

PART II - CODE OF ORDINANCES

Chapter 18 FINANCE AND TAXATION

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ARTICLE I. IN GENERAL

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Sec. 18-1. Tax year.

The tax year of the town shall begin on January 1 of each year and end on December 31 of each year.

(Code 1972, § 11-1; Code 1992, § 11-1)

State Law reference— Tax year defined, Code of Virginia, § 58.1-1.

Sec. 18-2. Approval of bills and accounts.

No bill or account shall be allowed or paid by the council unless the same shall be approved by the majority of those present.

(Code 1972, § 11-2; Code 1992, § 11-2)

Secs. 18-3—18-22. Reserved.

ARTICLE II. PROPERTY TAX

DIVISION 1. - GENERALLY

DIVISION 2. - PERSONAL PROPERTY TAX

DIVISION 1. GENERALLY

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Sec. 18-23. Tax on real estate, tangible personal property, machinery and tools.

- (a) Every person owning real estate, tangible personal property or machinery and tools shall pay a tax which shall be set by the town council annually with the adoption of the budget, on real estate, tangible property and machinery and tools.
- (b) Real estate, tangible personal property and machinery and tools taxes are due December 5 of each year, and if not paid on or before December 5 of each year, a penalty of ten percent is added. Notwithstanding the foregoing, the town may bill prorated personal property taxes assessed pursuant to section 18-55 of this chapter, on or after December 15 of each year and such prorated taxes shall be due 30 days after the date of the tax bill. On all taxes remaining unpaid on January 1 of the following year (or remaining unpaid after 30 days if billed after December 15), interest at the rate of ten percent per annum is charged from the date of assessment until the time of payment.

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(Code 1972, § 18-19; Code 1992, § 11-3; Ord. No. 2016-3, 6-14-2016)

State Law reference— Annual tax levies, Code of Virginia, § 58.1-3005; town may levy tax on fiscal year basis, Code of Virginia, §§ 58.1-3010, 58.1-3011.

Sec. 18-24. Filing of personal property tax returns.

- (a) Every person in the town subject by law to tangible personal property taxation shall file a tangible personal property tax return with the county commissioner of revenue on forms furnished by such office on or before May 1 of each calendar year; excepting motor vehicles, trailers, semi-trailers and boats ("vehicles") that acquire situs within the town or are transferred to a new owner in the town after the personal property tax return is filed, for which the deadline shall be 30 days following the date of such transfer or acquisition. Any person failing to file such return on or before the due date shall incur a penalty thereon of five percent of the tax assessable on such return or \$10.00, whichever is greater, which shall be added to the amount of taxes or levies due from such taxpayer and which, when collected by the treasurer, shall be accounted for in his/her settlements; provided that the penalty shall not exceed the amount of tax assessable.
- (b) Notwithstanding the filing requirements above, any person owning or leasing a vehicle and for which there has been no change in situs or status for such vehicle, shall not be required to file another personal property tax return on such vehicle, until such situs or status changes.

For the purpose of this section, the term "change in status" shall mean one or more of the following:

- (1) A change that occurs in the name or address of the person or persons, or entity, owning or leasing such tangible personal property.
- (2) A change occurs in the taxable situs of the tangible personal property.
- (3) Any action which causes personal property to acquire situs in the town occurs for which no personal property tax return has been filed by the owner.
- (4) Any change affecting the assessment or levy of the personal property tax occurs for which a tax return has been previously filed, or the use of a personal vehicle has changed to business use, thereby affecting the application of the Personal Property Tax Relief Act.

(Ord. No. 2016-3, 6-14-2016)

Secs. 18-25—18-49. Reserved.

DIVISION 2. PERSONAL PROPERTY TAX ²¹

[Sec. 18-50. Purpose; definitions; relation to other ordinances of personal property tax relief.](#)

[Sec. 18-51. Method of computing and reflecting personal property tax relief.](#)

[Sec. 18-52. Allocation of relief among personal property taxpayers.](#)

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Sec. 18-50. Purpose; definitions; relation to other ordinances of personal property tax relief.

- (a) The purpose of this division is to provide for the implementation of the changes to the Personal Property Tax Relief Act ("PPTRA") affected by legislation adopted during the 2004 special session I and the 2005 regular session of the Virginia General Assembly.
- (b) Terms used in this division that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Code of Virginia, § 58.1-3523, as amended.
- (c) To the extent that the provisions of this division conflict with any prior Ordinance or provision of the town code, this division shall control.

(Code 1992, § 11-4; Ord. No. 2005-5, 12-6-2005)

Sec. 18-51. Method of computing and reflecting personal property tax relief.

- (a) For tax years commencing in 2006, the town adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for the personal property tax relief act (PPTRA) and the reporting of such specific dollar relief on the tax bill.
- (b) Town council shall, by resolution , set the percentage of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to the town by the commonwealth. Any amount of PPTRA relief not used within the town's fiscal year shall be carried forward and used to increase the funds available for personal property tax relief in the following fiscal year.
- (c) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

(Code 1992, § 11-5; Ord. No. 2005-5, 12-6-2005)

Sec. 18-52. Allocation of relief among personal property taxpayers.

- (a) Allocation of the personal property tax relief act (PPTRA) relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of the town's annual resolution relating to PPTRA relief.
- (b) Relief shall be allocated in such a manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of \$1,000.00 or less.
- (c) Relief with respect to qualifying vehicles with assessed values of more than \$1,000.00 shall be provided at a percentage, annually fixed by town resolution and applied to the first \$20,000.00 in value of each such qualifying vehicle, that is estimated fully to use all available state PPTRA relief.

(Code 1992, § 11-6; Ord. No. 2005-5, 12-6-2005)

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Sec. 18-53. Transitional provisions for personal property tax relief.

- (a) Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the town treasurer is authorized to issue a supplemental personal property tax bill, in the amount of 100 percent of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes, with respect to a qualifying vehicle for tax year 2005 or any prior tax year, remain unpaid on September 1, 2006, or such date as state funds for reimbursement of the state share of such bill have become unavailable, whichever earlier occurs.
- (b) Penalty and interest with respect to bills issued pursuant to subsection (a) of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in section 18-23 from the original due date of the tax.

(Code 1992, § 11-7; Ord. No. 2005-5, 12-6-2005)

Sec. 18-54. Exemptions from personal property tax.

Antique motor vehicles, as defined in Code of Virginia, § 46.2-100, which may not be used for general transportation purposes, are exempted from personal property taxation.

(Code 1992, § 11-10; Ord. No. 2005-6, 12-20-2005)

Sec. 18-55. Personal property tax on motor vehicles, trailers, and boats—Proration.

- (a) There shall be a tangible personal property tax at the rate established each year by the town council on motor vehicles, trailers, semi-trailers and boats ("taxable property") which have a situs within the town on January 1 ("tax day") of each year and which acquire situs within the town on or after January 2, 2016 ("situs day") and all years thereafter. When any person after tax day acquires taxable property, the personal property tax for that year shall be assessed to the owner on situs day and prorated on a monthly basis for the portion of the tax year during which the owner owns the taxable property and it has its situs in the town. For purposes of proration, a period of more than one-half of a month shall be counted as a full month and a period of less than one-half of a month shall not be counted. Personal property tax shall be due on December 5 or within 30 days after presentation or mailing of the bill, whichever is later.
- (b) Upon application to the treasurer, the taxpayer may be relieved from personal property tax and receive a refund for personal property tax already paid (prorated on a monthly basis) when the taxable property loses its situs within the town or its title is transferred. In order to be eligible for a refund, the application must be submitted to the treasurer within three years from the last day of the tax year during which the taxable personal property lost situs or had its title transferred. No refund of less than \$5.00 shall be issued to a taxpayer, unless specifically requested by the taxpayer. No refund shall be made if the taxable property acquires a situs within the commonwealth in a non-prorating locality. When any taxable property loses its situs within the town and acquires a situs within another state, the taxpayer shall not be entitled to a refund except upon a showing of sufficient evidence that the taxpayer has been assessed and has paid taxes on such taxable property for the remainder of the tax year to such state.
- (c) An exemption from this tax and any interest or penalties arising therefrom shall be granted for any tax assessed, or portion thereof, for the period during which the property was legally assessed by another jurisdiction and such tax on the assessed property was paid.
- (d) Any person who moves from a non-prorating locality to the town after January 1 shall be entitled to a personal property tax credit for the remainder of the year for each motor vehicle on which he or she

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paid personal property taxes to a non-proration locality. If for any reason, the owner replaces the original vehicle upon which taxes are due to the non-prorating locality for the same tax year, the town shall provide a credit against the total tax due on the replacement vehicle in an amount equal to the tax paid to the non-prorating locality for the period of time commencing with the disposition of the original vehicle and continuing through the close of the tax year in which the owner incurred tax liability to the non-prorating locality for the original vehicle.

- (e) The treasurer may apply any refunds under this section to any delinquent accounts owed by the taxpayer to the town. In addition, a refund may be credited against the tax due on any other motor vehicle, trailer, semi-trailer, or boat owned by the taxpayer during the same year.

(Ord. No. 2016-3, 6-14-2016)

Secs. 18-56—18-81. Reserved.

FOOTNOTE(S):

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State Law reference— Personal property tax relief act, Code of Virginia, § 58.1-3523 et seq. ([Back](#))

ARTICLE III. BANK FRANCHISE TAX [\[3\]](#)

[Sec. 18-82. Levied.](#)

[Sec. 18-83. Penalty upon bank for failure to comply.](#)

[Secs. 18-84—18-109. Reserved.](#)

Sec. 18-82. Levied.

- (a) On each bank located within the corporate limits of the town, there shall be a tax of 80 percent of the state rate of taxation on each \$100.00 of net capital.
- (b) On any bank maintaining a branch within the corporate limits of the town which also has offices outside the corporate limits, the tax imposed in this section on such branch shall be upon such proportion of the taxable net capital as the deposits through the branch so located within the corporate limits bear to the total deposits of the bank as of the end of the preceding year.
- (c) Every bank, on or before June 1 of each year, shall pay to the town treasurer all taxes as shall be due under this section.

(Code 1972, § 18-21; Code 1992, § 11-8; Ord. No. 2005-5, § 11-14, 12-6-2005)

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State Law reference— Town bank franchise tax, Code of Virginia, § 58.1-1209; tax on branch banks, Code of Virginia, § 58.1-1211.

Sec. 18-83. Penalty upon bank for failure to comply.

Any bank which fails to file a return or pay the tax required by section 18-82, or fails to comply with any other provision of such section, shall be subject to a penalty of five percent of the tax due. If the town treasurer is satisfied that such failure is due to providential or other good cause, such return and payment of tax shall be accepted exclusive of such penalty, but with interest determined in accordance with Code of Virginia, § 58.1-15.

(Code 1992, § 11-9; Ord. of 1-5-1993; Ord. No. 2005-5, § 11-5, 12-6-2005)

State Law reference— Penalty, Code of Virginia, § 58.1-1216.

Secs. 18-84—18-109. Reserved.

FOOTNOTE(S):

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State Law reference— Bank franchise tax, Code of Virginia, § 58.1-1200. ([Back](#))

ARTICLE IV. DEPOSITS AND DISBURSEMENTS ¹⁴¹

[Sec. 18-110. Designation of depositories.](#)

[Sec. 18-111. Authority of treasurer, signatories and issuance of checks.](#)

[Sec. 18-112. Authority of mayor and vice-mayor.](#)

[Sec. 18-113. Report of disbursements.](#)

[Secs. 18-114—18-139. Reserved.](#)

Sec. 18-110. Designation of depositories.

A local bank or local banks, or if designated by the council within an investment program, will be the sole depositories for all money or funds of the town and all money or funds handled by the town.

(Code 1972, § 11-3; Code 1992, § 11-26)

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State Law reference— Town funds to be deposited in qualified depositories, Code of Virginia, § 2.2-4407.

Sec. 18-111. Authority of treasurer, signatories and issuance of checks.

The town treasurer is authorized to issue, from time to time, upon the bank accounts of the town checks in the name of the town, signed by the treasurer or assistant town treasurer and countersigned by the town manager, or assistant town manager or other counter signers as approved by town council, in payment of regularly recurring expenses such as salaries and wages of employees, payments to sinking funds, social security, group insurance, rents, lights, telephone expenses, freight, postage and sundry incidentals as well as payments to avoid penalties or to take advantage of discounts, and to make such other disbursements as are first authorized by the council.

(Code 1972, § 11-4; Code 1992, § 11-27)

Sec. 18-112. Authority of mayor and vice-mayor.

The mayor and vice-mayor are authorized to countersign checks of the town in the event of the absence or inability to act of the town manager, assistant town manager, town treasurer or assistant town treasurer.

