



ORDINANCE #O-2012-017

INTRODUCED: November 13, 2012
ADOPTED: December 11, 2012
ENACTED: December 11, 2012

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES,
TOWN OF CULPEPER, VIRGINIA (1991), AS AMENDED, BY AMENDING
CHAPTER 10, RELATING TO BUSINESS, PROFESSIONAL & OCCUPATIONAL LICENSES**

WHEREAS, the boundary line adjustment agreement requires the Town to reduce its business, professional, and occupational license (BPOL) tax rate and any BPOL flat fee by 20% for each category of business subject to such tax within the existing Town boundaries and within the first boundary adjustment areas;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Culpeper, Virginia, meeting in regular session this 11th day of December 2012:

1. That the Code of Ordinances, Town of Culpeper, Virginia (1991), as amended, is amended as follows:

Sec. 10-2. - Definitions.

For the purpose of this chapter, unless otherwise required by the context:

Affiliated group means:

(1) One (1) or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

a. Stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty (80) percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one (1) or more of the other corporations subject to inclusion; and

b. The common parent corporation directly owns stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other ~~each of the corporations~~ subject to inclusion ~~corporations~~. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends; the phrase "corporations subject to inclusion" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

Entity means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the Commonwealth or another state.

Gross receipts means the whole, entire, total receipts ~~attributable to the licensed privilege~~ without deduction, except as may be limited by Code of Virginia, § 58.1-3700 et seq.

ARTICLE II. - SCHEDULE OF FEES

Sec. 10-25. - License fee and tax.

Provided the following classifications of business are allowed under existing town zoning ordinances and except as may be specifically otherwise provided by ordinance or other law, the annual license tax imposed hereunder shall be ~~thirty~~ twenty-four dollars (~~\$30.00~~ \$24.00), or the tax rate set forth below for the class of enterprise listed, whichever is greater.

- (1) For contractors and persons constructing for their own account for sale, ~~ten~~ eight cents (~~\$0.10~~ \$0.08) per one hundred dollars (\$100.00) of gross receipts;
- (2) For retailers, including short-term rental businesses per Code of Virginia, § 58.1-3510, ~~thirteen~~ ten cents (~~\$0.13~~ \$0.10) per one hundred dollars (\$100.00) of gross receipts;
- (3) For financial, real estate and professional services, ~~thirty-six~~ twenty-nine cents (~~\$0.36~~ \$0.29) per one hundred dollars (\$100.00) of gross receipts;
- (4) For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this chapter or otherwise by law, ~~twenty-three~~ eighteen cents (~~\$0.23~~ \$0.18) per one hundred dollars (\$100.00) of gross receipts;
- (5) For wholesalers, ~~five~~ four cents (~~\$0.05~~ \$0.04) per one hundred dollars (\$100.00) of purchases pursuant to Code of Virginia, § 58.1-3716;
- (6) For fortune tellers, clairvoyants and practitioners of palmistry, ~~one thousand~~ eight hundred dollars (~~\$1,000.00~~ \$800.00) per year pursuant to Code of Virginia, § 58.1-3726. Any person violating this provision shall be guilty of a class 3 misdemeanor.
- (7) For massage parlors, ~~one thousand~~ eight hundred dollars (~~\$1,000.00~~ \$800.00) per year;
- (8) For itinerant merchants or peddlers, ~~five~~ four hundred dollars (~~\$500.00~~ \$400.00) per year pursuant to Code of Virginia, § 58.1-3717;
- (9) For permanent coliseums, arenas or auditoriums having a maximum capacity in excess of ten thousand (10,000) persons, open to the public, ~~one thousand~~ eight hundred dollars (~~\$1,000.00~~ \$800.00) per year pursuant to Code of Virginia, § 58.1-3729;
- (10) For savings institutions and state-chartered credit unions, ~~fifty~~ forty dollars (~~\$50.00~~ \$40.00) per year pursuant to Code of Virginia, § 58.1-3730;
- (11) For industrial loan and agricultural credit associations, ~~five~~ four hundred dollars (~~\$500.00~~ \$400.00) per year pursuant to Code of Virginia, § 58.1-3730.1; and
- (12) For direct sellers as defined in Code of Virginia, § 58.1-3719.1, with total annual sales in excess of four thousand dollars (\$4,000.00), ~~twenty~~ sixteen cents (~~\$0.20~~ \$0.16) per one hundred dollars (\$100.00) of total annual retail sales or ~~five~~ four cents (~~\$0.05~~ \$0.04) per one hundred dollars (\$100.00) of total annual wholesale sales, whichever is applicable.

