

## Chapter 11

### FINANCE AND TAXATION\*

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\***Charter reference(s)**--Management of fiscal affairs, § 2.25; taxes and finances, §§ 2.27, 3.01 et seq.

**Cross reference(s)**--Administration, Ch. 2; advertising, Ch. 3; alcoholic beverages, Ch. 4; buildings, Ch. 9; licenses generally, Ch. 15; procurement, Ch. 20.

**State law reference(s)**--Local taxes, Code of Virginia, § 58.1-2900 et seq.  
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## **ARTICLE I. IN GENERAL**

### **Sec. 11-1. 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)

**State law reference(s)**--"Tax year" defined, Code of Virginia, § 58.1-1.

### **Sec. 11-2. 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)

### **Sec. 11-3. 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. On all taxes remaining unpaid on January 1 of the following year, interest at the rate of ten percent per annum is charged from January 1 until the time of payment.

(Code 1972, § 18-19)

### **Sec. 11-4. Purpose; definitions; relation to other ordinances of personal property tax relief.**

(a) The purpose of this Ordinance is to provide for the implementation of the changes to Personal Property Tax Relief Act ("PPTRA") affected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

(b) Terms used in this Ordinance 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 Ordinance conflict with any prior Ordinance or provision of the Town Code, this Ordinance shall control.

(Ord. 2005-5 of 12-6-05)

### **Sec. 11-5. 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 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.

(Ord. 2005-5 of 12-6-05)

**Sec. 11-6. Allocation of relief among personal property taxpayers.**

(a) Allocation of 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 or less.

(c) Relief with respect to qualifying vehicles with assessed values of more than \$1,000 shall be provided at a percentage, annually fixed by Town resolution and applied to the first \$20,000 in value of each such qualifying vehicle, that is estimated fully to use all available state PPTRA relief.

(Ord. 2005-5 of 12-6-05)

**Sec. 11-7. 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 11-3 of the Code of the Town of Christiansburg from the original due date of the tax.

(Ord. 2005-5 of 12-6-05)

**Sec. 11-8. Bank franchise tax--Generally.**

(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; Ord. 2005-5 of 12-6-05, § 11-4)

**State law reference(s)**--Town bank franchise tax, Code of Virginia, § 58.1-1209; tax on branch banks, Code of Virginia, § 58.1-1211.

**Sec. 11-9. Same--Penalty upon bank for failure to comply.**

Any bank which fails to file a return or pay the tax required by Section 11-8 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.  
(Ord. of 01-05-93; Ord. 2005-5 of 12-6-05, § 11-5)

**Sec. 11-10. 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.  
(Ord. 2005-6 of 12-20-05)

**Secs. 11-11--11-25. Reserved.**

**ARTICLE II. DEPOSITS AND DISBURSEMENTS\***

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\*State law reference(s)--Security for public deposits, Code of Virginia, § 2.1-359 et seq.  
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**Sec. 11-26. Designation of depositories.**

A local bank or banks as designated by the Council 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)

**Sec. 11-27. Authority of Treasurer.**

The Town Treasurer is authorized to issue from time to time upon the bank accounts of the Town voucher-warrants or voucher-checks in the name of the Town, signed by the Treasurer and countersigned by the Town Manager, 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, and to make such other disbursements as are first authorized by the Council.

(Code 1972, § 11-4)

**Sec. 11-28. Authority of Mayor.**

The Mayor is authorized to countersign voucher-warrants and voucher-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)

**Sec. 11-29. Report of disbursements.**

The Town Treasurer shall make to the Council a monthly report of all disbursements.

(Code 1972, § 11-6)

**Secs. 11-30--11-45. Reserved.**

**ARTICLE III. UTILITY TAX\***

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**\*Cross reference(s)**--Public utilities, Ch. 21.

**State law reference(s)**--Consumer utility taxes, Code of Virginia, § 58.1-3812 et seq.

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**Sec. 11-46. 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.* The volume of gas at standard pressure and temperature in units of 100 cubic feet.

*Commercial or industrial service.* Any utility service furnished 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.* 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 of Christiansburg.

*Gas Utility.* A public utility authorized to furnish natural gas service in Virginia.

*Kilowatt hours (kWh) delivered.* 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.* Any individual, corporation, company or other entity.