(Code 1972, § 11-5; Code 1992, § 11-28)

Sec. 18-113. Report of disbursements.

The town treasurer shall prepare, for the council, a monthly report of all disbursements.

(Code 1972, § 11-6; Code 1992, § 11-29)

Secs. 18-114—18-139. Reserved.

FOOTNOTE(S):

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State Law reference— Security for public deposits, Code of Virginia, § 2.2-4400 et seq. ([Back](#))

ARTICLE V. UTILITY TAX [§1](#)

[Sec. 18-140. Definitions.](#)

[Sec. 18-141. Collection duties of treasurer.](#)

[Sec. 18-142. Records.](#)

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[Sec. 18-143. Electric utility consumer tax.](#)

[Sec. 18-144. Local natural gas utility consumer tax.](#)

[Secs. 18-145—18-173. Reserved.](#)

Sec. 18-140. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CCF means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Commercial or industrial service means any utility service furnished by the owner or tenant of property used for commercial or industrial purposes, including the owner of master metered apartment buildings who pays for such utility service for such property.

Consumer means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of telephone, electricity or natural gas services in the town.

Gas utility means a public utility authorized to furnish natural gas service in Virginia.

Kilowatt hours (kWh) delivered means 1000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called co-generators), as defined in Code of Virginia, § 56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

Person means any individual, corporation, company or other entity.

Pipeline distribution company means a person, other than a pipeline transmission company, which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

Residential consumer means the owner or tenant of property used primarily for residential purposes, including, but not limited to, apartment houses and other multiple-family dwellings.

Service provider means a person who delivers telephone service to a consumer, or a person who delivers electricity to a consumer, or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

Used primarily relates to the larger portion of the use for which electric or natural gas utility service is furnished.

Utility services means local telephone service, electric service and gas service, excluding bottled or liquid gas service, whether generally termed a utility service or not, furnished in the corporate limits of the town.

(Code 1972, § 11-7; Code 1992, § 11-46; Ord. No. 2000-6, 9-19-2000)

Sec. 18-141. Collection duties of treasurer.

The town treasurer shall be charged with the power and duty of collecting the taxes levied and imposed hereunder and shall cause the same to be paid into the treasury of the town.

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(Code 1972, § 11-10; Code 1992, § 11-47; Ord. No. 2000-6, § 11-49, 9-19-2000)

Sec. 18-142. Records.

Each and every service provider shall keep complete records showing all purchases in the town, which records shall show the price charged against each consumer with respect to each purchase, the date thereof and the date of payment thereof and the amount of tax imposed hereunder; and such record shall be kept open for inspection by the duly authorized agents of the town during regular business hours and the duly authorized agents of the town shall have the right, power and authority to make such transcripts thereof during such time.

(Code 1972, § 11-11; Code 1992, § 11-48; Ord. No. 2000-6, § 11-50, 9-19-2000)

Sec. 18-143. Electric utility consumer tax.

- (a) *Levied; rate.* In accordance with Code of Virginia, § 58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:
- (1) *Residential consumers.* Such tax shall be \$0.00 plus the rate of \$0.01490 on each kWh delivered monthly to residential consumers by a service provider not to exceed \$2.50 monthly.
 - (2) *Non-residential consumers.* Such tax on non-residential consumers shall be at the rates per month for the classes of non-residential consumers as set forth in subsections (3) and (4) of this subsection.
 - (3) *Commercial consumers.* Such tax shall be \$0.00 plus the rate of \$0.01250 on each kWh delivered monthly to commercial consumers, not to exceed \$20.00 monthly.
 - (4) *Industrial consumers.* Such tax shall be \$0.00 plus the rate of \$0.01250 on each kWh delivered monthly to industrial consumers, not to exceed \$20.00 monthly.

The conversion of tax pursuant to this article to monthly kWh delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect.

- (b) *Exemptions.* The following consumers of electricity are exempt from the tax imposed by this section:
- (1) Any public safety answering point which is defined in Code of Virginia, § 56-484.19.
 - (2) Any church or religious body entitled to exemption pursuant to article 4 of chapter 36 of title 58.1 of the Code of Virginia (Code of Virginia, § 58.1-3650 et seq.).
 - (3) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.
- (c) *Billing, collection and remittance of tax.* The service provider shall bill the electricity consumer tax to all users who are subject to the tax and to whom it delivers electricity and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Code of Virginia, § 58.1-3814 (F. and G.), and Code of Virginia, § 58.1-2901. If any consumer receives and pays for electricity but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax

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and remit the tax portion to this jurisdiction. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.

- (d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this article if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bimonthly bills (approximately 60 days) shall be determined as follows:
- (1) The kWh will be divided by 2;
 - (2) A monthly tax will be calculated using the rates set forth above;
 - (3) The tax determined by subsection (d)(2) of this section shall be multiplied by 2;
 - (4) The tax in subsection d(3) of this section may not exceed twice the monthly maximum tax.

(Code 1992, § 11-50; Ord. No. 2000-6, §§ 11-47, 11-48, 11-52, 9-19-2000; Ord. No. 2013-7, § 11-50, 6-4-2013)

State Law reference— Consumer utility tax authorized, Code of Virginia, § 58.1-3814; authority to exempt entities pursuant to Art. X, § 6(a)(2) or Art. X, § 6(a)(6) of the Virginia Constitution, Code of Virginia, § 58.1-3816.2.

Sec. 18-144. Local natural gas utility consumer tax.

- (a) *Levied rate.* In accordance with Code of Virginia, § 58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by class of consumers, as such term is defined in Code of Virginia, § 58.1-3814J, as follows:
- (1) *Residential consumers.* Such tax on residential consumers of natural gas shall be \$0.00 plus the rate of \$0.0946 on CCF delivered monthly to residential consumers, not to exceed \$2.50 per month.
 - (2) *Non-residential consumers.* Such tax on non-residential consumers shall be at the rates per month shown for each CCF delivered by a pipeline distribution company or a gas utility for the classes as set forth in subsections (3) and (4) of this subsection.
 - (3) *Commercial consumers.* Such tax shall be \$0.00 plus the rate of \$0.0766 on each CCF delivered monthly to commercial consumers, not to exceed \$20.00 monthly.
 - (4) *Industrial consumers.* Such tax shall be \$0.00 plus the rate of \$0.0225 on each CCF delivered monthly to industrial consumers, not to exceed \$20.00 monthly.
- (b) *Exemptions.* The following consumers of natural gas shall be exempt from the tax imposed by this section:
- (1) Any public safety answering point which is defined in Code of Virginia, § 56-484.19.
 - (2) Any church or religious body entitled to exemption pursuant to Code of Virginia, § 58.1-3650 et seq.
 - (3) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.
- (c) *Billing, collection and remittance of tax.* The service provider shall bill the natural gas consumer tax to all users who are subject to the tax and to whom it delivers natural gas and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Code of Virginia, § 58.1-3814 (H. and I.), and Code of Virginia, § 58.1-2901. If any

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consumer receives and pays for natural gas billed but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures, and upon collection of the bill or any part thereof, must apportion the net amount collected between the charge for natural gas service and the tax and remit the tax portion to this jurisdiction. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.

- (d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this article if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bimonthly bill (approximately 60 days) shall be determined as follows:
- (1) The CCF will be divided by 2;
 - (2) A monthly tax will be calculated using the rates set forth above;
 - (3) The tax determined by subsection (2) of this subsection shall be multiplied by 2;
 - (4) The tax in subsection (3) of this subsection may not exceed twice the monthly "maximum tax."

(Code 1992, § 11-51; Ord. No. 2000-6, §§ 11-47, 11-48, 11-52, 9-19-2000; Ord. No. 2013-7, § 11-51, 6-4-2013)

State Law reference— Consumer utility tax authorized, Code of Virginia, § 58.1-3814; authority to exempt entities pursuant to Art. X, § 6(a)(2) or Art. X, § 6(a)(6) of the Virginia Constitution, Code of Virginia, § 58.1-3816.2.

Secs. 18-145—18-173. Reserved.

FOOTNOTE(S):

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State Law reference— Consumer utility taxes, Code of Virginia, § 58.1-3814 et seq. ([Back](#))

ARTICLE VI. SPECIAL ASSESSMENT FOR LAND PRESERVATION ^[6]

[Sec. 18-174. Finding; land use plan; taxation of certain land.](#)

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[Secs. 18-181—18-198. Reserved.](#)

Sec. 18-174. Finding; land use plan; taxation of certain land.

The council finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest. The council has adopted a land use plan. Therefore, such real estate shall be taxed in accordance with the provisions of Code of Virginia, § 58.1-3229 et seq., and of this article.

(Code 1992, § 11-71; Ord. of 5-15-1979, § 1)

Sec. 18-175. Application by owner.

- (a) The owner of any real estate meeting the criteria set forth in Code of Virginia, §§ 58.1-3230 and 58.1-3233, may, at least 60 days preceding the tax year for which such taxation is sought, apply to the commissioner of the revenue of the county for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use under the procedures set forth in Code of Virginia, § 58.1-3236, as amended. Such application shall be on forms provided by the Virginia Department of Taxation and supplied by the commissioner of the revenue of the county and shall include such additional schedules, photographs and drawings as may be required by the commissioner of the revenue. An individual who is the owner of an undivided interest in a parcel of land may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes; provided, however, that such property owner must revalidate annually with the commissioner of the revenue of the county any applications previously approved. An application fee of \$10.00 per application, plus \$0.10 per acre, shall accompany each application.
- (b) A separate application shall be filed for each parcel on the land book.

(Code 1992, § 11-72; Ord. of 5-15-1979, § 2)

Sec. 18-176. Qualification of property.

Promptly upon receipt of any application under this article, the commissioner of the revenue of the county shall determine whether the subject property meets the criteria for taxation hereunder. If the commissioner of the revenue of the county determines that the subject property does meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value. In determining whether the real estate meets the criteria set forth in Code of Virginia, § 58.1-3230 and the standards prescribed thereunder to qualify for one of the classifications set forth therein, the commissioner of the revenue of the county may request an opinion from the director of the Virginia Department of Conservation and Recreation, the state forester or the Virginia Commissioner of Agriculture and Consumer Services. Upon the refusal of any of such officials to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the respective official, the party aggrieved may seek relief from any court of record wherein the real estate in question is located. If the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this article.

(Code 1992, § 11-73; Ord. of 5-15-1979, § 3)

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Sec. 18-177. Use value, fair market value; effect.

The use value and fair market value of any qualifying property shall be placed on the land book before delivery to the treasurer and the tax for the next succeeding tax year shall be extended from the use value.

(Code 1992, § 11-74; Ord. of 5-15-1979, § 4)

Sec. 18-178. Change to nonqualifying use.

There is hereby imposed a roll-back tax, and interest thereon, in such amounts as may be determined under Code of Virginia, § 58.1-3237, upon any property as to which the use changes to a nonqualifying use.

(Code 1992, § 11-75; Ord. of 5-15-1979, § 5)

Sec. 18-179. Roll-back taxes generally; misstatements.

- (a) The owner of any real estate liable for roll-back taxes or rezoned, as provided in Code of Virginia, § 58.1-3237(D), shall, within 60 days following a change in use, report such change to the commissioner of the revenue of the county on such forms as may be prescribed. The commissioner shall forthwith determine and assess the roll-back tax, which shall be paid to the treasurer within 30 days of assessment. On failure to report within 60 days following such change in use and/or failure to pay within 30 days of assessment, such owner shall be liable for an additional penalty equal to ten percent of the amount of the roll-back tax and interest, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of one-half percent of the amount of the roll-back tax, interest and penalty for each month or fraction thereof during which the failure continues.
- (b) Any person making a material misstatement of fact in any application filed pursuant hereto shall be liable for all taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon, and he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

(Code 1992, § 11-76; Ord. of 5-15-1979, § 6)

Sec. 18-180. Applicability of law.

The provisions of Code of Virginia, title 58.1, applicable to local levies and real estate assessment and taxation, shall be applicable to assessments and taxation under this article mutatis mutandis including, without limitation, provisions relating to tax liens and the correction of erroneous assessments, and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.

(Code 1992, § 11-77; Ord. of 5-15-1979, § 7)

Secs. 18-181—18-198. Reserved.