Secs. 10-26—10-39. - Reserved.

Sec. 10-40. - Automobile graveyards.

- (a) Every person operating or maintaining an automobile graveyard, within the town shall pay an annual license tax of ~~five~~ four hundred dollars (~~\$500.00~~ \$400.00).
- (b) As used in this section, the term "automobile graveyard" has the meaning ascribed in Code of Virginia, § 33.1-348.

Sec. 10-41. - Junkyard.

- (a) Every person who shall keep a junkyard in the town shall pay an annual license tax of ~~five~~ four hundred dollars (~~\$500.00~~ \$400.00).
- (b) As used in this section, "junkyard" has the meaning ascribed in Code of Virginia, § 33.1-348.

Sec. 10-42. - Carnivals, circuses, shows.

(a) Every person, firm, business or corporation giving performances as a traveling circus, carnival or show in the open air or in a tent or tents, shall pay a license tax of two hundred fifty dollars (~~\$250.00~~ \$200.00) per performance in advance.

(b) As used in this section, the term "carnival" has the meaning ascribed in Code of Virginia, § 58.1-3728.

(c) Any person, firm, business or corporation violating the regulations set forth herein concerning carnivals, circuses, and shows shall be subject to a fine up to one thousand dollars (\$1,000.00) for each performance.

Sec. 10-43. - Public entertainment generally, dance halls.

(a) Every person, firm, business or corporation operating a public dance hall or any place open to the general public where dancing is permitted shall pay a license tax of ~~twenty-five~~ twenty dollars (~~\$25.00~~ \$20.00) per day or two hundred fifty dollars (~~\$250.00~~ \$200.00) per annum.

(b) As used in this section, dance hall shall have the ascribed meaning in Code of Virginia, § 18.2-433.

Sec. 10-44. - Photographers with no regularly established place of business in the commonwealth; rate limitations.

For the purpose of license taxation, the term "photographer" shall mean any person, firm, partnership or corporation having no regularly established place of business in the commonwealth who provides services consisting of the taking of pictures or the making of pictorial reproductions in the commonwealth. The term shall also include every employee, agent or canvasser for such photographer. Nothing in this section shall apply to (a) amateur photographers who expose, develop and finish their own work and who do not receive compensation for such work or receive compensation for performing any of the processes of photography, (b) coin-operated photography machines, or (c) photographers providing service in the course of their employment by newspapers, magazines or television stations.

The license tax on photographers as defined herein shall be ~~thirty~~ twenty-four dollars (~~\$30.00~~ \$24.00) per year.

Sec. 10-45. - Nonresident contractors.

Nonresident contractors perform various services for persons within the town. These business services may be a one-time or repeated activity. Nonresident contractors shall be taxed pursuant to Code of Virginia, § 58.1-3715.

DIVISION 2. - PUBLIC SERVICE CORPORATIONS

Sec. 10-46. - Light and power companies.

Sec. 10-47. - Gas companies.

Sec. 10-48. - Telegraph companies.

Sec. 10-46—10-48. Reserved.

Sec. 10-49. - Telecommunications companies.

Sec. 10-50. - Water companies.

Sec. 10-51. - Reserved.

Sec. 10-46. - Light and power companies. Reserved.

~~Any person distributing and selling electricity or electrical power for cooking, heating or lighting or other domestic or commercial purposes in the town shall pay an annual license tax of one half (0.5) of one (1) percent of the gross receipts accruing from sales to the ultimate consumer in the town. This tax shall be computed on the total sales of the previous calendar year. (Ord. of 5-13-03)~~

~~State law reference—Licensing of certain public service corporations, Code of Virginia, § 58.1-3731.~~

Sec. 10-47. — Gas companies. Reserved.