*Pipeline distribution company.* 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.* 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.* 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.* 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; Ord. 2000-6 of 9-19-00)

**Cross reference(s)**--Definitions and rules of construction generally, § 1-2.

#### **Sec. 11-47. 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. (Code 1972, § 11-10; Ord. 2000-6 of 9-19-00, § 11-49)

#### **Sec. 11-48. 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; Ord. 2000-6 of 9-19-00, § 11-50)

#### **Sec. 11-49. Telephone Utility Consumer Tax.**

A. Levied; rate. There is hereby imposed and levied by the Town upon each and every consumer of telephone utility service a tax in the amount of twenty percent of the charge, effective May 1, 1993, exclusive of any federal tax thereon, made by the service provider against the consumer with respect to each telephone utility service, which tax in every case shall be collected by the service provider from the consumer and shall be paid by the consumer to the service provider for the use of the Town at the time the purchase price or such charge shall

become due and payable under the agreement between the consumer and the service provider.

Provided, that in case any monthly bill submitted by any service provider for residential telephone utility service shall exceed \$10.00 for a residential consumer, there shall be no tax computed on so much of such bill as shall exceed \$10.00; in case any monthly bill submitted by any service provider for a commercial or industrial consumer of telephone utility service shall exceed \$100.00, there shall be no tax computed on so much of such bill as shall exceed \$100.00. In case a bill is submitted by the service provider for purchases made by the consumer during periods of greater than one month, then the amount of such bill subject to taxation hereunder shall be the amount in which a bill for the subject utility would be taxed in a single month multiplied by the number of months for which such bill is submitted.

B. Collection--Duties of service provider. It shall be the duty of every service provider in acting as the tax collecting medium or agency for the Town to collect from the consumer for the use of the Town the tax imposed and levied by this article at the time of collecting the purchase price charged therefor. The taxes collected during each calendar month shall be reported by each service provider to the Town Treasurer, and each service provider shall remit the amount of tax shown by such report to have been collected to the Town Treasurer on or before the last day of the second calendar month thereafter, together with the name and address of any consumer who has refused to pay his tax. The required reports shall be in the form prescribed by the Town Treasurer.

C. Applicability to pay phones. The tax hereby imposed and levied on purchasers with respect to local exchange telephone service shall apply to all charges made for local exchange telephone service, except local calls or messages which are paid for by inserting coins in coin-operated telephones.

D. Exemptions. The United States, the State and the political subdivisions, boards, commissions and authorities thereof as well as churches are hereby exempt from the payment of the tax imposed and levied by this article with respect to the purchase of utility services used by such governmental agencies.

E. Mobile local telecommunication service.

(1) [*Levied; definitions.*] There is hereby imposed and levied by the Town a tax equal to ten percent of the monthly gross charge to a consumer of mobile local telecommunication, which shall not be applicable to any amount so charged in excess of \$30.00 per month for each mobile service consumer. For the purposes of this section, the following words and phrases shall have the meanings [ascribed to them below] and be governed by the following:

*Affiliated group* shall have the same meaning ascribed to it in § 58.1-3703 B 10 of the Code of Virginia, except, for purposes of this section, the word "entity" shall be substituted for the word "corporation" whenever it is used in that section.

*Bad debt* means any portion of a debt related to a sale of local telecommunication services, the gross charges for which are not otherwise deductible or excludable, that has become worthless or uncollectible, as determined under applicable federal income tax standards. If the portion of the debt deemed to be bad is subsequently paid, the service provider shall report and

pay the tax on that portion during the reporting period in which the payment is made.

*Consumer* means a person who, individually or through agents, employees, officers, representatives, or permittees, makes a taxable purchase of local telecommunication services.

*Enhanced services* means services that employ computer processing applications to act on the format, code, or protocol or similar aspects of the information transmitted; provide additional, different, or restructured information; or involve interaction with stored information.

*Gross charges* means, subject to the exclusions of this section, the amount charged or paid for the taxable purchase of local telecommunication services; however, "gross charges" shall not include the following:

- (a) Charges or amounts paid that vary based on the distance and/or elapsed transmission time of the communication that are separately stated on the consumer's bill or invoice.
- (b) Charges or amounts paid for customer equipment, including such equipment that is leased or rented by the customer from any source, if such charges or amounts paid are separately identifiable from other amounts charged or paid for the provision of local telecommunication services on the service provider's books and records.
- (c) Charges or amounts paid for administrative services, including, without limitation, service connection and reconnection, late payments, and roamer daily surcharges.
- (d) Charges or amounts paid for special features that are not subject to taxation under Section 4251 of the Internal Revenue Code of 1986, as amended.
- (e) Charges or amounts paid that are the tax imposed by Section 4251 of the Internal Revenue Code of 1986, as amended, or any other tax or surcharge imposed by statute, ordinance or regulatory authority.
- (f) Bad debts.