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FOOTNOTE(S):

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State Law reference— Special assessment for land preservation, Code of Virginia, § 58.1-3229 et seq. ([Back](#))

ARTICLE VII. TRANSIENT LODGING TAX [\[7\]](#)

[Sec. 18-199. Definitions.](#)

[Sec. 18-200. Tax imposed; amount.](#)

[Sec. 18-201. Collection from transients; when payable.](#)

[Sec. 18-202. Report of collection and remittance of tax.](#)

[Sec. 18-203. Discount.](#)

[Sec. 18-204. Penalty and interest for nonremittance.](#)

[Sec. 18-205. Failure to collect and report tax.](#)

[Sec. 18-206. Records; inspection by treasurer.](#)

[Sec. 18-207. Cessation of business; tax due immediately.](#)

[Sec. 18-208. Exceptions for governmental employees on official business.](#)

[Sec. 18-209. Violations; how punishable.](#)

[Secs. 18-210—18-228. Reserved.](#)

Sec. 18-199. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hotel means any public or private hotel, inn, hostelry, tourist home or house, motel, roominghouse or other lodging place within the town offering lodging, as defined in this section, for compensation to any transient, as defined in this section.

Lodging means room or space furnished by any transient.

Transient means any person who, for a period of not more than 30 consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any space at any hotel for which lodging or use of space a charge is made.

Treasurer means the treasurer of the town and any of his duly authorized agents.

(Code 1992, § 11-96; Ord. of 6-19-1984, § 11-14)

Cross reference— Definitions and rules of construction generally, § 1-2.

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Sec. 18-200. Tax imposed; amount.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind imposed by law, on each transient obtaining lodging or the use of space at any hotel, a tax equal to nine percent of the total amount paid for such lodging or the use of space by, or for, any such transient to any hotel. Such tax shall be collected from such transient at the time and in the manner provided by other provision in said section.

(Code 1992, § 11-97; Ord. of 6-5-1990, § 11-15; Ord. No. 2003-4, 6-17-2003; Ord. No. 2005-3, 6-07-2005; Ord. No. 2012-5, § 11-97, 6-5-2012)

Sec. 18-201. Collection from transients; when payable.

Every person receiving any payment for lodging or the use of space with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied, or from the person paying for such lodging, at the time payment for such lodging is made. The taxes required to be collected under this article shall be deemed to be held in trust by the person required to collect such taxes until the same shall have been remitted to the treasurer.

(Code 1992, § 11-98; Ord. of 6-19-1984, § 11-16)

Sec. 18-202. Report of collection and remittance of tax.

The person collecting any tax, as provided in this article, shall make out a report thereof upon such forms setting forth such information as the treasurer may prescribe and require, showing the amount of lodging charges collected and the tax required to be collected and shall sign and deliver such reports with the remittance of such tax to the treasurer. Such reports and remittances shall be made on or before the 20th day of each month, covering the amount of tax due and collected during the preceding month.

(Code 1992, § 11-99; Ord. of 6-19-1984, § 11-17)

Sec. 18-203. Discount.

For the purpose of compensating the owner of any hotel collecting the tax imposed by this article, such owner shall be allowed three percent of the amount of the tax due and accounted for in the form of a deduction on his monthly return, provided the amount due is not delinquent at the time of payment.

(Code 1992, § 11-100; Ord. of 6-19-1984, § 11-18)

Sec. 18-204. Penalty and interest for nonremittance.

- (a) If any person shall fail or refuse to report and remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount as provided for in this article, there shall be added to such tax by the treasurer a penalty in the amount of ten percent thereof and interest thereon at the rate of ten percent per annum, which shall be computed upon the tax and penalty from the date such taxes were due and payable.
- (b) Any failure to timely file and pay the transient lodging tax when due shall constitute a Class 1 misdemeanor.

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(Code 1992, § 11-101; Ord. of 6-19-1984, § 11-19)

Sec. 18-205. Failure to collect and report tax.

If any person shall fail or refuse to collect the tax imposed under this article and to make within the time provided herein any report and remittance required, the treasurer shall proceed in such manner as he may deem best to obtain facts and information on which to base the tax due. As soon as the treasurer shall secure such facts and information as he is able to obtain upon which to base the assessment of any tax due and payable by any person who has failed or refused to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this article and shall notify such person by registered mail, sent to his last place of known address, the amount of such tax and penalty and interest, and the total amount thereof shall be payable within ten days of mailing of such notice. The treasurer shall have the power to examine such records for the purpose of administering and enforcing the provisions of this article as are provided by law.

(Code 1992, § 11-102; Ord. of 6-19-1984, § 11-20)

Sec. 18-206. Records; inspection by treasurer.

It shall be the duty of every person liable for the collection and payment to the town of any tax imposed by this article to keep and preserve for a period of two years such suitable records as may be necessary to determine the amount of such tax as he may have been responsible for collecting and paying to the town. The treasurer shall have the right to inspect such records at all reasonable times.

(Code 1992, § 11-103; Ord. of 6-19-1984, § 11-21)

Sec. 18-207. Cessation of business; tax due immediately.

Whenever any person required to collect and pay to the town a tax imposed by this article shall cease to operate, go out of business or otherwise dispose of his business, any tax then payable to the town shall become immediately due and payable, and such person shall immediately make a report and pay the tax due to the treasurer.

(Code 1992, § 11-104; Ord. of 6-19-1984, § 11-22)

Sec. 18-208. Exceptions for governmental employees on official business.

No tax shall be payable under this article with respect to any payment for lodging or the use of space paid by, or for, any federal, state or local official or employee when on official business.

(Code 1992, § 11-105; Ord. of 6-19-1984, § 11-23)

Sec. 18-209. Violations; how punishable.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be guilty of a Class 1 misdemeanor, punishable as provided in section 1-11. Conviction shall not relieve any person from the payment, collection or remittance of the tax as provided in this article. Each violation or failure shall be a separate offense.

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(Code 1992, § 11-107; Ord. of 6-19-1984, § 11-25)

Secs. 18-210—18-228. Reserved.

FOOTNOTE(S):

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State Law reference— Excise tax on transient rooms, Code of Virginia, §§ 58.1-3819, 58.1-3840. ([Back](#))

ARTICLE VIII. MEALS TAX ^(B)

[Sec. 18-229. Definitions.](#)

[Sec. 18-230. Levy.](#)

[Sec. 18-231. Collection of tax by seller.](#)

[Sec. 18-232. Discount.](#)

[Sec. 18-233. Penalty and interest.](#)

[Sec. 18-234. Exemptions; limits on application.](#)

[Sec. 18-235. Duty of person going out of business.](#)

[Sec. 18-236. Advertising payment or absorption of tax prohibited.](#)

[Sec. 18-237. Gratuities and service charges.](#)

[Sec. 18-238. Enforcement.](#)

[Sec. 18-239. Report of taxes collected; remittance; preservation of records.](#)

[Sec. 18-240. Procedure when tax not reported or collected.](#)

[Sec. 18-241. Penalty for violation of article.](#)

[Secs. 18-242—18-271. Reserved.](#)

Sec. 18-229. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cater means the furnishing of food, beverages, or both, on the premises of another, for compensation.

Collector means the treasurer or designee.

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Food means all food, beverages, or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

Food establishment means any place in or from which food or food products are prepared, packaged, sold or distributed in the town, including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, café, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge or similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

Meal means any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein, shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

Prepare means the application of labor to food to make it ready or available for immediate consumption.

Purchaser means any person who purchases a meal.

Seller means any person or caterer who sells meals.

Treasurer means the treasurer of the town and any of his duly authorized agents.

(Code 1992, § 11-126; Ord. of 6-19-1984, § 11-26; Ord. of 6-5-1990, § 11-26; Ord. No. 2000-5, 6-20-2000)

Sec. 18-230. Levy.

There is hereby levied and imposed by the town on each person a tax at the rate of 7½ percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not.

(Code 1992, § 11-127; Ord. of 6-5-1990, § 11-27; Ord. No. 2000-5, 6-20-2000; Ord. No. 2003-5, 6-17-2003; Ord. No. 2005-3, 6-07-2005; Ord. No. 2010-3, 7-6-2010; Ord. No. 2012-5, § 11-127, 6-5-2012)

Sec. 18-231. Collection of tax by seller.

- (a) Every person receiving any payment for food with respect to which tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the department for the visually handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.
- (b) All tax collections shall be deemed to be held in trust for the town.

(Code 1992, § 11-128; Ord. of 6-19-1984, §§ 11-28, 11-29; Ord. No. 2000-5, §§ 11-128, 11-129, 6-20-2000)

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Sec. 18-232. Discount.

For the purpose of compensating sellers for the collection of the tax imposed by this article, every seller shall be allowed three percent of the amount of the tax due and accounted for in the form of a deduction on his monthly return; provided, the amount due is not delinquent at the time of payment.

(Code 1992, § 11-129; Ord. of 6-19-1984, § 11-31; Ord. No. 2000-5, § 11-131, 6-20-2000)

Sec. 18-233. Penalty and interest.

- (a) If any person whose duty it is to do so shall fail or refuse to make the report required by this article within the time required, there shall be added to the tax by the treasurer a penalty in the amount of ten percent of the tax, or \$10.00, whichever is greater; provided, however, that the penalty shall, in no case, exceed the amount of the tax assessable.
- (b) In the case of delinquent remittance of meals tax a penalty shall be imposed of ten percent for the first month the taxes are past due, and five percent for each month thereafter, up to a maximum of 25 percent of the taxes collected but not remitted; or \$10.00, whichever is greater, provided, however, that the penalty shall, in no case, exceed the amount of the tax assessable.
- (c) The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make the report required by this article. Penalty for failure to file the report may be assessed on the day after such report is due; penalty for failure to pay any tax may be assessed on the day after the first installment is due. Any such penalty, when so assessed, shall become a part of the tax.
- (d) Interest shall also be imposed upon the delinquent tax and penalty at a rate of ten percent per annum and computed from the date such were due and payable.

(Code 1992, § 11-130; Ord. of 6-19-1984, § 11-32; Ord. No. 2000-5, § 11-132, 6-20-2000; Ord. No. 2012-1, § 11-130, 2-7-2012)

Sec. 18-234. Exemptions; limits on application.

- (a) The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:
 - (1) Factory-prepackaged candy, gum, nuts and other items of essentially the same nature.
 - (2) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and items of essentially the same nature.
 - (3) Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on-premises consumption (e.g., a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.
 - (4) Alcoholic and non-alcoholic beverages sold in factory sealed containers.
 - (5) Any food, or food product, purchased with food coupons issued by the United States Department of Agriculture under the food stamp program or drafts issued through the Virginia Special Supplemental Nutrition Program for Women, Infants and Children.
 - (6) Any food, or food product, purchased for home consumption, as defined in the Federal Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items, whether or not purchased for immediate consumption, are excluded from the said definition

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of food in the Federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages. This subsection shall not affect provisions set forth in subsections (c)(3), (4) and (5) of this section.

- (b) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.
- (c) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:
 - (1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.
 - (2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.
 - (3) Food and beverages for use or consumption and which are paid for directly by the commonwealth, any political subdivision of the commonwealth or the United States.
 - (4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof, day care centers or age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees.
 - (5) Food and beverages furnished by a public or private non-profit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.
 - (6) Food and beverages sold on an occasional basis, not exceeding three times per calendar year, by a volunteer fire department and rescue squad, a nonprofit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent or religious purposes.
 - (7) Food and beverages sold through vending machines.
 - (8) Churches that serve meals for their members as a regular part of their religious observances.
 - (9) Public or private elementary or secondary schools, or public or private colleges and universities, to their students or employees.

(Code 1992, § 11-131; Ord. of 6-19-1984, § 11-38; Ord. No. 2000-5, § 11-138, 6-20-2000)

Sec. 18-235. Duty of person going out of business.

Whenever any person required to collect and remit to the town any tax imposed by this article shall cease to operate or otherwise dispose of his business, the tax shall immediately become due and payable, and the person shall make to the treasurer a report and remittance thereof by the first day of the month following which the business was terminated or disposition made thereof.

(Code 1992, § 11-132; Ord. of 6-19-1984, § 11-35; Ord. No. 2000-5, § 11-135, 6-20-2000)

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Sec. 18-236. Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this article will be paid or absorbed by the seller or by anyone else, or that the seller or anyone else will relieve any purchaser of the payment of all or any part of the tax.

(Code 1992, § 11-133; Ord. of 6-19-1984, § 11-36; Ord. No. 2000-5, § 11-136, 6-20-2000)

Sec. 18-237. Gratuities and service charges.

- (a) Where a purchaser provides a gratuity for an employee of a seller, and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in the latter case, the full amount of the gratuity is turned over to the employee by the seller.
- (b) An amount or percent in excess of 20 percent of the sales price, whether designated as a gratuity, tip or service charge, that is added to the price of the food and beverages by the seller, and required to be paid by the purchaser, as a part of the selling price of the food and beverages, is subject to the tax imposed by this article.

(Code 1992, § 11-134; Ord. of 6-19-1984, § 11-37; Ord. No. 2000-5, § 11-137, 6-20-2000; Ord. No. 2012-1, § 11-134, 2-7-2012)

Sec. 18-238. Enforcement.