~~Every person distributing and selling natural or artificial gas for cooking, heating, lighting or domestic or commercial purposes in the town shall pay an annual license tax of one-half (0.5) of one (1) percent of the gross receipts accruing from sales to the ultimate consumer in the town. This tax shall be computed on the total sales of the previous calendar year. (Ord. of 5-13-03)~~

~~State law reference—Licensing of certain public service corporations. Code of Virginia, § 58.1-3731.~~

Sec. 10-48. — Telegraph companies. Reserved.

~~Every person, firm, or corporation owning or operating a telegraph company or having an office within the town where messages are received for transmission between any points within the state shall pay an annual license tax of one-half (0.5) of one (1) percent of the gross receipts accruing from sales to the ultimate consumer in the town. This tax shall be computed on the total sales of the previous calendar year. (Ord. of 5-13-03)~~

~~State law reference—Licensing of certain public service corporations. Code of Virginia, § 58.1-3731.~~

Sec. 10-49. - Telecommunications companies.

Every person, firm, or corporation owning a telephone exchange or conducting a telephone business in the town shall pay an annual license tax of ~~one-half~~ four-tenths (0.5 0.4) of one (1) percent of the gross receipts accruing from sales to the ultimate consumer in the town excluding long distance calls. This tax shall be computed on the total sales of the previous calendar year; provided, that charges for long distance calls shall not be considered receipts of business.

Sec. 10-50. - Water companies.

Any person, firm or corporation distributing and selling water for domestic or commercial purposes in the town shall pay an annual license tax of ~~one-half~~ four-tenths (0.5 0.4) of one (1) percent of the gross receipts accruing from sales to the ultimate consumer in the town. This tax shall be computed on the total sales of the previous calendar year.

Sec. 10-51 - Reserved.

DIVISION 3. —FLEA MARKETS RESERVED.

Sec. 10-52. — Definitions.

Sec. 10-53. — Application.

Sec. 10-54. — Vendors.

Sec. 10-55. — Promoters.

Secs. 10-56—10-80. — Reserved.

Sec. 10-52. — Definitions.

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

Flea market means any aggregation, congregation or assembly of vendors, peddlers or itinerant merchants, whether professional or nonprofessional, who offer for sale, trade or barter any goods, regardless of whether they be new, used, antique or handmade and where offered for sale in open air areas, buildings or temporary structures.

Long term lessee means a person who holds real property under a lease for a minimum of one (1) year.

Promoter means any person, who promotes or sponsors flea market type activities by offering a space, booth or area for use by vendors to display and offer for sale any goods, wares or merchandise for a fee or commission. Promoters shall stand in lieu of vendors, peddlers or itinerant merchants for purposes of taxation.

~~Vendor means any person, who at a flea market, engages in or conducts the activity of buying, selling or exchanging, for his own account, on a casual or regular basis, any tangible, personal property, whether new or used, either alone or in concert with others.~~

~~((Ord. of 5-13-03))~~

~~Sec. 10-53. — Application.~~

~~Any promoter seeking to operate a flea market in the town shall file with the town an application on a form prescribed by the town manager requesting a permit to conduct a flea market type activity. If, in the judgment of the town manager, such an activity will not be to the detriment of the town or its citizens, and it will not be contrary to any zoning or building regulations, then he shall issue an annual permit. If, in the opinion of the town manager, such will be to the detriment of the town or its citizens, or it will constitute a zoning or building code violation, he shall notify the applicant stating the reasons for the denial of the permit. The applicant shall have the right to appeal the denial to the town council.~~

~~((Ord. of 5-13-03))~~

~~Sec. 10-54. — Vendors.~~

~~In any flea market type operation, whether the promotion be for profit or not, the promoter shall purchase a license for each vendor space, booth or area. Said license tax shall be twenty five twenty dollars (\$25.00 \$20.00) per vendor space, booth or area and shall be good for one (1) year from date of purchase. Where a flea market type activity is sponsored or promoted by a recognized civic or charitable organization and where it is believed that the overall interest of the town will be served through a waiver of the license, then the council may, in its discretion, waive such license. — (Ord. of 5-13-03)~~

~~Sec. 10-55. — Promoters.~~

~~Promoters who are not the owner or long term lessee of real estate on which a flea market is being conducted shall secure from the town clerk a business license to conduct such activity. For the purpose of procuring a business license, the promoter shall pay a license fee equal to the service business category fee as established from time to time by resolution of council on the fees received from rental of booths or spaces at the flea market. — (Ord. of 5-13-03)~~

Secs. 10-56 10-52—10-80. - Reserved.