*Mobile local telecommunication service* means any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunication service and specialized mobile radio.

*Mobile service consumer* means a person having a telephone number for mobile local telecommunication service who has made a taxable purchase of such service or on whose behalf another person has made a taxable purchase of such service.

*Mobile service provider* means every person engaged in the business of selling mobile local telecommunication services to consumers.

*Public safety agency* means a functional division of a public agency which provides

firefighting, police, medical, or other emergency services or a private entity which provides such services on a voluntary basis.

*Service address* means the location of the subscriber's primary use of the telecommunication equipment within the licensed service area. A mobile service provider may obtain a signed statement from a consumer indicating which county, city or town within the licensed service area is the location of the consumer's primary use of the telecommunication equipment. A mobile service provider shall be entitled to rely absolutely on a consumer's signed statement and shall remit the taxes collected to the Town if the location of the consumer's primary use of the telecommunication equipment is identified by the consumer as located in the Town. In the absence of a signed statement by a consumer, a mobile service provider shall determine if the Town is the location of the consumer's primary use and shall remit the tax to the Town based on any other reasonable method, including, without limitation, the consumer's billing address, service address, or telephone number within the licensed service area.

*Service provider* means every person engaged in the business of selling local telecommunication services to consumers.

*Taxable purchase* means the acquisition of telecommunication services for consumption or use; however, "taxable purchase" does not include the provision of telecommunications among members of an affiliated group of entities by a member of the group for their own exclusive use and consumption and the purchase of telecommunications for resale in the subsequent provision telecommunications, including, without limitation, carrier access charges, right of access charges, and charges for use of intercompany facilities; however, the acquisition of telecommunications by a provider of enhanced services is not the purchase of telecommunications for resale, even when the cost of the telecommunications is separately stated to the purchaser of the enhanced services, as long as the primary object of the purchase of the telecommunications by the provider is for the provision of enhanced services and not telecommunications. A person may make tax-free purchases of telecommunications for resale if the person provides to the service provider a sworn affidavit indicating that the person's purchases are nontaxable sales for resale.

(2) *[Collection.]* A service provider of local telecommunication services shall collect the tax from the consumer by adding the tax to the monthly gross charge for such services. The tax shall, when collected, be stated as a distinct item separate and apart from the monthly gross charge. Until the consumer pays the tax to the service provider, the tax shall constitute a debt of the consumer to the Town. If any consumer refuses to pay the tax, the service provider shall notify the Town. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by the service provider until remitted to the Town.

(3) *[Remittance.]* A service provider shall remit monthly to the Town the amount of tax billed during the preceding month to consumers with a service address in the Town.

(4) *Exemptions.* There is exempted from the operation hereof any public safety agency, as defined herein, and the United States, the State and the political subdivisions, boards, commissions and authorities thereof, as well as churches, are hereby exempt from the payment of the tax imposed and levied by this section with respect to the purchase of utility services used by such governmental agencies.

(Code 1972, § 11-12--11-13; Ord. of 4-18-95; Ord. 2000-6 of 9-19-00, § 11-51--11-53)

**Sec. 11-50. Electric Utility Consumer Tax.**

A. Levied; Rate. In accordance with Code of Virginia § 58.1-3814, effective January 1, 2001, 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 \$2.00 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 below:

(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 ordinance 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 agency as defined in Code of Virginia § 58.1-3813.

(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 (§ 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, paragraphs 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 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 ordinance if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows: (i) the kWh will be divided by 2; (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by 2; (iv) the tax in (iii) may not exceed twice the monthly "maximum tax."

(Ord. 2000-6 of 9-19-00, § 11-47, § 11-48, § 11-52)

### **Sec. 11-51. Local Natural Gas Utility Consumer Tax.**

A. 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 § 58.1-3814 J., 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 \$2.00 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 below:

(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.

The conversion of tax pursuant to this ordinance to monthly CCF 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 natural gas shall be exempt from the tax imposed by this section:

(1) Any public safety agency as defined in Code of Virginia § 58.1-3813.