- (a) It shall be the duty of the treasurer to ascertain the name of every seller in the town who is liable for the collection of the tax imposed by this article and any person who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The treasurer may have issued a summons for such person, and the summons may be served upon such person by any town police officer in the manner provided by law. The treasurer may seek a conviction in the general district court or circuit court of the county or other civil remedy, including injunction, against such person.
- (b) If the purchaser of any meal refuses to pay the tax imposed by this article, the seller may call upon the police department for assistance; and the investigating officer may, when probable cause exists, issue the purchaser a summons for his violation returnable to the general district court, as provided by law.

(Code 1992, § 11-135; Ord. of 6-19-1984, § 11-39; Ord. No. 2000-5, § 11-139, 6-20-2000; Ord. No. 2012-1, § 11-135, 2-7-2012)

Sec. 18-239. Report of taxes collected; remittance; preservation of records.

It shall be the duty of every person required by this article to pay the town the taxes imposed by this article to make a report thereof setting forth such information as the treasurer may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. Such records shall be kept and preserved for a period of five years. The treasurer, or his duly authorized agents, shall have the power to examine such records, at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

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(Code 1992, § 11-136; Ord. of 6-19-1984, §§ 11-30, 11-34; Ord. No. 2000-5, §§ 11-130, 11-134, 6-20-2000)

Sec. 18-240. Procedure when tax not reported or collected.

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed under this article and make timely report and remittance thereof, the treasurer shall proceed in such manner as is practicable to obtain facts and information on which to base an estimate of the tax due. As soon as the treasurer has procured whatever facts and information may be obtainable, upon which to base the assessment of any tax payable by any person who has failed to collect, report or remit such tax, the treasurer shall proceed to determine and assess against such person the tax, penalty and interest provided in this article and shall notify the person by registered mail sent to his last known address, of the amount of such tax, penalty and interest. The total amount thereof shall be payable ten days after the date such notice is sent.

(Code 1992, § 11-137; Ord. of 6-19-1984, § 11-33; Ord. No. 2000-5, § 11-133, 6-20-2000)

Sec. 18-241. Penalty for violation of article.

- (a) Any person willfully failing or refusing to file a return as required under this article shall, upon conviction thereof, be guilty of a Class 1 misdemeanor, except that any person failing to file such a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000.00 or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a Class 1 misdemeanor.
- (b) Except as provided in subsection (a) of this section, any corporate or partnership officer, as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this article, who willfully fails to collect, truthfully account for, or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.
- (c) Each violation of, or failure to comply with, this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax provided in this article.
- (d) The wrongful and fraudulent use of meals tax collections other than remittance of the same, as provided by law, shall constitute embezzlement pursuant to Code of Virginia, § 18.2-111, as amended.
- (e) Whenever a license is required by ordinance, pursuant to the town code, and whenever the town shall impose a license fee or levy a license tax on any business subject to the meals tax, it shall be unlawful to engage in such business without first obtaining the required license. No business license shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to the town have been paid which have been properly assessed against the applicant by the town. Any person who engages in a business without obtaining a required local license, or after being refused a license, shall not be relieved of the tax imposed by the article.

(Code 1992, § 11-137; Ord. of 6-19-1984, § 11-40; Ord. No. 2000-5, § 11-141, 6-20-2000; Ord. No. 2012-1, § 11-138, 2-7-2012)

Secs. 18-242—18-271. Reserved.

FOOTNOTE(S):

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State Law reference— Excise tax on meals, Code of Virginia, §§ 58.1-3700, 58.1-3833, 58.1-3840 et seq., 58.1-3906. ([Back](#))

ARTICLE IX. PROPERTY TAX EXEMPTIONS AND DEFERRALS FOR THE ELDERLY AND TOTALLY DISABLED ⁽⁹⁾

[Sec. 18-272. Purpose.](#)

[Sec. 18-273. Definitions.](#)

[Sec. 18-274. Eligibility determination.](#)

[Sec. 18-275. Restrictions and conditions.](#)

[Sec. 18-276. Period of exemption.](#)

[Sec. 18-277. Exemption rate.](#)

[Sec. 18-278. Limitations and recapture of deferred taxes.](#)

[Sec. 18-279. Duties of treasurer.](#)

[Secs. 18-280—18-315. Reserved.](#)

Sec. 18-272. Purpose.

The purpose of this article is to provide for the exemption from, or deferral of, taxation of real estate and manufactured homes, as defined in Code of Virginia, § 36-85.3, or any portion thereof, owned by and occupied as the sole dwelling of a person not less than 65 years of age, and providing the same exemption for such property of a person who is determined to be permanently and totally disabled, as provided for within this article.

(Code 1992, § 11-186; Ord. of 3-18-1997)

Sec. 18-273. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affidavit means the real estate tax exemption or deferral affidavit, a sworn statement in writing.

Commissioner of the revenue means the commissioner of the revenue for Montgomery County, Virginia, or the commissioner's duly designated representative.

Deferral means a deferral from the town real estate tax, according to the provisions of this division.

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Dwelling means the full-time residence of the person, or persons, claiming an exemption or deferral.

Exemption means an exemption from the town real estate tax, according to the provisions of this division.

Property means real property.

Taxable year means the calendar year, from January 1 until December 31, for which an exemption or deferral is claimed.

Title, title to real property means the record title ascertainable from the records of the clerk of the circuit court, but which shall not include leasehold estates.

Treasurer means the treasurer of the town, or the treasurer's duly designated representative.

(Code 1992, § 11-187; Ord. of 3-18-1997)

Sec. 18-274. Eligibility determination.

- (a) Eligibility for the exemption from, or deferral of, taxation of real estate and manufactured homes, as defined in Code of Virginia, § 36-85.3, or any portion thereof, owned by and occupied as the sole dwelling of a person not less than 65 years of age, and providing the same exemption for such property of a person who is determined to be permanently and totally disabled for the town shall be determined by the commissioner of the revenue using the restrictions and conditions for such exemptions or deferrals established for the office of the commissioner of the revenue, as enumerated within section 18-275.
- (b) For the purpose of this article, a person is permanently and totally disabled if he is so certified as required in subsection (a) of this section and is found by the commissioner of the revenue under subsection (a) of this section to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

(Code 1992, § 11-188; Ord. of 3-18-1997)

State Law reference— Eligibility, Code of Virginia, § 58.1-3210; permanently and totally disabled defined, Code of Virginia, § 58.1-3217.

Sec. 18-275. Restrictions and conditions.

Exemption from or deferral of taxation of real estate and manufactured homes within the town shall be subject to the following restrictions and conditions:

- (1) That the total combined income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein and of the owners' relatives living in the dwelling does not exceed \$51,000.00, provided that the first \$10,000.00 of income of each relative other than the spouse of the owner who is living in the dwelling and the first \$10,000.00 of income for an owner who is permanently disabled shall not be included in such total.
- (2) That the net combined financial worth, including the present value of all equitable interest, as of December 31 of the immediately preceding calendar year, of the owners and of the spouse of any owner, excluding the value of the dwelling and furnishings in the dwelling including furniture, household appliances and other items typically used in a home and the land, not exceeding one acre, upon which it is situated, shall not exceed \$150,000.00.

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- (3) That the person or persons claiming such exemption files annually after January 1, but no later than March 1 of the taxable year with the commissioner of the revenue, on forms prepared by the commissioner of the revenue and supplied by the town treasurer or county commissioner of the revenue, an affidavit or written statement setting forth the names of the related persons occupying such real estate; that the total combined net worth, including equitable interests, and the combined income from all sources of the person as specified in subsection (1) of this section does not exceed the limits prescribed in this section. If such person is under 65 years of age, such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs, or the railroad retirement board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the commonwealth or who are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled as defined in section 18-274(b); however, a certification pursuant to 42 USC 4-23(d) by the Social Security Administration, so long as the person remains eligible for such social security benefits, shall be deemed to satisfy such definition in section 18-274(b); the affidavit of at least one of the doctors shall be based upon a physical examination by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in section 18-274(b). Such certification, written statement, or affidavit shall be filed after January 1 of each year, but before March 1 of each year, for the permanently and totally disabled, for hardship cases, and for the first-time applicants. The commissioner of the revenue has the discretion to accept late filings of first-time applicants or for hardship cases until the December 31 of the taxable year. the commissioner of the revenue for the county shall make such further [and/or] any other reasonable necessary inquiry of persons seeking such exemption, requiring answers under oath to determine qualifications as specified in this section, including qualification as permanently and totally disabled as defined in section 18-274(b) and qualification for the exclusion of life insurance benefits paid upon the death of an owner of a dwelling. The commissioner of the revenue is hereby empowered, in addition, to require the production of certified tax returns to establish the income or financial worth of any applicant for tax relief or deferral.

(Code 1992, § 11-189; Ord. of 3-18-1997; Ord. No. 2004-1, 2-17-2004; Ord. No. 2004-5, 12-7-2004; Ord. No. 2006-5, 11-7-2006; Ord. No. 2008-2, 3-18-2008; Ord. No. 2009-1, 1-6-2009; Ord. No. 2009-9, 11-17-2009; Ord. No. 2010-6, 11-02-2010; Ord. No. 2011-6, § 11-189, 12-6-2011; Ord. No. 2012-11, § 11-189, 12-4-2012)

Sec. 18-276. Period of exemption.

Such exemptions may be granted for any year following the date that the qualifying individual occupying such dwelling and owning title, or partial title, thereto reaches the age of 65 years or for any year following the date the disability occurred. Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed, and having the effect of exceeding or violating the limitations and conditions provided in this section, shall nullify any exemption or deferral for the remainder of the current taxable year and the taxable year immediately following.

(Code 1992, § 11-190; Ord. of 3-18-1997)

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Sec. 18-277. Exemption rate.

(a) The amount of exemption of the real estate tax for qualified persons residing within the town shall be determined by the following table:

Annual Income Per Calendar Year	Percentage of Tax That May Be Exempted
\$0—32,600	100
\$32,601— 40,800	60
\$40,801— 51,000	40

(b) The town council hereby deems those persons falling within limits and conditions provided in section 18-274 and subsection (a) of this section to bearing an extraordinary tax burden on the real estate described in this article in relation to their income and financial worth.

(Code 1992, § 11-191; Ord. of 3-18-1997; Ord. No. 2004-1, 2-17-2004; Ord. No. 2004-5, 12-7-2004; Ord. No. 2006-5, 11-7-2006; Ord. No. 2008-2, 3-18-2008; Ord. No. 2009-1, 1-6-2009; Ord. No. 2009-9, 11-17-2009; Ord. No. 2010-6, 11-02-2010; Ord. No. 2011-6, § 11-191, 12-6-2011; Ord. No. 2012-11, § 11-191, 12-4-2012)

Sec. 18-278. Limitations and recapture of deferred taxes.

The person, or persons, qualifying for and claiming deferral shall be relieved of real estate tax liability levied on the qualifying dwelling and land up to an amount equal to 100 percent of this liability, the amount to be deferred to be elected by the claimant. If a deferral of real estate taxes, the accumulated amount of taxes deferred shall be paid without penalty or interest to the town by the vendor upon the sale of the dwelling, or from the estate of the decedent within one year after the death of the last owner thereof who qualified for tax deferral by the provisions of this section. Such deferred real estate taxes shall constitute a lien upon such real estate as if they had been assessed without regard to the deferral permitted by this section. Any such lien shall, to the extent that it exceeds in the aggregate ten percent of the price for which such real estate may be sold, be inferior to all other liens of record.

(Code 1992, § 11-192; Ord. of 3-18-1997)

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Sec. 18-279. Duties of treasurer.

- (a) The treasurer of the town shall obtain each year from the commissioner of the revenue a list of each person and/or properties so declared by the commissioner of the revenue to be eligible for exemption or deferral of taxation of real estate as described within this article. In the event such list omits an eligible person or property when transmitted to the treasurer, the town and its employees shall be held harmless for such omission or monetary loss of tax exemption.
- (b) In situations involving doubt of eligibility, the treasurer shall transmit to the commissioner of the revenue a statement of such doubt with any supporting evidence, if any, for investigation of eligibility by the commissioner of the revenue.

(Code 1992, § 11-193; Ord. of 3-18-1997)

Secs. 18-280—18-315. Reserved.

FOOTNOTE(S):

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State Law reference— Property tax exemption for elderly and disabled, Code of Virginia, § 58.1-3210.
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ARTICLE X. CIGARETTE TAX ^[10]

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Sec. 18-316. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agent means and includes every dealer, seller or other person who shall be authorized by the treasurer to purchase and affix stamps to packages of cigarettes under the provisions of this article.

