principal office or branch office is located is exempt from obtaining a license and from paying the applicable license tax or fee to this the County, as provided in County Code §§ 8-500 and 8-501, for conducting business within the County unless:
 - 1. *Amount of business in County exceeds \$25,000 but is less than \$100,000.* The amount of business done by the contractor in the County exceeds \$25,000.00 but is less than \$100,000.00, in which case the contractor is subject to the license fee provided in County Code § 8-501; or
 - 2. *Amount of business in County is equal to or greater than \$100,000.* The amount of business done by the contractor in the County is equal to or greater than \$100,000.00, in which case the contractor is subject to the license tax provided in County Code § 8-500 at the rate established in subsection (A). The amount of business done in the other locality in which the license tax or fee is paid may be deducted by the person from the gross receipts reported to this County.
- C. *Reporting.* The Director of Finance is authorized to require periodic reports as he deems necessary of all persons claiming exemption under subsection (B).

(3-10-82; Ord. 96-11(1), 11-13-96, § 11-55; Code 1967, § 44-14; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-58; Code 1988, §§ 11-55, 11-58; Ord. 98-A(1), 8-5-98; Ord. 16-8(1), 7-13-16)

State law reference-Va. Code §§ 58.1-3706(A)(1), 58.1-3714, 58.1-3715.

Sec. 8-703 Pawnbrokers; limitation on number of licenses issued in County.

The Director of Finance shall not issue licenses for the operation of more than 10 pawnshops in the County. The Director shall notify the County Sheriff of each license issued for a pawnshop.

(3-15-73, § 38; 4-13-88; Ord. 96-11(1), 11-13-96, § 11-40; Code 1988, § 11-40; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 54.1-4000.

Sec. 8-704 Public service corporations.

Each telephone, telegraph, water, heat, light, or power company (except electric suppliers, gas utilities and gas suppliers as defined in Virginia Code § 58.1-400.2 and pipeline distribution companies as defined in Virginia Code § 58.1-2600) is subject to a license tax of one-half of one percent on the gross receipts of the company accruing from sales to the ultimate consumer in the County, subject to allowable deductions provided by State law. The charges for long distance telephone calls shall not be included in gross receipts of any telephone company for purposes of license taxation.

(3-10-82; Ord. 96-11(1), 11-13-96, § 11-46.1; Code 1988, § 11-46.1; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3731.

Sec. 8-705 Amusement machines.

A license tax of \$200 is hereby imposed for the operation of ten or more coin-operated amusement machines. For the operation of less than ten coin-operated amusement machines, a license tax of \$100 is hereby imposed on the operator. The term "amusement operator" shall be as defined in and limited by Virginia Code 58.1-3720. Notwithstanding the situs requirements of Virginia Code § 58.1-3707, the license tax is imposed on the amusement operator when his coin-operated machines are located in this County. In addition:

- A. *Gross receipts tax imposed.* A gross receipts tax is hereby imposed on any amusement operator, as defined in Virginia Code § 58.1-3720, on the share of the receipts actually received by the operator from coin machines operated in the County, subject to the limitations in Virginia Code § 58.1-3706.
- B. *Exemption.* The license tax imposed by this section does not apply to any coin-operators exempt under Virginia Code § 58.1-3721.

State law reference--Va. Code §§ 58.1-3720, 58.1-3721.

Sec. 8-706 Carnivals and circuses.

Each carnival or circus is subject to a license tax of \$500.00 per day of operation; provided that each circus or carnival which is sponsored by a local nonprofit organization operated for charitable and benevolent purposes is subject to a license tax of \$25.00 per day of operation.

- A. *When license tax is to be paid.* The license tax shall be paid in full when the carnival or circus applies for a license for all of the days the carnival or circus will operate in the County.
- B. *Amateur carnivals and circuses not subject to license tax; license required.* Each carnival or circus which is produced, operated, or owned primarily by amateurs who are residents of the County or of the City of Charlottesville, and the gross income of which inures exclusively to the benefit of a school, church, or fire department, or of any locally sponsored nonprofit organization operated for charitable and benevolent purposes, shall not be subject to any license tax. However, the carnival or circus shall apply for and receive a license pursuant to this chapter.
- C. *Amusement rides included within scope of license.* Any license issued pursuant to this section includes the operation of ferris wheels, merry-go-rounds, and other amusement rides.

(10-17-68; 2-18-71; 4-21-76; 11-14-79; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-49; Code 1988, § 11-49; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3728.

Sec. 8-707 Fortunetellers, clairvoyants and practitioners of palmistry or phrenology.

Each person who, for compensation, pretends to tell fortunes or assume to act as a clairvoyant or to practice palmistry or phrenology, is deemed a fortune-teller, and is subject to a license tax of \$500.00 per year. Any person who engages in business as a fortune-teller without the license required shall be guilty of a Class 3 misdemeanor.

(Code 1967, § 11-6; Ord. 96-11(1), 11-13-96, § 11-51; Code 1988, § 11-51; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3726.