(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 (§ 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, paragraphs H. and I., and Code of Virginia § 58.1-2901. If any 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 ordinance if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows: (i) the CCF will be divided by 2; (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by 2; (iv) the tax in (iii) may not exceed twice the monthly “maximum tax.”  
(Ord. 2000-6 of 9-19-00, § 11-47, § 11-48, § 11-52)

**Secs. 11-52--11-70. Reserved.**

#### **ARTICLE IV. SPECIAL ASSESSMENT FOR LAND PRESERVATION\***

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\*State law reference(s)--Special assessment for land preservation, Code of Virginia, § 58.1-3229 et seq.  
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#### **Sec. 11-71. 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, Title 58.1, Chapter 32, Article 4 (§ 58.1-3229 et seq.), and of this article.  
(Ord. of 5-15-79, § 1)

#### **Sec. 11-72. 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 State 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.  
(Ord. of 5-15-79, § 2)

**Sec. 11-73. 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 State Department of Conservation and Recreation, the State Forester or the State 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.

(Ord. of 5-15-79, § 3)

**Sec. 11-74. 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.

(Ord. of 5-15-79, § 4)

**Sec. 11-75. 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.

(Ord. of 5-15-79, § 5)

**Sec. 11-76. 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.  
(Ord. of 5-15-79, § 6)

**Sec. 11-77. 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.  
(Ord. of 5-15-79, § 7)

**Secs. 11-78--11-95. Reserved.**

**ARTICLE V. TRANSIENT LODGING TAX\***

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\*State law reference(s)--Excise tax on transient rooms, Code of Virginia, §§ 58.1-3819, 58.1-3840.  
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**Sec. 11-96. Definitions.**

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section unless 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 any transient.

*Transient* means any person who, for a period of not more than 90 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.  
(Ord. of 6-19-84, § 11-14)

**Cross reference(s)**--Definitions and rules of construction generally, § 1-2.

**Sec. 11-97. 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 seven 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.

(Ord. of 6-5-90, § 11-15; Ord. 2003-4 of 6-17-03; Ord. 2005-3 of 6-07-05)

**Sec. 11-98. 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.

(Ord. of 6-19-84, § 11-16)

**Sec. 11-99. 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.

(Ord. of 6-19-84, § 11-17)

**Sec. 11-100. 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.

(Ord. of 6-19-84, § 11-18)

**Sec. 11-101. 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.

(Ord. of 6-19-84, § 11-19)

**Sec. 11-102. 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.

(Ord. of 6-19-84, § 11-20)

**Sec. 11-103. 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.

(Ord. of 6-19-84, § 11-21)

**Sec. 11-104. 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.

(Ord. of 6-19-84, § 11-22)

**Sec. 11-105. 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.

(Ord. of 6-19-84, § 11-23)

**Sec. 11-106. Exceptions for transients at places of lodging at public institutions.**

With respect to those places of lodging at public institutions whose operating costs are financed by legislative appropriations, no tax shall be payable hereunder with respect to any payment for lodging or the use of space paid by or for:

- (1) Any person obtaining lodging at such places in connection with or as a part of any bona fide educational conference or program arranged by such public institution; or
- (2) Any person who is an invited guest of the public institution where such payment was made by the public institution.

(Ord. of 6-19-84, § 11-24)

**Sec. 11-107. 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 1-6 of this Code. 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.

(Ord. of 6-19-84, § 11-25)

**Secs. 11-108--11-125. Reserved.**

**ARTICLE VI. MEALS TAX\***

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\*State law reference(s)--Excise tax on meals, Code of Virginia, § 58.1-3840 et seq.  
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**Sec. 11-126. Definitions.**

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

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

*Collector.* The Treasurer or designee.

*Food.* 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.* 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.* 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.

*Treasurer.* The Treasurer of the Town and any of his duly authorized agents.

*Prepare.* The application of labor to food to make it ready or available for immediate consumption.

*Purchaser.* Any person who purchases a meal.

*Seller.* Any person or caterer who sells meals.  
(Ord. of 6-19-84, § 11-26; Ord. of 6-5-90, § 11-26; Ord. 2000-5 of 6-20-00)

**Cross reference(s)**--Definitions and rules of construction generally, § 1-2.

#### **Sec. 11-127. Levy.**

There is hereby levied and imposed by the Town on each person a tax at the rate of six 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.  
(Ord. of 6-5-90, § 11-27; Ord. 2000-5 of 6-20-00; Ord. 2003-5 of 6-17-03; Ord. 2005-3 of 6-07-05)

#### **Sec. 11-128. Collection of tax by seller.**

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.