Authorized holder means:

- (1) A manufacturer;
- (2) A wholesale dealer;
- (3) A stamping agent;
- (4) A retail dealer;
- (5) An exclusive distributor;
- (6) An officer, employee or other agent of the United States or a state or any department, agency or instrumentality of the United States, a state or a political subdivision of a state having possession of cigarettes in connection with the performance of official duties;
- (7) A person properly holding cigarettes that do not require stamps or tax payment pursuant to Code of Virginia, § 58.1-1010; or
- (8) A common or contract carrier transporting cigarettes under a proper bill of lading or other documentation indicating the true name and address of the consignor or seller and the consignee or purchaser of the brands and the quantities being transported.

Carton means ten packs of cigarettes, each containing 20 cigarettes or eight packs, each containing 25 cigarettes.

Cigarette.

- (1) The term "cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:
 - a. Any roll of tobacco wrapped in paper or in any substance not containing tobacco;
 - b. Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or
 - c. Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subsection (a) of this definition.
- (2) The term "cigarette" includes roll-your-own tobacco, which means any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

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- (3) For purposes of this definition, the term "cigarette," 0.09 ounces of roll-your-own tobacco, shall constitute one individual cigarette.

Exclusive distributor means any individual, corporation, limited liability company or limited liability partnership with its principal place of business in the commonwealth that has the sole and exclusive rights to sell to wholesale dealers in the commonwealth a brand family of cigarettes manufactured by a tobacco product manufacturer, as defined in Code of Virginia, § 3.2-4200.

Manufacturer means any tobacco product manufacturer, as defined in Code of Virginia, § 3.2-4200.

Pack means a package containing either 20 or 25 cigarettes.

Purchaser means and includes every person to whom the title to any cigarette is transferred by a seller within the corporate limits of the city.

Retail dealer includes every person other than a wholesale dealer, as defined in this section, who sells, or offers for sale, any cigarettes and who is properly registered as a retail trade with the commonwealth in accordance with the Virginia Department of Taxation Business Registration Application (Form R-1).

Retail sale or *sale at retail* includes all sales, except sales by wholesale dealers to retail dealers or other wholesale dealers for resale.

Sale means and includes every act or transaction, irrespective of the method or means employed, including the use of vending machines and other mechanical devices, whereby title to any cigarettes shall be transferred from the seller to any other person within the corporate limits of the town.

Seller means and includes every person engaged in the business of selling cigarettes who transfers title or in whose place of business title to any cigarettes are transferred within the corporate limits of the town for any purpose other than resale.

Stamping agent shall have the same meaning as provided in Code of Virginia, § 3.2-4204. For the purposes of provisions relating to roll-your-own tobacco, the term "stamping agent" shall include the term "distributor," as that term is defined in Code of Virginia, § 58.1-1021.01.

Stamps means the stamp, or stamps, by the use of which the tax levied under this chapter is paid and shall be officially designated as Virginia revenue stamps. The department is hereby authorized to provide for the use of any type of stamp which will effectuate the purposes of this chapter, including, but not limited to, decalcomania and metering devices.

Storage means any keeping or retention in the commonwealth of cigarettes for any purpose except sale in the regular course of business or subsequent use solely outside the commonwealth.

Tax-paid cigarettes means cigarettes that:

- (1) Bear Virginia stamps to evidence payment of excise taxes; or
- (2) Were purchased outside of the commonwealth and either:
 - a. Bear a valid tax stamp for the state in which the cigarettes were purchased; or
 - b. When no tax stamp is required by the state, proper evidence can be provided to establish that applicable excise taxes have been paid.

Treasurer means the treasurer of the town.

Use means the exercise of any right or power over cigarettes incident to the ownership thereof or by any transaction where possession is given, except that it shall not include the sale of cigarettes in the regular course of business.

Wholesale dealer.

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- (1) The term "wholesale dealer" includes persons who are properly registered as tobacco product merchant wholesalers with the commonwealth in accordance with the Virginia Department of Taxation Business Registration Application (Form R-1) and who:
 - a. Sell cigarettes at wholesale only to retail dealers for the purpose of resale only; or
 - b. Sell at wholesale to institutional, commercial or industrial users.
- (2) The term "wholesale dealer" also includes chain store distribution centers or houses which distribute cigarettes to their stores for sale at retail.

(Code 1992, § 11-211; Ord. No. 2003-2, 6-17-2003)

Sec. 18-317. General powers of the treasurer.

In addition to the powers granted to him in other provisions of this article, the treasurer is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the delegation of any of his powers granted by this article to his representatives; and any other matter pertaining to the administration and enforcement of the provisions of this article.

(Code 1992, § 11-212; Ord. No. 2003-2, 6-17-2003)

Sec. 18-318. Levied; amount.

In addition to all other taxes of every kind now imposed by law, there is hereby levied and imposed by the town, upon each and every sale of cigarettes, a tax equivalent to \$0.02 per cigarette sold within the town, the amount of such tax to be paid by the seller in the manner and at the time prescribed in this article.

(Code 1992, § 11-213; Ord. No. 2003-2, 6-17-2003; Ord. No. 2005-3, 6-7-2005; Ord. No. 2008-3, 6-3-2008)

Sec. 18-319. Method of payment; appointment of agents to affix stamps.

- (a) The tax imposed by this article shall be paid by a local retail dealer or other agent affixing a stamp, or stamps, or causing a stamp or stamps to be affixed, to each and every package of cigarettes in the manner and at the time, or times, provided for in this article. Every retail dealer in the town shall have the right to buy and affix such stamps as an agent, and the treasurer may appoint, in addition to local retail dealers, such other persons as agents for the purpose of buying and affixing stamps, as he may deem necessary. Every agent shall, at all times, have the right to appoint a person in his employ to affix the stamps to any cigarettes under the agent's control.
- (b) The treasurer is hereby authorized and empowered to prescribe the method to be employed and the conditions to be observed in the use of meter machines for printing upon packages of cigarettes insignia to represent the payment of the tax imposed by this article.

(Code 1992, § 11-214; Ord. No. 2003-2, 6-17-2003)

Sec. 18-320. Preparation and sale of stamps generally.

For the purpose of making the stamps available for use by local retail dealers and other agents, the treasurer shall prescribe, prepare and furnish stamps for sale of such denominations and quantities as may

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be necessary for the payment of the tax imposed by this article. In the sale of such stamps to a local dealer or other agent, the treasurer shall allow a discount of seven percent of the denominational or face value thereof to cover the costs which will be incurred by such dealer or agent in affixing the stamps to packages of cigarettes. The treasurer may, from time to time and as often as he deems advisable, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design and he may make and carry into effect such reasonable rules and regulations relating to the preparation, furnishing and sale of stamps as he may deem necessary.

(Code 1992, § 11-215; Ord. No. 2003-2, 6-17-2003)

Sec. 18-321. General duties of retail dealers, agents and sellers with respect to stamps.

- (a) Every local retail dealer in cigarettes and every agent appointed under this article is hereby required, and it shall be his duty, to purchase such stamps at the office of the treasurer as shall be necessary to pay the tax imposed under the provisions of this article, and to affix a stamp, or stamps, of the monetary value prescribed by this article, or cause such stamp, or stamps, to be affixed to each package of cigarettes prior to delivering or furnishing such cigarettes to any seller who is not also an agent. Nothing herein contained shall preclude any dealer from authorizing and employing an agent to purchase and affix such stamps in his behalf or to have a stamp meter machine used in lieu of gummed stamps to effectuate the provisions of this article.
- (b) Every seller is hereby required to examine each package of cigarettes prior to exposing it for sale for the purpose of ascertaining whether such package has the proper stamp affixed thereto in compliance with the provisions of this article. If, upon such examination, unstamped or improperly stamped packages of cigarettes are discovered, the seller, when such cigarettes were obtained from a local retail dealer, shall immediately notify such dealer, and upon such notification, such dealer shall forthwith either affix to such unstamped or improperly stamped packages the proper amount of stamps or shall replace such packages with others to which stamps have been properly affixed.
- (c) If a seller, who is not also an agent, shall obtain or acquire possession of unstamped or improperly stamped cigarettes from any person other than a local retail dealer, the seller shall forthwith notify the treasurer of such fact and the treasurer shall thereupon designate an agent to affix the proper stamps to such cigarettes, the funds required to purchase such stamps at face value to be advanced to such agent by such seller. The agent so designated shall thereupon affix the appropriate stamps at such agent's place of business.

(Code 1992, § 11-216; Ord. No. 2003-2, 6-17-2003)

Sec. 18-322. Visibility of stamps or meter markings.

Stamps or the printed markings of a meter machine evidencing payment of the tax imposed by this article shall be placed upon each package of cigarettes in such manner as to be readily visible to the purchaser.

(Code 1992, § 11-217; Ord. No. 2003-2, 6-17-2003)

Sec. 18-323. Cancellation of stamps.

- (a) The treasurer is hereby authorized to prescribe, adopt, promulgate and enforce rules and regulations relating to the method and means to be used in the cancellation of stamps provided for in this article.

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- (b) In the event that the treasurer shall promulgate rules and regulations so requiring every local dealer, agent or seller is hereby required, and it shall be his duty, to cancel all stamps upon all packages of cigarettes in his possession in accordance with such rules and regulations.

(Code 1992, § 11-218; Ord. No. 2003-2, 6-17-2003)

Sec. 18-324. Redemption of stamps; refund for destroyed stamps.

The treasurer is hereby empowered to make and carry into effect such reasonable rules and regulations relating to the redemption of stamps provided for by this article as he may deem necessary; provided, however, that in redeeming stamps or making refund for destroyed stamps, he shall in no case refund more than 90 percent of the face value of such redeemed or destroyed stamps.

(Code 1992, § 11-219; Ord. No. 2003-2, 6-17-2003)

Sec. 18-325. Dealer's and seller's records generally.

It shall be the duty of every local dealer and seller to maintain and to keep, for a period of two years, such records of cigarettes received and sold by him as may be required by the treasurer, to make all such records available for examination in the town by the treasurer or the license inspector upon demand, and to make available the means, facilities and opportunity for making such examination at all reasonable times.

(Code 1992, § 11-220; Ord. No. 2003-2, 6-17-2003)

Sec. 18-326. Examination of books, records, etc.

The treasurer and the license inspector are hereby authorized and empowered to examine books, records, invoices, papers and any and all cigarettes in and upon any premises where the same are placed, stored, sold, offered for sale or displayed for sale by a seller.

(Code 1992, § 11-221; Ord. No. 2003-2, 6-17-2003)

Sec. 18-327. Seizure of unstamped cigarettes.

- (a) In the event the treasurer or the license inspector discovers any cigarettes which are subject to the tax imposed under the provisions of this article, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by the printed markings of a meter machine in compliance with the provisions of this article, such officers, or any of them, are hereby authorized and empowered to seize and take possession forthwith of such cigarettes, which shall thereupon be deemed to be forfeited to the town. The treasurer or his designee (director) shall, after providing notice of such seizure to the known holders of property interests in such property and waiting the required length of time for an appeal as further set forth in this section, destroy any seized cigarettes or other property used in the furtherance of any illegal evasion of the tax. Such seizure shall not be deemed to relieve any person from any of the penalties provided in this article.
- (b) Any such notice of seizure shall include procedures for an administrative hearing for return of such property seized, in addition to any affirmative defenses set forth in this section, which may be asserted. Such hearing shall be requested from the treasurer within ten days of the notice of seizure, and shall set forth the reasons why said cigarettes or other property should be returned. Within ten days after receipt of a hearing request, the treasurer shall review the appeal request and shall notify the petitioner

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via certified mail of a date, time and place for the informal presentation of evidence at a hearing or request further evidence, to be within 15 days of the date such notification is mailed. Any request for a hearing shall be denied if the request is received more than ten days from the date of the notice to petitioner of the seizure. Within five days after the hearing, the treasurer shall inform the petitioner of the final decision.

- (c) The treasurer shall cause the return of the seized property if convinced by a preponderance of the evidence that the illegal sale of unstamped cigarettes or possession of other property used in the furtherance of illegal evasion of the tax was not intentional on the part of the petitioner and that seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent at the time said cigarettes or other property was seized, or that petitioner was authorized to possess unstamped cigarettes or other such property. Any petitioner who is unsatisfied with the written decision of the treasurer may, within 30 days of the date of said decision, appeal such decision to the town manager.

(Code 1992, § 11-222; Ord. No. 2003-2, 6-17-2003)

Sec. 18-328. Administration of oaths, examination of witnesses, etc., for enforcement.

The treasurer and the license inspector are authorized and empowered to administer oaths and to take affidavits in relation to any matter or proceedings in the exercise of their powers and duties relating to the tax imposed by this article, and they shall have power to subpoena and to require the attendance of witnesses and the production of books, papers or documents, and to examine such witnesses, books, papers and documents, for the purpose of securing information pertinent to the performance of such duties.