Sec. 8-708 Peddlers and itinerant merchants.

Each peddler or itinerant merchant is subject to a license tax of \$500.00 per year; provided that each peddler or itinerant merchant who sells or offers for sale in person or by their employees meats, milk, butter, eggs, poultry, game, vegetable, fruits, or other edible family supplies of a perishable and edible nature is subject to a license tax of \$50.00 per year. Except as otherwise provided in this section, Virginia Code §§ 58.1-3717 and 58.1-3719 apply.

(3-15-73, § 33; 4-13-88; Ord. of 3-20-91; Ord. 96-11(1), 11-13-96, § 11-60; Code 1988, § 11-60; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3717.

Sec. 8-709 Show and sale.

Each person engaged in show and sale is subject to a license tax as follows:

- A. *Seven day period.* Each person engaged in a show and sale for an unspecified number of shows and sales within a seven day period is subject to a license tax of \$50.00.
- B. *Thirty day period.* Each person engaged in a show and sale for an unspecified number of shows and sales within a 30 day period is subject to a license tax of \$150.00.
- C. *Three hundred sixty-five day period.* Each person engaged in a show and sale for an unspecified number of shows and sales within a 365 day period is subject to a license tax of \$600.00.
- D. *Sponsorship.* Any County resident, County business, or nonprofit community organization may act as a sponsor for a show and sale after obtaining the required license.
- E. *License is in lieu of itinerant merchant's license.* A license issued for a show and sale is in lieu of an itinerant merchant's license which would be otherwise required of any seller who participated in the show and sale under the sponsorship of a person or organization described in subsection (D).
- F. *Show and sale defined.* For purposes of this article, the term "show and sale" means an offering of goods at a specific location by exhibitors who do not have established places of business in the County and who would otherwise be classified as itinerant merchants.

(9-10-80; Ord. 96-11(1), 11-13-96, § 11-60.1; Code 1988, § 11-60.1; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3717.

Sec. 8-710 Peddlers at wholesale.

Each peddler at wholesale is subject to the same license tax rate as imposed under County Code § 8-714 on a wholesale merchant selling similar goods, wares, or merchandise in the County at one definite place of business. Except as otherwise provided in this section, Virginia Code §§ 58.1-3718 and 58.1-3719 apply to peddlers at wholesale.

(3-15-73, § 39; 4-13-88; Ord. 3-20-91; Ord. 96-11(1), 11-13-96, § 11-62; Code 1988, § 11-62; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3718.

Sec. 8-711 Financial, real estate, and professional services.

Each person engaged in a financial, real estate, or professional service is subject to a license tax of \$0.58 for each \$100.00 of gross receipts.

Financial, real estate, and professional services include, but are not limited to, those services identified in 23 VAC 10-500-390, 23 VAC 10-500-430, and 23 VAC 10-500-450, respectively.

(Ord. 96-11(1), 11-13-96, § 11-65; Ord. 97-11(1), 5-7-97, § 11-65; Code 1988, § 11-65; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3706(A)(3); 23 VAC 10-500-380, 390, 430, 450.

Sec. 8-712 Repair, personal, business, and other services.

Each person engaged in a repair, personal, business, or other service is subject to a license tax of \$0.36 for each \$100.00 of gross receipts.

- A. *Classification includes any services not financial, real estate, or professional.* Any services that are not classified as financial, real estate, or professional are classified as “repair, personal, business, and other services”.
- B. *Services within this classification.* Repair, personal, business, and other services include, but are not limited to, those services listed in 23 VAC 10-500-500.

(3-15-73, §§ 39.1, 53; 4-21-76; 3-10-82; 11-14-84; 4-13-88; Ord. 96-11(1), 11-13-96, § 11-66; Code 1988, § 11-66; Ord. 98-A(1), 8-5-98; Ord. 00-8(1), 10-11-00; Ord. 17-8(1), adopted 6-14-17, effective 8-1-17)

State law reference-Va. Code §§ 58.1-3706; 23 VAC 10-500-500.

Sec. 8-713 Retail sales.

Except as provided in subsection (A) and in Virginia Code § 58.1-3706(E), each person engaged as a retailer or retail merchant is subject to a license tax of \$0.20 for each \$100.00 of gross receipts.

- A. *Direct retail sales; lower rate.* Each person engaged as a retailer or retail merchant is subject to a license tax of \$0.10 for each \$100.00 of gross receipts for direct retail sales.
- B. *Direct retail sale defined.* For purposes of this section, a “direct retail sale” means a retail sale made to a remote buyer ordering by telephone, internet, or mail, in which the item(s) sold is/are shipped by common carrier or by the U.S. Postal Service.

(3-15-73, § 55; 4-21-76; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-68; Code 1988, § 11-68; Ord. 98-A(1), 8-5-98; Ord. 06-8(1), adopted 5-3-06, effective 1-1-07; Ord. 07-8(1), adopted 10-3-07, effective 1-1-08; Ord. 17-8(2), 8-2-17)

State law reference-Va. Code § 58.1-3706(A)(2).