All tax collections shall be deemed to be held in trust for the Town.  
(Ord. of 6-19-84, § 11-28, § 11-29; Ord. 2000-5 of 6-20-00, § 11-128, § 11-129)

**Sec. 11-129. 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.

(Ord. of 6-19-84, § 11-31; Ord. 2000-5 of 6-20-00, § 11-131)

**Sec. 11-130. Penalty and interest.**

If any person whose duty it is to do so shall fail or refuse to make the report or remit the tax required by this article within the time and in the amount required, there shall be added to the tax by the Treasurer a penalty in the amount of ten percent of the tax, and interest thereon at the rate of ten percent per annum, which shall be computed upon the tax and penalty from the date such were due and payable.

(Ord. of 6-19-84, § 11-32; Ord. 2000-5 of 6-20-00, § 11-132)

**Sec. 11-131. 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 Supplement Food 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 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 subparagraphs (C) (3), (4) and (5) hereinbelow.

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.
- (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 four (4) times per calendar year, by a non-profit 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 non-profit educational, charitable, benevolent or religious purposes.
- (7) Food and beverages sold through vending machines.  
(Ord. of 6-19-84, § 11-38; Ord. 2000-5 of 6-20-00, § 11-138)

**Sec. 11-132. 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.

(Ord. of 6-19-84, § 11-35; Ord. 2000-5 of 6-20-00, § 11-135)

**Sec. 11-133. 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.

(Ord. of 6-19-84, § 11-36; Ord. 2000-5 of 6-20-00, § 11-136)

**Sec. 11-134. Gratuities and service charges.**

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.

An amount or percent, 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.

(Ord. of 6-19-84, § 11-37; Ord. 2000-5 of 6-20-00, § 11-137)

**Sec. 11-135. 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 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.

(Ord. of 6-19-84, § 11-39; Ord. 2000-5 of 6-20-00, § 11-139)

**Sec. 11-136. 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 (5) 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.

(Ord. of 6-19-84, § 11-30, § 11-34; Ord. 2000-5 of 6-20-00, § 11-130, § 11-134)

**Sec. 11-137. 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.

(Ord. of 6-19-84, § 11-33; Ord. 2000-5 of 6-20-00, § 11-133)

**Sec. 11-138. 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) above, 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 or 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.

(Ord. of 6-19-84, § 11-40; Ord. 2000-5 of 6-20-00, § 11-141)

**Secs. 11-139--11-160. Reserved.**

**ARTICLE VII. E-911 EMERGENCY TELEPHONE SYSTEM TAX ON PURCHASES\***

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\*State law reference(s)--Local tax for enhanced emergency telephone service, Code of Virginia, § 58.1-3813.  
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**Sec. 11-161. Definitions.**

When used in this article, the following words shall have the following meanings, except where the context clearly indicates that a different meaning is intended:

*E-911 system* means a telephone service which utilizes a computerized system to automatically route emergency telephone calls placed by dialing the digits "911" to the proper public safety answering point serving the jurisdiction from which the emergency telephone call was placed. An E-911 system includes selective routing of telephone calls, automatic telephone number identification, and automatic location identification performed by computers and other auxiliary control center communications equipment.

*Local telephone service* shall mean switched local exchange access service.

*Public safety agency* means a functional division of a public agency which provides firefighting, police, medical or other emergency services or a private entity which provides such services on a voluntary basis.

*Public safety answering point* means a communications facility operated on a 24-hour basis which first receives E-911 calls from persons in an E-911 service area and which may, as appropriate, directly dispatch public safety services or extend, transfer, or relay E-911 calls to appropriate public safety agencies.

*Seller* means a seller of local telephone service.  
(Ord. of 3-17-87, §§ 11-42, 11-43)

**Cross reference(s)**--Definitions and rules of construction generally, § 1-2.

#### **Sec. 11-162. Levy of tax.**

There is hereby imposed and levied upon every purchaser of local telephone service in the Town a tax in the amount of \$2.00 per month. This tax shall be paid by the purchaser to the seller of local telephone service for the use of the Town to pay the initial capital, installation and maintenance costs of its E-911 system. The tax will be used exclusively to pay the recurring maintenance costs of the E-911 system.