(Code 1992, § 11-223; Ord. No. 2003-2, 6-17-2003)

Sec. 18-329. Remedies.

- (a) If the treasurer has evidence of sale of cigarettes in this town without the payment of the tax, he may perform an assessment of the tax due with respect to the cigarettes, using the best information available. The treasurer shall mail, by certified mail, a notice of summary assessments to the taxpayer. If the tax described in the notice is not paid within ten days after the mailing, the treasurer may collect the tax due by any method authorized by general law.
- (b) If the taxpayer shall fail or refuse to pay to the town the tax required to be paid under this article within the time and in the amount as provided for in this article, there shall be added to such tax a penalty in the amount of ten percent of the tax due or the sum of \$10.00, whichever is greater; provided, however, that the penalty shall, in no case, exceed the amount of the tax due. The treasurer shall also assess interest on the tax and penalty at the rate of ten percent per year from the day after the tax is due until paid.

(Code 1992, § 11-224; Ord. No. 2003-2, 6-17-2003)

Sec. 18-330. Criminal penalties.

It shall constitute a Class 1 misdemeanor for any person to violate, or fail to comply with, any provision of this article, or to forge, alter, steal or use without paying for any stamped or metered insignia described in this article. Conviction shall not relieve any person from payment of the tax as provided in this article. Each violation or failure shall be a separate offense.

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(Code 1992, § 11-22; Ord. No. 2003-2, 6-17-2003)

Secs. 18-331—18-348. Reserved.

FOOTNOTE(S):

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State Law reference— Authority, Code of Virginia, § 58.1-3830 et seq. ([Back](#))

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Sec. 18-349. Conflicting ordinances; applicability.

Except as may be otherwise provided by the laws of the commonwealth, and notwithstanding any other current ordinances or resolutions enacted by this town council, whether or not compiled in the this Code, to the extent of any conflict, the provisions in this article shall be applicable to the levy, assessment and collection of licenses required and taxes imposed on businesses, trades, professions and callings and upon the persons, firms and corporations engaged therein within this town.

(Code 1992, § 15-1; Ord. of 12-17-1996)

Sec. 18-350. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affiliated group means:

- (1) One or more chains of includable corporations connected through stock ownership with a common parent corporation, which is an includable corporation if:
 - a. Stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations; and
 - b. The common parent corporation directly owns stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other includable corporations. As used in this subsection, the term "stock" does not include nonvoting stock, which is limited and preferred as to dividends. The term "includable corporation" 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.
- (2) Two or more corporations, if five or fewer persons who are individuals, estates or trusts own stock possessing:
 - a. At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation; and
 - b. More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the includable corporations, including the common parent corporation, is a nonstock corporation, the term "stock," as used in this definition, shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

- (3) Two or more entities if such entities satisfy the requirements in subsection (1) or (2) of this definition as if they were corporations and the ownership interests therein were stock.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by

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the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed or, if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor or assessing official means the town treasurer or town treasurer's representative.

Base year means the calendar year preceding the license year, except for contractors subject to the provisions of Code of Virginia, § 58.1-3715, as amended.

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business:

- (1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or
- (2) Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Commission merchant shall have the meaning prescribed in Code of Virginia, § 58.1-3733.

Commodity means staples, such as wool, cotton, etc., which are traded on a commodity exchange and on which there is trading in futures.

Contractor shall have the meaning prescribed in Code of Virginia, § 58.1-3714.B, as amended, whether such work is done or offered to be done by:

- (1) Day labor, general contract or subcontract;
- (2) An order or contract to remodel, repair, wreck or demolish a building;
- (3) An order or contract to bore or dig a well; or
- (4) An order or contract to install, maintain or repair air conditioning apparatus or equipment.

Definite place of business means an office or a location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis, and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

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.

Financial services means the buying, selling, handling, managing, investing and providing of advice regarding money, credit, securities and other investments. Those engaged in rendering financial services include, but without limitation, the following:

- (1) Buying installing receivables.
- (2) Chattel mortgage financing.
- (3) Consumer financing.
- (4) Credit card services.
- (5) Credit unions.
- (6) Factors.

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- (7) Financing accounts receivable.
- (8) Industrial loan companies.
- (9) Installment financing.
- (10) Inventory financing.
- (11) Loan or mortgage brokers.
- (12) Loan or mortgage companies.
- (13) Safety deposit box companies.
- (14) Security and commodity brokers and services.
- (15) Stockbroker.
- (16) Working capital financing.

Fuel sale or *fuel sales* means retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

Gas retailer means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

Gross receipts means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Code of Virginia, title 58.1, chapter 37. The term "gross receipts" shall not include dues collected by trade, business, professional service or civic associations or other similar organizations. In this connection, the term "person" shall be construed to include governmental agencies.

Independent registered representative means an independent contractor registered with the United States Securities and Exchange Commission.

License year means the calendar year for which a license is issued for the privilege of engaging in a business.

Person means any individual, firm, copartnership, corporation, company, association or joint stock association. The term "person" shall include any trustee, receiver, assignee or personal representative thereof carrying on or continuing a business, profession, trade or occupation, but shall not include a court-appointed trustee, receiver or personal representative, in the liquidation of assets for immediate distribution, or a sergeant or sheriff or any deputy, selling under authority of process or writ of court or justice. The term "person," for the purposes of this chapter, shall not include a volunteer fire department, a volunteer rescue squad or a nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational and athletic facilities and facilities for the welfare of the residents of the area.

Personal services means rendering for compensation any repair, personal, business or other services not specifically classified as financial, real estate or professional service under this chapter, or rendered in any other business or occupation not specifically classified in this chapter, unless exempted from local license tax by Code of Virginia, title 58.1.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the business, professional and occupational license (BPOL) guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used by its practical

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application to the affairs of others, either advising, guiding or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The term "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term "purchases" shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesaler or wholesale merchant and sold or offered for sale. Such wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine or choose not to disclose the cost of manufacture.

Real estate services means providing a service with respect to the purchase, sale, lease, rental or appraisal of real property and such services include, but are not limited to, the following:

- (1) Appraisers of real estate.
- (2) Escrow agents, real estate.
- (3) Fiduciaries, real estate.
- (4) Lessors of real property.
- (5) Real estate agents, brokers and managers.
- (6) Real estate selling agents.
- (7) Rental agents for real estate.

Retailer or retail merchant means any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional commercial and industrial users.

Security, for purposes of this chapter, shall have the same meaning as in the Securities Act (Code of Virginia, § 13.1-501), or in similar laws of the United States regulating the sale of securities.

Security broker means a broker, as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

Security dealer means a dealer, as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

Services means things purchased by a customer which do not have physical characteristics, or which are not goods, wares or merchandise.

Wholesaler or wholesale merchant means any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, government and industrial users which, because of the quantity, price or other terms, indicate that they are consistent with sales at wholesale.

(Code 1992, § 15-2; Ord. of 12-17-1996)

State Law reference— Definitions, Code of Virginia, § 58.1-3700.1.

Sec. 18-351. License required.

- (a) Conditions for application; separate licenses.

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- (1) Every person engaging within the town in any business, trade, profession, occupation or calling (collectively hereinafter 'a business'), as defined in this chapter, unless otherwise exempted by law, shall apply for a license for each such business if:
 - a. Such person maintains a definite place of business within the town;
 - b. Such person does not maintain a definite place of business anywhere, but does reside in the town, which residence, for the purposes of this chapter, shall be deemed a definite place of business; or
 - c. There is no definite place of business in the town, but such person operates amusement machines; is engaged as a peddler or itinerant merchant as specified in Code of Virginia, § 58.1-3717 or 58.1-3718; or is a carnival or circus, as specified in Code of Virginia, § 58.1-3728; or is a contractor subject to Code of Virginia, § 58.1-3715; or is a public service corporation subject to Code of Virginia, § 58.1-3731.
 - (2) A separate license shall be required for each definite place of business and for each business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied:
 - a. Each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the town;
 - b. All of the businesses or professions are subject to the same tax rate, or if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and
 - c. The taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.
- (b) Due dates and penalties.
- (1) Each person subject to a license tax shall apply for a license prior to beginning business, if he was not subject to licensing within the town on or before January 1 of the licenses year, or no later than March 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official.
 - (2) The tax shall be paid with the application in the case of any license 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, March 1 of each calendar year or 30 days after commencing business after March 1 of the current calendar year.
 - (3) The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for a license, for a reasonable cause. The extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, 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, a penalty of ten percent of the portion paid after the due date.
 - (4) Failure to file; late payments.
 - a. A penalty of ten percent of the tax, with a \$10.00 minimum, may be imposed upon failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the tax payer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, 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, there shall be no late payment penalty assessed with

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the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the treasurer, treasurer's representative or other collecting official designated by the town council may impose a ten percent late payment penalty. The penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. 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.

b. Definitions of terms used in this subsection.

1. The term "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.

2. The term "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 assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

- (5) Interest at the rate of ten percent per annum, from April 1 of the license year, upon the license tax, plus penalties, shall be charged 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. The town treasurer shall collect and account for any interest or penalties received by the town. Whenever an assessment of additional omitted tax by the assessing official is found to be erroneous, all interest and penalty 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 paid under this chapter 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 Code of Virginia, § 58.1-3916.
- (c) The payment of any penalty or interest under this section shall not relieve any person from prosecution for engaging in any business, occupation, trade, profession or calling without a license.
- (d) No interest shall accrue on an adjustment of estimated tax liability to actual tax liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, 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.

(Code 1992, § 15-3; Ord. of 12-17-1996; Ord. No. 2000-7, 11-7-2000)

State Law reference— Uniform requirements for levy of tax, Code of Virginia, § 58.1-3703.1 A.1., 2.

Sec. 18-352. Situs of gross receipts; each type and place of business to be licensed separately.

- (a) *General rule.* Whenever the tax imposed by this chapter 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 licensable privilege at a definite place of business within the town. In the case of activities conducted outside 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 such 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) 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 Code of Virginia, § 58.1-3715.
 - (2) 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 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 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) 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 at which the rental of such property is managed.
 - (4) 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 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 impracticable or impossible to determine to which definite place of business gross receipts should be attributed under the general rule (and the affected jurisdictions are unable to reach an apportionment agreement), except as to circumstances set forth in Code of Virginia, § 58.1-3709, 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 occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the town solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.
- (c) *Agreements.* The assessor may enter into agreements with any other political subdivision of the state concerning the manner in which gross receipts shall be 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. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions 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 jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the department of

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taxation, pursuant to § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of the state have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such 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.

(Code 1992, § 15-4; Ord. of 12-17-1996)

State Law reference— Uniform requirements for levy of tax, Code of Virginia, § 58.1-3703.1 A.3.

Sec. 18-353. Limitations and extensions.

- (a) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this chapter, both the assessing official and the taxpayer have consented in writing to its assessment after such time, 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) Notwithstanding Code of Virginia, § 58.1-3903, the assessing official shall assess the local tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding years.
- (c) The period for collecting any local license tax shall not expire prior to the period specified in Code of Virginia, § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to this subsection, two years after the final determination of an appeal for which collection has been stayed pursuant to subsections 18-355(b) or 18-355(d) of this chapter, or two years after the final decision in a court application pursuant to Code of Virginia, § 58.1-3984, or similar law for which collection has been stayed, whichever is later.

(Code 1992, § 15-5; Ord. of 12-17-1996)

State Law reference— Uniform requirements for levy of tax, Code of Virginia, § 58.1-3703.1 A.4.

Sec. 18-354. Exclusions and deductions from gross receipts.

- (a) General rule. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.
- (b) The following items shall be excluded from gross receipts:
 - (1) Amounts received and paid to the United States, the commonwealth or any county, city or town for the state retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, or any federal or state excise taxes on motor fuels.
 - (2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

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- (3) Any amount representing returns and allowance granted by the businesses to its customer.
 - (4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.
 - (5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.
 - (6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts, together with any handling or other fees related to the incentive.
 - (7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss, is recognized for federal income tax purposes.
 - (8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.
- (c) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:
- (1) Any amount paid for computer hardware and software that are sold to a United States federal or state government entity, provided that such property was purchased within two years of the sale to such entity by the original purchaser, who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.
 - (2) Any receipts attributable to business conducted in another state or foreign county in which the taxpayer is liable for an income or other tax based upon income.

(Code 1992, § 15-8; Ord. of 12-17-1996)

Sec. 18-355. Administrative appeals to the assessing official.

(a) *Definitions.* For purposes of this section:

Amount in dispute, when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

Appealable event means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund or the assessment of a local license tax where none previously was assessed, arising out of the local assessing official's:

- (1) Examination of records, financial statements, books of account or other information for the purpose of determining the correctness of an assessment;
- (2) Determination regarding the rate or classification applicable to the licensable business;

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- (3) Assessment of a local license tax when no return has been filed by the taxpayer; or
- (4) Denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

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:

- (1) Not well grounded in fact;
- (2) Not warranted by existing law or a good faith argument for the extension, modification or reversal of existing law;
- (3) 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
- (4) Otherwise frivolous.