DIVISION 4. - ALCOHOLIC BEVERAGES

Sec. 10-81. - Definitions.

Sec. 10-82. - License taxes—Generally.

Sec. 10-83. - Same—Prorating.

Sec. 10-84. - Same—State license prerequisite to town license.

Secs. 10-85—10-100. - Reserved.

Sec. 10-81. - Definitions.

The terms used or referred to in this division, defined in Code of Virginia, § 4.100, shall have the same meaning as set forth in such section, unless a different meaning clearly appears from the context.

Sec. 10-82. - License taxes—Generally.

License taxes shall be assessed and collected from persons licensed by the state alcoholic beverage control board to manufacture, bottle and sell alcoholic beverages within this town in the following amounts:

- (1) For each distiller's license, ~~one thousand eight hundred~~ dollars (~~\$1,000.00~~ \$800.00) per annum. No local license shall be required by any person who shall manufacture less than five thousand (5,000) gallons of alcohol or spirits or both during such license year.
- (2) For each fruit distiller's license, one thousand ~~five~~ two hundred dollars (~~\$1,500.00~~ \$1,200.00) per annum.
- (3) For each wine tasting license, ~~five~~ four dollars (~~\$5.00~~ \$4.00) each.
- (4) Gourmet brewing shop license, one hundred ~~fifty~~ thirty dollars (~~\$150.00~~ \$130.00) per annum.
- (5) For each brewery license, ~~one thousand eight hundred~~ dollars (~~\$1,000.00~~ \$800.00) per annum.
- (6) For each bed and breakfast establishment, ~~forty~~ thirty-two dollars (~~\$40.00~~ \$32.00) per annum.
- (7) For each bottler's license, ~~five~~ four hundred dollars (~~\$500.00~~ \$400.00) per annum.
- (8) For each wholesale beer license, ~~seventy-five~~ sixty dollars (~~\$75.00~~ \$60.00) per annum.
- (9) 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, ~~thirty-seven~~ dollars and fifty cents ~~dollars~~ (~~\$37.50~~ \$20.00) per annum. (Note: State law maximum is currently \$25)
- (10) For each wholesale wine license, ~~fifty~~ forty dollars (~~\$50.00~~ \$40.00) per annum.
- (11) For each winery license, ~~one thousand forty~~ dollars (~~\$1,000.00~~ \$40.00) per annum. (Note: State law maximum is currently \$50)
- (12) For each retail on-premises beer license for a hotel, restaurant or club, ~~twenty-five~~ twenty dollars (~~\$25.00~~ \$20.00) per annum.
- (13) For each museum license for alcohol, ~~ten~~ eight dollars (~~\$10.00~~ \$8.00) per annum.
- (14) For each wine and beer banquet license, ~~five~~ four dollars (~~\$5.00~~ \$4.00) per license.
- (15) For each retail off-premises beer license for a hotel, restaurant, club, corporation, firm or individual, ~~twenty-five~~ twenty dollars (~~\$25.00~~ \$20.00) per annum.
- (16) For persons holding state mixed beverage restaurant licenses and caterers' licenses for establishments located within the town:
 - a. For persons operating restaurants, including restaurants located on the premises of and operated by hotels, motels, or other persons:
 1. For each restaurant with a seating capacity at tables for up to one hundred (100) persons, ~~two hundred one hundred sixty~~ dollars (~~\$200.00~~ \$160.00) per annum.
 2. For each restaurant with a seating capacity at tables for more than one hundred (100) but not more than one hundred fifty (150) persons, ~~three hundred fifty~~ two hundred eighty dollars (~~\$350.00~~ \$280.00) per annum.
 3. For each restaurant with a seating capacity at tables for more than one hundred fifty (150) persons, ~~five~~ four hundred dollars (~~\$500.00~~ \$400.00) per annum.
 - b. For each mixed beverage caterer, ~~five~~ four hundred dollars (~~\$500.00~~ \$400.00) per annum.
 - c. For mixed beverage special events licenses or club events licenses, ~~ten~~ eight dollars (~~\$10.00~~ \$8.00) for each day of each event.
 - d. For a private, non-profit club operating a restaurant located on the premises of such club, ~~three hundred fifty-two~~ hundred eighty dollars (~~\$350.00~~ \$280.00) per annum.
- (17) For each amphitheater license, ~~three hundred~~ two hundred forty dollars (~~\$300.00~~ \$240.00) per annum.