(Ord. of 3-17-87, § 11-43; Ord. 2004-3 of 6-15-04; Ord. 2005-3 of 6-7-05)

#### **Sec. 11-163. Collection; duties of seller.**

It shall be the duty of every seller in acting as the tax collecting medium or agency for the Town to add the amount of the tax imposed under Section 11-162 to all periodic bills it renders to nonexempt purchasers of local telephone service. The seller shall accept remittances of tax from purchasers at the time it collects the charges for local telephone service and shall report and pay over all tax collected in any calendar month to the Town Treasurer on or before the last day of the first calendar month thereafter. At this time, the seller shall notify the Town Treasurer of the name and address of all purchasers who refuse to pay the tax imposed by this article.

(Ord. of 3-17-87, § 11-44)

#### **Sec. 11-164. Records.**

Each and every seller shall keep records showing all purchases of local telephone service in the Town. These records shall show the dates of bills for local telephone service and the amount of tax appearing on each bill. These records shall be kept at the seller's offices for a period of three years for examination by the duly authorized agents of the Town during normal business hours. The duly authorized agents of the Town shall have the right, power and authority to make copies thereof.  
(Ord. of 3-17-87, § 11-45)

**Sec. 11-165. Exemptions.**

(a) The United States of America, the State and the political subdivisions, agencies, boards, commissions and authorities of the United States and the State are hereby exempted from payment of the tax imposed and levied by this article.

(b) This tax shall not apply to any local telephone service where a periodic bill is not rendered.  
(Ord. of 3-17-87, § 11-46)

**Sec. 11-166. Discount.**

Whenever the tax levied by this article is collected by the seller acting as a tax collecting medium or agency of the Town in accordance with Section 11-163, such seller shall be allowed, as compensation for the collection and remittance of this tax, three percent of the amount of the tax so collected and accounted for. The seller shall deduct this compensation from the payments made to the Town in accordance with Section 11-163.  
(Ord. of 3-17-87, § 11-47)

**Sec. 11-167. Penalty.**

Any purchaser who willfully fails, refuses or neglects to pay the tax hereby imposed; and any seller, or any officer, agent or employee thereof, who with full knowledge, willfully refuses to perform the duties imposed on it by Sections 11-162 and 11-163 with the intent of preventing the collection of the tax imposed by this article shall upon conviction thereof be subject to the punishment as provided for a class 3 misdemeanor under the laws of the State. Each failure, refusal or neglect and each day's continuance thereof shall constitute a separate offense.  
(Ord. of 3-17-87, § 11-48)

**Secs. 11-168—11-185. Reserved.**

**ARTICLE VIII. TAX EXEMPTIONS AND DEFERRALS FOR THE ELDERLY AND TOTALLY DISABLED**

**Sec. 11-186. 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.  
(Ord. of 3-18-97)

**Sec. 11-187. Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*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.

*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.  
(Ord. of 3-18-97)

**Sec. 11-188. 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 11-189 of this article.

(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) 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.  
(Ord. of 3-18-97)

**Sec. 11-189. 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 \$35,000.00, 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 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 \$100,000.00.
- (3) That the person or persons claiming such exemption files annually after the first day of January, but no later than the first day of March 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 11-188(b); however, a certification pursuant to 42 U.S.C. 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 11-188(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 11-188(b). Such certification, written statement, or affidavit shall be filed after first day of January of each year, but before the first day of March 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 31st day of December 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 11-188(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.

(Ord. of 3-18-97; Ord. 2004-1 of 2-17-04; Ord. 2004-5 of 12-7-04; Ord. 2006-5 of 11-7-06; Ord. 2008-2 of 3-18-08; Ord. 2009-1 of 1-6-09)

**Sec. 11-190. 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.

(Ord. of 3-18-97)

**Sec. 11-191. 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:

<i>Annual Income Per Calendar Year</i>	<i>Percentage of Tax That May Be Exempted</i>
\$0 - 22,400	100
\$22,401 - 28,000	60
\$28,001 - 35,000	40

(b) The Town Council hereby deems those persons falling within limits and conditions provided in Section 11-188 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.