Jeopardized by delay means a finding, based upon specific facts, that a taxpayer desires to:

- (1) Depart quickly from the town;
- (2) Remove his property therefrom;
- (3) Conceal himself or his property therein; or
- (4) Do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

- (b) *Filing and contents of administrative appeal.* Any person assessed with a local license tax as a result of an appealable event, as defined in this section, may file an administrative appeal of the assessment within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, with the commissioner of the revenue or other local assessing official. The appeal must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the amount in dispute, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor 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 assessor 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.
- (c) *Notice of right of appeal and procedures.* Every assessment made by the assessing official pursuant to an appealable event shall include, or be accompanied by, a written explanation of the taxpayer's right to file an administrative appeal and the specific procedures to be followed in the jurisdiction, 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.
- (d) *Suspension of collection activity during appeal.* Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute shall be suspended until a final determination is issued by the commissioner of the revenue or other assessing official, unless the treasurer or other official responsible for the collection of such tax:
 - (1) Determines that collection would be jeopardized by delay as defined in this section;
 - (2) Is advised by the commissioner of the revenue or other assessing official that the taxpayer has not responded to a request for relevant information after a reasonable time; or
 - (3) Is advised by the commissioner of the revenue or other assessing official that the appeal is frivolous, as defined in this section.

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Interest shall accrue in accordance with the provisions of section 18-351(b)(5), but no further penalty shall be imposed while collection action is suspended.

- (e) *Procedure in event of nondecision.* Any taxpayer whose administrative appeal to the commissioner of the revenue, or other assessing official pursuant to the provisions of this section, 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 commissioner of the revenue or other assessing official, elect to treat the appeal as denied and appeal the assessment to the tax commissioner in accordance with the provisions of section. The tax commissioner shall not consider an appeal filed pursuant to the provisions of this section if he finds that the absence of a final determination on the part of the commissioner of the revenue or other assessing official was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the commissioner or other assessing official to make his determination.

(Code 1992, § 15-6; Ord. of 12-17-1996)

State Law reference— Similar provisions, Code of Virginia, § 58.1-3703.1A.5.

Sec. 18-356. Administrative appeal to the tax commissioner.

- (a) *Appeal.* Any person assessed with a local license tax as a result of a determination, upon an administrative appeal to the commissioner of the revenue or other assessing official pursuant to section 18-355, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment to the tax commissioner within 90 days of the date of the determination by the commissioner of the revenue or other assessing official. The appeal shall be in such form as the tax commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the commissioner of the revenue or other assessing official. The tax commissioner shall permit the commissioner of the revenue or other assessing official to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The appeal shall proceed in the same manner as an application, pursuant to Code of Virginia, § 58.1-1821, and the tax commissioner may issue an order correcting such assessment pursuant to Code of Virginia, § 58.1-1822.
- (b) *Suspension of collection activity during appeal.* On receipt of a notice of intent to file an appeal to the tax commissioner under subsection (a) of this section, collection activity with respect to the amount in dispute shall be suspended until a final determination is issued by the tax commissioner, unless the treasurer or other official responsible for the collection of such tax:
- (1) Determines that collection would be jeopardized by delay, as defined in section 18-355(a);
 - (2) Is advised by the commissioner of the revenue or other assessing official, or the tax commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or
 - (3) Is advised by the commissioner of the revenue or other assessing official that the appeal is frivolous, as defined in section 18-355(a).

Interest shall accrue in accordance with the provisions of section 18-351(b)(5), but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to subsection (a) of this section is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

- (c) *Implementation of determination of tax commissioner.* Promptly upon receipt of the final determination of the tax commissioner with respect to an appeal pursuant to subsection (a) of this section, the commissioner of the revenue or other assessing official shall take those steps necessary to calculate

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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 and to the treasurer, or other official responsible for collection in accordance with the provisions of this subsection.

- (1) If the determination of the tax commissioner sets forth a specific amount of tax due, the commissioner of the revenue or other assessing official shall certify the amount to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the determination of the tax commissioner.
- (2) If the determination of the tax commissioner sets forth a specific amount of refund due, the commissioner of the revenue or other assessing official shall certify the amount to the treasurer or other official responsible for collection, and the treasurer, or other official responsible for collection, shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within 30 days of the date of the determination of the tax commissioner.
- (3) If the determination of the tax commissioner does not set forth a specific amount of tax due, or otherwise requires the commissioner of the revenue or other assessing official 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 commissioner of the revenue or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of 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 commissioner of the revenue, or other assessing official, shall certify the new assessment to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the new assessment.
- (4) If the determination of the tax commissioner does not set forth a specific amount of refund due, or otherwise requires the commissioner of the revenue or other assessing official to undertake a new or revised assessment that will result in an obligation on the part of the locality to make a refund of taxes previously paid, the commissioner of the revenue or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of 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 commissioner of the revenue or other assessing official shall certify the new assessment to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment.

(Code 1992, § 15-6; Ord. of 12-17-1996)

State Law reference— Similar provisions, Code of Virginia, § 58.1-3703.1A.6.

Sec. 18-357. Judicial review of determination of tax commissioner.

- (a) *Judicial review.* Following the issuance of a final determination of the tax commissioner pursuant to section 18-356(a), the taxpayer or commissioner of the revenue or other assessing official may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to Code of Virginia, § 58.1-3984. In any such proceeding for judicial review of a determination of the tax

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commissioner, the burden shall be on the party challenging the determination of the tax commissioner, 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.

(b) *Suspension of payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.*

(1) On receipt of a notice of intent to file an application for judicial review, pursuant to Code of Virginia, § 58.1-3984, of a determination of the tax commissioner pursuant to section 18-356(a), and upon payment of the amount of the tax that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the treasurer or other collection official 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:

- a. The taxpayer's application for judicial review is frivolous, as defined in section 18-355(a);
- b. Collection would be jeopardized by delay, as defined in section 18-355(a); or
- c. Suspension of collection would cause substantial economic hardship to the locality.

For purposes of determining whether substantial economic hardship to the locality would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the locality by different taxpayers that allege common claims or theories of relief.

(2) Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the locality, 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.

(3) No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute.

(4) The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

(5) The suspension of collection activity authorized by this subdivision shall not be applicable to any appeal of a local license tax that is initiated by the direct filing of an action pursuant to Code of Virginia, § 58.1-3984 without prior exhaustion of the appeals provided by sections 18-355 and 18-356.

(c) *Suspension of payment of disputed amount of refund due upon locality's notice of intent to initiate judicial review.*

(1) Payment of any refund determined to be due pursuant to the determination of the tax commissioner of an appeal pursuant to section 18-356(a) of this section shall be suspended if the locality assessing the tax serves upon the taxpayer, within 60 days of 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 Code of Virginia, § 58.1-3984 and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such 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 locality's application for judicial review is frivolous, as defined in section 18-355(a).

(2) No suspension of refund activity shall be permitted if the locality's application for judicial review fails to identify with particularity the amount in dispute.

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- (3) The suspension of the obligation to make a refund shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.
- (d) *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of section 18-351(b)(5), but no further penalty shall be imposed while collection action is suspended.

(Code 1992, § 15-6; Ord. of 12-17-1996)

State Law reference— Similar provisions, Code of Virginia, § 58.1-3703.1A.7.

Sec. 18-358. Rulings.

Any taxpayer, or authorized representative of a taxpayer, may request a written ruling regarding the application of the tax to a specific situation from the assessor. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation, as presented in the ruling request, shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if there is a change in the law, a court decision or the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, 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.

(Code 1992, § 15-6(e); Ord. of 12-17-1996)

State Law reference— Uniform requirements for levy of tax, Code of Virginia, § 58.1-3703.1A.8.

Sec. 18-359. Recordkeeping and audits.

Every person who is assessable with a license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the town. The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside of the town, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

(Code 1992, § 15-7; Ord. of 12-17-1996)

State Law reference— Uniform requirements for levy of tax, Code of Virginia, § 58.1-3703.1A.9.

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Sec. 18-360. License fee and taxes.

- (a) Pursuant to Code of Virginia, § 58.1-3703A, every person or business subject to licensure under the chapter shall be assessed and required to pay annually a minimum fee for the issuance of such license in the amount of \$30.00.
- (b) In addition to the license fee specified in subsection (a) of this section, and except as may be otherwise provided in Code of Virginia, §§ 58.1-3712, 58.1-3712.1 and 58.1-3713, every such person or business shall be assessed and required to pay annually a license tax on all the gross receipts of such persons includable, as provided in this chapter, at a rate set forth below for the class of enterprise listed:
 - (1) For contractors and persons constructing for their own account for sale, \$0.13 per \$100.00 of gross receipts.
 - (2) For retailers, \$0.175 per \$100.00 of gross receipts.
 - (3) For financial, real estate and professional services, \$0.39 per \$100.00 of gross receipts.
 - (4) For repair, personal and business services including commission merchants and all other businesses and occupations not specifically listed or exempted in this chapter or otherwise by law, \$0.28 per \$100.00 of gross receipts, except every person trading in junk, rags, metal, paper or other like commodities in the town shall not pay more than \$200.00 per annum.
 - (5) For wholesalers, \$0.05 per \$100.00 of purchases.
 - (6) Circus, carnivals, athletic, etc., exhibits and performances as follows, not to exceed the amounts set forth within the Code of Virginia, § 58.1-3728:
 - a. Every circus or dog and/or pony show exhibiting in the town, or within the jurisdiction thereof, shall pay a license tax of \$25.00 per day.
 - b. Any person who operates exhibits of any kind and who receives compensation from persons viewing the exhibit, either by charging admission or by accepting voluntary contribution within the corporate limits of the town, shall pay a license tax of \$25.00 per day.
 - c. Any person who operates or presents an athletic exhibition by professional athletes and who receives compensation from persons viewing this exhibition, either by charging admission or by accepting voluntary contributions, shall pay a license tax of \$25.00 per day.
 - d. Any person who operates or presents a musical exhibition by professional musicians or similar forms of amusement and who receives compensation from persons viewing this exhibition, either by charging admission or by accepting voluntary contributions, shall pay a license tax of \$25.00 per day.
 - (7) Every fortuneteller, clairvoyant, phrenologist, spirit medium, spiritualist, astrologist, hypnotist, palmist or numerologist who operates or practices in the town shall pay a license tax of \$750.00 per annum. This tax shall not be prorated.
 - (8) For itinerant or transient merchants or peddlers, \$500.00 per year, except as follows:
 - a. Peddlers who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the same, or actually sell or barter the same, shall be deemed to be peddlers and shall pay a license tax in the amount of \$300.00 per annum for each person so engaged or employed, with the following exceptions:
 1. The tax on peddlers of ice, wood or coal, not grown or produced by them but purchased for resale, shall be \$25.00 for each vehicle used in such peddling.
 2. The tax on peddlers of meat, milk, butter, ice cream, sandwiches, candy, eggs, poultry, fish, oysters, game, vegetables, fruits or other family supplies of a perishable nature,

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and beverages and soft drinks in cans, bottles or otherwise dispensed, not grown or produced by them, shall be \$300.00 for each vehicle used in such peddling.