For all alcoholic beverage licenses not listed above, the license tax shall be assessed and collected from persons at the rate of eighty percent (80%) of the maximum set forth in Virginia Code Section 4.1-233(A).

DIVISION 5. - DEALERS IN PRECIOUS METALS

Sec. 10-109. - Permit required; method of obtaining permit; no convictions of certain crimes; approval of weighing devices; renewal; permanent location required.

(a) No person shall engage in the activities of a dealer as defined in section 10-101 without first obtaining a permit from the chief of police.

(b) To obtain a permit, the dealer shall file with the chief of police an application form which shall include the dealer's full name, any aliases, address, age, date of birth, sex and fingerprints; the name, address and telephone number of the applicant's employer, if any; and the location of the dealer's place of business. Upon filing this application and the payment of a ~~two hundred~~ one hundred sixty dollar (~~\$200.00~~ \$160.00) application fee, the dealer shall be issued a permit by the chief of police or his designee, provided that the applicant has not been convicted of a felony or crime of moral turpitude within seven (7) years prior to the date of application. The permit shall be denied if the applicant has been denied a permit or has had a permit revoked under any ordinance similar in substance to the provisions of this article.

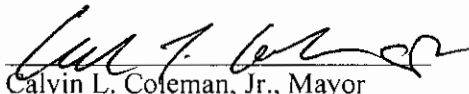
(c) Before a permit may be issued, the dealer must have all weighing devices used in his business inspected and approved by state weights and measures officials and present written evidence of such approval to the chief of police.

(d) The permit shall be valid for one (1) year from the date issued and may be renewed in the same manner as such permit was initially obtained with an annual permit fee of ~~two hundred~~ one hundred sixty dollars (~~\$200.00~~ \$160.00). No permit shall be transferable.

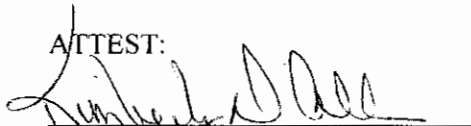
(e) If the business of the dealer is not operated without interruption, with Saturdays, Sundays and recognized holidays excepted, the dealer shall notify the chief of police of all closings and reopenings of such business. The business of a dealer shall be conducted only from the fixed and permanent location specified in his application for a permit.

2. This ordinance shall become effective on January 1, 2013.

BY ORDER OF COUNCIL


Calvin L. Coleman, Jr., Mayor
Town of Culpeper, Virginia

ATTEST:


Kimbekly D. Allen, Town Clerk

MOTION: Lochridge
SECOND: Reaves

Date: December 11, 2012
Regular Meeting

Ord. No. O-2012-017

RE: Approval

ACTION: Approved

Votes:

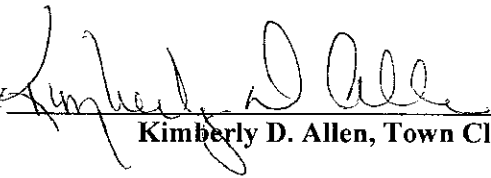
Ayes: Boring, Coleman, Lochridge, Olinger, Phillips, Reaves, Risner, Ryan, Yowell

Nays: None

Absent from Vote: None

Absent from Meeting: None

CERTIFIED COPY

A handwritten signature in cursive script, appearing to read 'Kimberly D. Allen', is written over a horizontal line.

Kimberly D. Allen, Town Clerk