Sec. 8-714 Wholesale sales.

Except as provided in Virginia Code § 58.1-3703(C) each person engaged as a wholesaler or wholesale merchant is subject to a license tax of five cents for each \$100.00 of purchases.

(3-15-73, § 56; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-69; Code 1988, § 11-69; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3716.

Sec. 8-715 Renting houses, apartments, or commercial property.

Each person engaged in the business of renting houses, apartments or commercial property in the County is subject to a license tax of \$0.20 for each \$100.00 of gross receipts from the rental of all commercial establishments, apartment units, or dwelling units. ~~B~~. For purposes of this section, the following definitions apply:

- A. *Business of renting houses and apartments defined.* “Business of renting houses and apartments” means the rental of a building, or portion thereof, designed exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, but not including hotels, boardinghouses, rooming houses, or other facilities offering guest rooms rented out for continuous occupancy for fewer than thirty (30) consecutive days.
- B. *Dwelling units defined.* “Dwelling units” means one or more rooms in a dwelling house or apartment designed for occupancy by one family for living purposes and having cooking facilities.

(3-15-73, § 61; 5-15-75; Ord. 96-11(1), 11-13-96, § 11-71; Code 1988, § 11-71; Ord. 98-A(1), 8-5-98; Ord 17-8(1), adopted 6-14-17, effective 8-1-17)

State law reference-Va. Code § 58.1-3703(C)(7).

Sec. 8-716 Federal research and development contractors.

Each person, person, firm, or corporation designated as the principal or prime contractor receiving identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of the Federal Acquisition Regulation in the areas of: (i) computer and electronic systems; (ii) computer software; (iii) applied sciences; (iv) economic and social sciences; and (v) electronic and physical sciences in the County is subject to a license tax of three cents per \$100.00 of the federal funds received in payment of the contracts upon documentation provided by the person, firm, or corporation to the Director of Finance confirming the applicability of this section.

(Ord. 16-8(1), 7-13-16)

State law reference-Va. Code § 58.1-3706(D)(1).

Article 2. Other Licenses

Sec. 8-800 Alcoholic beverages.

Pursuant to and subject to Virginia Code § 4.1-205, a County license tax is hereby imposed on persons licensed by the Virginia Alcoholic Beverage Control Board to manufacture, bottle, or sell alcoholic beverages in the County, except for temporary licenses authorized by Virginia Code § 4.1-211.

A. *Tax rates.* The following annual tax rates shall apply:

1. *Distiller’s license.* For each distiller’s license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750.00; if more than 36,000 gallons

manufactured during such year, \$1,000.00; and no license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits or both during the license year.

2. *Winery license.* For each winery license, \$50.00.
 3. *Brewery license.* For each brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250.00, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000.00.
 4. *Beer bottler's license.* For each beer bottler's license, \$500.00.
 5. *Wholesale beer license.* For each wholesale beer license, \$75.00.
 6. *Wholesale wine license.* For each wholesale wine license, \$50.00.
 7. *Retail wine and beer license.* For each retail on-premises wine and beer license for a hotel, restaurant, or club, and for each retail off-premises wine and beer license, \$37.50.
 8. *Retail beer license.* For each retail on-premises beer license for a hotel, restaurant or club, and for each retail off-premises beer license, \$25.00.
 9. *Fruit distiller's license.* For each fruit distiller's license, \$500.00.
 10. *Mixed beverage restaurant license.* For each mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons, the tax is:
 - a. \$200.00 for areas seating 50 to 100.
 - b. \$350.00 for areas seating 100 to 150 persons.
 - c. \$500.00 for areas seating more than 150 persons.
 - d. \$350.00 for private, nonprofit clubs operating a restaurant located on the premises of those clubs.
- B. *State license required for County license to issue.* No County license shall be issued pursuant to this chapter to any person who does not hold or secure simultaneously the proper State license.
- C. *Beer defined.* For purposes of this section, the term "beer" is defined as it is in Virginia Code § 4.1-100.

(3-15-73, § 25; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-27; Code 1988, § 11-27; Ord. 98-A(1), 8-5-98; Ord. 14-8(1), 9-3-14; Ord. 15-8(1), 7-1-15; Ord. 16-8(1), 7-13-16)

State law reference-Va. Code §§ 4.1-205, 4.1-233.

Sec. 8-801 Going-out-of-business sales.

Any person who is advertising or conducting a sale for the purpose of discontinuing a retail business, or is modifying the word "sale" in any advertisement with the words "going out of business" or any other words which tend to insinuate that the retail business is to be discontinued and the merchandise liquidated, must first obtain a special sale permit from the Director of Finance pursuant to Virginia Code § 18.2-223, and must comply with Virginia Code § 18.2-224. The fee for each special sale permit is \$65.00.

State law reference-Va. Code § 18.2-223 and § 18.2-224.

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Dill	_____	_____
Mr. Gallaway	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____