3. The tax on peddlers of seafood who buy the seafood they peddle directly from persons who catch or take the same shall be \$10.00.
 4. Every person, whether acting for himself or as an agent for another, selling lemonade or like beverages, ice cream, fruits, nuts, popcorn, or flowers upon the streets or public places in the town, except within the storehouse of merchants who have paid a license tax as such, shall pay a license tax of \$25.00 for the use of town streets.
 5. Nothing contained in the foregoing subsections shall be construed as imposing any tax upon a person for selling farm or domestic products within the town (not, however, within the regular store, markets and stalls therein) when the products that are to be sold are grown or produced by such person; provided, that the persons may be required to furnish satisfactory proof that they are entitled to such exemptions.
 6. No person licensed under this subsection shall stop his truck, automobile, wagon, cart or vehicle in such a manner as to interfere with the operation of any regularly licensed store, shop or stand from which merchandise is sold, nor shall the person licensed under this subsection park his vehicle, while selling the above-mentioned articles, longer than any prescribed parking limit in the area where such transaction takes place.
 7. None of the licenses referred to in subsections (c)(8)a.1 through 5 of this section are to be prorated.
 - b. Itinerant or transient merchants or peddlers licenses shall not be prorated.
- (9) For photographers, \$0.28 per \$100.00 of gross receipts per year up to a maximum of \$30.00 per annum; however, nothing in this subsection shall apply to amateur photographers who expose, develop and finish their own work and who do not part with the same for compensation or receive any compensation for performing any of the processes of photography; nor to coin-operated photograph machines; nor to photographers while in the course of their employment by newspapers, magazines or television stations.
- (10) For permanent coliseums, arenas or auditoriums having a maximum capacity in excess of 10,000 persons, open to the public, \$0.20 per \$100.00 per annum up to a maximum of \$1,000.00 per annum.
- (11) For savings and loan associations and credit unions, \$50.00 per year. This license tax shall not be prorated.
- (12) For direct sellers, as defined in Code of Virginia, § 58.1-3719.1, with total annual sales in excess of \$4,000.00, \$0.20 per \$100.00 of total annual retail sales or \$0.15 per \$100.00 of total annual wholesale sales, whichever is applicable.
- (13) Any person having no regularly established place of business in the state upon which is paid a properly levied license tax, who, within the town, personally or through officers, employees, agents or servants, by personal contact, either by telephone or otherwise, solicits or makes appointments for sittings for the purposes of photographic pictures or reproductions, or who sends out cards inviting persons to present themselves for a sitting, or who sets up a place from which contacts are made or pictures taken, or who makes photographs all with the view of selling the same to the person, or persons, contacted, shall first obtain a license for such act or acts performed in the town and shall pay an annual fee of \$30.00. This license tax shall apply to each person, agent or officer performing any such acts and such license shall not be prorated.

(Code 1992, § 15-9; Ord. of 12-17-1996; Ord. No. 2004-3, 6-15-2004; Ord. No. 2008-3, 6-3-2008; Ord. No. 2013-7, § 15-9, 6-4-2013)

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State Law reference— Authority to charge \$30 for issuance of license, Code of Virginia, § 58.1-3702A., exemptions, Code of Virginia, § 58.1-3702B, C; rate limitations for taxes on certain entities, Code of Virginia, § 58.1-3706; rate limitations for taxes on wholesalers, Code of Virginia, § 58.1-3716; rate limitations for taxes on public service corporations, Code of Virginia, § 58.1-3731; rate limitations for taxes on carnivals, circuses, etc., Code of Virginia, § 58.1-3728; rate limitations for taxes on fortunetellers, Code of Virginia, § 58.1-3726; rate limitations for taxes on peddlers, etc., Code of Virginia, § 58.1-3717; rate limitations for taxes on permanent coliseums, etc., Code of Virginia, § 58.1-3729; rate limitations for taxes on savings institutions, etc., Code of Virginia, § 58.1-3730; rate limitations for taxes on photographers, Code of Virginia, § 58.1-3727; rate limitations for taxes on direct sellers, Code of Virginia, § 58.1-3719.1.

Sec. 18-361. Display of license.

The license tax receipts or other certificates showing payment of a license tax, wherever imposed by the town, are to be displayed in a conspicuous place at the regular place of business, profession or calling in order that any police officer of the town may inspect the same at any and all reasonable times. This requirement does not apply to motor vehicles.

(Code 1992, § 15-10; Ord. of 12-17-1996; Ord. No. 2005-4, 9-20-2005)

Sec. 18-362. Transfer of license.

A license issued under this chapter shall be transferable, except where provided otherwise, only where the business for which the license was issued has been sold or disposed of, but is to be continued by the purchaser or transferred at the same or at some other location within the town. In no case shall the license transfer be legal or valid unless, and until, notice in writing is given to the town treasurer. Such notice shall contain the name, trade name, if any, and the address of the proposed transferee, the proposed new location, if any, and the time of the proposed transfer. Failure to notify the town treasurer of the transfer of the license within 30 days after such transfer shall invalidate such license. The town treasurer shall give written approval of the transfer of a license, if such transfer is approved.

(Code 1992, § 15-11; Ord. of 12-17-1996)

Sec. 18-363. Revocation of license.

The town council may, for just cause, order a license granted under any section of this chapter revoked, and, in such case, the license shall be prorated and the unused portion of the license tax collected shall be returned.

(Code 1992, § 15-12; Ord. of 12-17-1996)

Sec. 18-364. Proration.

Except as otherwise provided in this chapter, all annual license taxes shall be granted at one-half the annual tax on and after October 30 of each year; provided that in any case where a license tax per annum shall not be an exact multiple of \$1.00, the fractional part of \$1.00 charged for such license shall be

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considered the fee allowed by the town by the laws of the state for issuance of such license and shall not be prorated with the rest of the license.

(Code 1992, § 15-13; Ord. of 12-17-1996)

State Law reference— Proration of license tax, Code of Virginia, § 58.1-3710.

Sec. 18-365. Compliance with zoning and building regulations required.

The town treasurer shall not issue a license for conducting any business, profession, trade or occupation at a location where the conduct of such business, profession, trade or occupation is prohibited by the zoning or building regulations of the town. All such licenses shall be subject to verification to ascertain compliance with the zoning and building regulations. Failure to comply shall be just cause for refusal to issue or immediate revocation by the town treasurer.

(Code 1992, § 15-14; Ord. of 12-17-1996; Ord. No. 2014-5, 8-26-2014)

Secs. 18-366—18-391. Reserved.

FOOTNOTE(S):

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Charter reference— Licenses generally, §§ 2.27, 3.07 et seq. ([Back](#))

State Law reference— Local license taxes, Code of Virginia, § 58.1-3700 et seq. ([Back](#))

ARTICLE XII. MISCELLANEOUS LICENSE TAXES

[Sec. 18-392. Coin operated machines and devices license tax.](#)

[Sec. 18-393. Local vehicle license tax.](#)

[Sec. 18-394. Wine, beer, mixed alcoholic beverage.](#)

[Sec. 18-395. Advertising with loudspeaker.](#)

[Secs. 18-396—18-420. Reserved.](#)

Sec. 18-392. Coin operated machines and devices license tax.

For coin-operated machines, the following license taxes shall be charged, except as otherwise provided for within this chapter:

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- (1) Every amusement operator, as defined by Code of Virginia, § 58.1-3720, as being any person leasing, renting or otherwise furnishing or providing a coin-operated amusement machine in the town, except a person owning less than three such machines and operating such machines on property owned or leased by such person, shall pay a license tax of \$25.00 per machine, not to exceed \$200.00 per annum; provided however, the term "operator" shall not include a person owning less than three coin-operated machines and operating such machines on property owned or leased by such person, in which case, he shall pay a license tax in the same manner as subsection (2) of this section. The term "amusement machine" means any coin-operated machine except weighing machines; automatic baggage or parcel checking machines or receptacles; vending machines which are so constructed as to do nothing but vend goods, wares and merchandise or postage stamps, or provide service only; viewing machines or photomat machines; and devices or machines affording rides to children or for the delivery of newspapers.
- (2) In addition, every amusement operator operating or displaying for operation in the town any coin-operated machine or device operated on the coin-in-the-slot principle for amusement purposes shall pay a gross receipts tax on the share of the receipts actually received by such operator from coin-operated machines operated within the town in the same manner as retail merchants.
- (3) Any machine vending merchandise shall be deemed receipts from retail sales, and taxed at the same rate as other retail sales (Code of Virginia, § 58.1-3706(A)(2)).

(Code 1992, § 15-15(a); Ord. of 12-17-1996; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-2000; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005; Ord. No. 2013-7, § 15-15(a), 6-4-2013)

State Law reference— Tax on amusement machines, Code of Virginia, § 58.1-3720; exemption for certain machines, Code of Virginia, § 58.1-3721.

Sec. 18-393. Local vehicle license tax.

The local vehicle license tax shall be applicable to any motor vehicle or semitrailer required to be licensed by the department of motor vehicles and normally garaged, stored or parked in this town. If it cannot be determined where any vehicle is normally garaged, stored or parked, or if the owner of any vehicle is a student attending an institution of higher education, then the local vehicle license tax shall be applicable if the owner of such vehicle is domiciled in this town.

- (1) Rate of license tax. The owner of each motor vehicle or semitrailer to which the license tax applies shall pay a yearly tax of \$32.00 per vehicle for the calendar year. The license tax for each calendar year may be paid beginning November 1 of the prior year and must be paid before January 1 of the year in which the tax applies. The receipt shall serve as the license and shall serve as evidence that the license tax has been paid. The tax shall be billed along with the personal property tax.
 - a. A license will not be issued to any applicant until such applicant has produced satisfactory evidence that all personal property taxes on the motor vehicle or semitrailer to be licensed have been paid and satisfactory evidence that any delinquent motor vehicle or semitrailer personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the town.
 - b. The treasurer will notify the Virginia Department of Motor Vehicles of the names of persons who have failed to obtain a vehicle license or are delinquent in payment of tangible personal property tax. The department of motor vehicles will refuse to issue or renew any vehicle registration of any applicant therefor who owes the town a vehicle license tax or is delinquent in paying tangible personal property tax. The commissioner of the department of motor

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vehicles shall charge a reasonable fee to cover the costs of such enforcement action, and the town treasurer will add the cost of this fee to the delinquent tax bill.

- (2) Every person operating a bus for hire by picking up and discharging passengers in the town and traveling over the streets of the town on scheduled trips shall pay a license tax in accordance with this section.
- (3) Every person operating a taxi or a car for hire in the town shall pay a license tax in accordance with this section and there will be required satisfactory proof that the car or vehicle that is to be operated has complied with all state and town regulations and requirements pertaining to insurance.

(Code 1992, § 15-15(b); Ord. of 12-17-1996; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-2000; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005; Ord. No. 2012-4, § 15-15, 6-5-2012; Ord. No. 2013-7, § 15-15(b), 6-4-2013)

State Law reference— Motor vehicle license tax, Code of Virginia, § 46.2-752.

Sec. 18-394. Wine, beer, mixed alcoholic beverage.

- (a) *Wine, beer.* Every person selling, or offering for sale, beer, wine, lager or ales in the corporate limits of the town shall pay a license tax as follows:

Beer and wine:

On- and off-premises \$50.00

Off-premises only 37.50

On-premises only 37.50

Beer only:

On- and off-premises 50.00

On-premises only 25.00

Off-premises only 25.00

- (b) *Mixed alcoholic beverage.* Every person holding a beverage restaurant and caterer's license issued by the state selling or offering for sale mixed beverages, as defined by state law, in the town shall pay a license tax as follows:

- (1) Persons operating restaurants, including restaurants located on premises of and operated by hotels or motels:
 - a. \$200.00 per annum for each restaurant with a seating capacity at tables for 50 to 100 persons.
 - b. \$350.00 per annum for each restaurant with a seating capacity at tables for more than 100, but not more than 150 persons.
 - c. \$500.00 per annum for each restaurant with a seating capacity at tables for more than 150 persons.
 - d. \$500.00 per annum for each caterer.

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- e. Mixed beverage special events licenses, \$10.00 for each day of each event.
- (2) A private, nonprofit club operating a restaurant located on the premises of such club, \$350.00 per annum.

(Code 1992, § 15-15(i); Ord. of 12-17-1996; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-2000; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005; Ord. No. 2013-7, § 15-15(i), 6-4-2013)

State Law reference— Local alcoholic beverage licenses and taxes, Code of Virginia, §§ 4.1-205, 4.1-211, 4.1-233.

Sec. 18-395. Advertising with loudspeaker.

- (a) Every person engaged in advertising and/or attracting attention by loudspeaker, whether such device shall be mounted, stationary or portable, or used on or in any motor vehicle or other vehicle, shall pay a permit tax of \$10.00 per day for the conduct of activities within, or amplifying sound into, the public rights-of-way.
- (b) Nothing within this section shall be interpreted to prohibit the enforcement of other provisions of this Code.

(Code 1992, § 15-15(j); Ord. of 12-17-1996; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-2000; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005; Ord. No. 2013-7, § 15-15(j), 6-4-2013)

Secs. 18-396—18-420. Reserved.

ARTICLE XIII. PROCUREMENT [12](#)

[Sec. 18-421. Adoption of Code of Virginia.](#)

Sec. 18-421. Adoption of Code of Virginia.

Chapter 7 of the Virginia Public Procurement Act, Code of Virginia, § 2.2-4300 et seq., and all future amendments thereof are implemented and adopted by reference where the provisions thereof, are applicable to the town.

(Code 1992, § 20-1; Ord. of 12-21-1982, § 22-05; Ord. of 9-15-1998)

FOOTNOTE(S):

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State Law reference— Virginia Public Procurement Act, Code of Virginia, § 2.2-4300 et seq.; acquiring public utilities, rights-of-way, fixtures, etc., Code of Virginia, § 15.2-2109; acceptance or refusal of gifts, donations, bequests or grants, Code of Virginia, § 15.2-1108; purchase, sale, etc., of real property, Code of Virginia, § 15.2-1800 et seq. ([Back](#))