(Ord. of 3-18-97; Ord. 2004-1 of 2-17-04; Ord. 2004-5 of 12-7-04; Ord. 2006-5 of 11-7-06; Ord. 2008-2 of 3-18-08; Ord. 2009-1 of 1-6-09)

**Sec. 11-192. 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.

(Ord. of 3-18-97)

**Sec. 11-193. 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.

(Ord. of 3-18-97)

**Secs. 11-194--11-210. Reserved.**

**ARTICLE IX. CIGARETTE TAX\***

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\***State law reference(s)**—Authority, similar provisions, Code of Virginia, § 58.1-3830 et. seq.

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**Sec. 11-211. Definitions.**

The following words and phrases, when used in this ordinance, shall have the following respective meanings, except where the context clearly indicates a different meaning:

*Agent* shall mean and include 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 ordinance.

*Cigarette* shall mean a roll of finely cut tobacco enclosed in paper.

*Dealer* shall mean and include every manufacturer, jobber, wholesaler, or other person who supplies a seller with cigarettes.

*Package* shall mean and include every package, box, can or other container of any cigarettes, irrespective of the material from which such container is made, facilitating sale of

cigarettes to the ultimate consumer or utilized with the sale of cigarettes to the ultimate consumer.

*Person* shall mean and include any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

*Purchaser* shall mean and include every person to whom the title to any cigarette is transferred by a seller within the corporate limits of the city.

*Sale* shall mean and include 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* shall mean and include 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.

*Stamp* shall mean the small, gummed piece of paper or decal to be sold by the Treasurer and to be affixed by an agent to every package of cigarettes sold at retail in the Town. It shall also denote any insignia or symbol printed by a meter machine upon any such package under the authorization of the Town Treasurer.

*Treasurer* shall mean the Treasurer of the Town of Christiansburg.  
(Ord. 2003-2 of 6-17-03)

**Sec. 11-212. General powers of the Treasurer under the ordinance.**

In addition to the powers granted to him in other provisions of this ordinance, 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 ordinance to his representatives; and any other matter pertaining to the administration and enforcement of the provisions of this ordinance.

(Ord. 2003-2 of 6-17-03)

**Sec. 11-213. 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 ordinance.

(Ord. 2003-2 of 6-17-03; Ord. 2005-3 of 6-7-05; Ord. 2008-3 of 6-3-08)

**Sec. 11-214. Method of payment; appointment of agents to affix stamps.**

(a) The tax imposed by this ordinance shall be paid by a local 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 ordinance. Every 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 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 ordinance.  
(Ord. 2003-2 of 6-17-03)

**Sec. 11-215. Preparation and sale of stamps generally.**

For the purpose of making the stamps referred to in section 82-243 available for use by local dealers and other agents, the Treasurer shall prescribe, prepare and furnish to the treasurer stamps for sale of such denominations and quantities as may be necessary for the payment of the tax imposed by this ordinance. 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.  
(Ord. 2003-2 of 6-17-03)

**Sec. 11-216. General duties of dealers, agents and sellers with respect to stamps.**

(a) Every local dealer in cigarettes and every agent appointed under this ordinance 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 ordinance, and to affix a stamp or stamps of the monetary value prescribed by this ordinance, 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 ordinance. If, upon such examination, unstamped or improperly stamped packages of cigarettes are discovered, the seller, when such cigarettes were obtained from a local 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 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.

(Ord. 2003-2 of 6-17-03)

**Sec. 11-217. 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.

(Ord. 2003-2 of 6-17-03)

**Sec. 11-218. 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 ordinance.

(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.

(Ord. 2003-2 of 6-17-03)

**Sec. 11-219. 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 ordinance 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.

(Ord. 2003-2 of 6-17-03)

**Sec. 11-220. 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.

(Ord. 2003-2 of 6-17-03)

**Sec. 11-221. 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.

(Ord. 2003-2 of 6-17-03)

**Sec. 11-222. Seizure of unstamped cigarettes.**

In the event the Treasurer or the license inspector discovers any cigarettes which are subject to the tax imposed under the provisions of this ordinance, 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 ordinance, 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 ordinance.

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 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.

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.

(Ord. 2003-2 of 6-17-03)

**Sec. 11-223. Administration of oaths, examination of witnesses, etc., for enforcement of ordinance.**

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.

(Ord. 2003-2 of 6-17-03)

**Sec. 11-224. 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 ordinance within the time and in the amount as provided for in this ordinance, 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.

(Ord. 2003-2 of 6-17-03)

**Sec. 11-225. Criminal penalties.**

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

(Ord. 2003-2 of 6-17-03)