

Chapter 15

LICENSES GENERALLY*

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***Charter reference(s)**--Licenses generally, §§ 2.27, 3.07 et seq.

Cross reference(s)--Advertising, Ch. 3; sign permits, § 3-61 et seq.; alcoholic beverages, Ch. 4; animals, Ch. 5; antennas, Ch. 6; permit for outdoor receiving or transmitting antenna, § 6-46 et seq.; barbershops and cosmetology salons, Ch. 8; buildings, Ch. 9; finance and taxation, Ch. 11; flea markets and garage and/or yard sales, Ch. 13; health and sanitation, Ch. 14; precious metals dealers, Ch. 19; public utilities, Ch. 21; solid waste, weeds, tree trimmings, leaves, Ch. 24; subdivisions, Ch. 26; taxicabs, Ch. 27; traffic and motor vehicles, Ch. 28; zoning, Ch. 30.

State law reference(s)--Local license taxes, Code of Virginia, § 58.1-3700 et seq.

Sec. 15-1. 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 governing body, whether or not compiled in the Town Code, to the extent of any conflict, the following provisions 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.

(Ord. of 12-17-96)

Sec. 15-2. Definitions.

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

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.
- (3) 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.

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 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 preceeding 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 countinuous 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 rebuttle 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.

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.

Financial services means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities and other investments and shall include the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this chapter: Furthermore:

Broker shall mean an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.

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

Dealer, for purposes of this chapter, shall mean any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

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.

Those engaged in rendering financial services include, but without limitation, the following:

Buying installing receivables

Chattel mortgage financing

Consumer financing

Credit card services

Credit unions

Factors

Financing accounts receivable

Industrial loan companies

Installment financing

Inventory financing

Loan or mortgage brokers

Loan or mortgage companies

Safety deposit box companies

Security and commodity brokers and services

Stockbroker

Working capital financing

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, Tit. 58.1, Ch. 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 word "person" shall be construed to include governmental agencies.

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. Such term 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. Such term, 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, Tit. 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 State Department of Taxation may list in the 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 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 word "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 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 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 rendering a service for compensation as lessor, buyer, seller, agent, or broker and providing a real estate service, unless the service is otherwise specifically provided for in this chapter, and such services include, but are not limited to, the following:

Appraisers of real estate

Escrow agents, real estate

Fiduciaries, real estate

Lessors of real property

Real estate agents, brokers and managers

Real estate selling agents

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.

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.

(Ord. of 12-17-96)

Sec. 15-3. License required.

(a) [Conditions for application; separate licenses.]

(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 office anywhere but does maintain an abode in the Town, which abode, for the purposes of this chapter, shall be deemed a definite place of business; or
- c. There is no definite place of business but such person operates amusement machines; is engaged as a peddler or itinerant merchant, carnival or circus as specified in Code of Virginia, §§ 58.1-3717, 58.1-3718, or 58.1-3728, respectively; 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. A person engaged in two or more businesses of 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) 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 license 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.

(c) 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.

(d) 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.

(e) 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 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 governing body 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.

(1) "Acted responsibly" means that:

- a. 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
- b. 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) "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.

(f) 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.

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.

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.

(Ord. of 12-17-96; Ord. 2000-7 of 11-7-00)

Sec. 15-4. 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 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.
(Ord. of 12-17-96)

Sec. 15-5. 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 preceeding years for 1997 and future years. For years prior to 1977 [1997], the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year, plus three preceeding 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 15-6(b) or 15-6(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.
(Ord. of 12-17-96)

Sec. 15-6. Appeals and rulings.

(a) Any person assessed with a licensing tax under this chapter as the result of an audit may apply within 90 days from the date of the assessment to the assessing official for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, 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, further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed within the Town (e.g., the name and address to which an application should be directed).

(b) Provided an application is made within 90 days of an assessment, collection activity shall be suspended until a final determination is issued by the assessor, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subsection 15-3(f) of this chapter, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or 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.

(c) Any person assessed with a license tax under this chapter as a result of an audit may apply within 90 days of the determination by the assessing official on an application pursuant to subsection 15-6(a) above to the Tax Commissioner for a correction of such assessment. The Tax Commissioner 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 application shall be treated as an application pursuant to Code of Virginia, § 58.1-1822. Following such an order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to Code of Virginia, § 58.1-3984; however, the burden shall be on the party making the application to show that the ruling of the Tax Commissioner is erroneous. Neither the Tax Commissioner nor the Department of Taxation shall be made party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

(d) On receipt of a notice of intent to file an appeal to the Tax Commissioner under subsection 15-6(c) above, the assessing official shall further suspend collection activity until a final determination is issued by the Tax Commissioner, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subsection 15-3(f), but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in subsection 15-6(b) above.

(e) Any 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 [and/or] 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.

(Ord. of 12-17-96)

Sec. 15-7. 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.

(Ord. of 12-17-96)

Sec. 15-8. 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).
- (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.

(Ord. of 12-17-96)

Sec. 15-9. License fee and taxes.

(a) 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) above, 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, \$0.15 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 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:
 - 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 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, 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 either of 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 not known to the officers of the Town 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 1 through 5 above 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; 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.
 - (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, \$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 therefor 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.

(Ord. of 12-17-96; Ord. 2004-3 of 6-15-04; Ord. 2008-3 of 6-3-08)

Sec. 15-10. 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.

(Ord. of 12-17-96; Ord. 2005-4 of 9-20-05)

Sec. 15-11. 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.

(Ord. of 12-17-96)

Sec. 15-12. 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.

(Ord. of 12-17-96)

Sec. 15-13. 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 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.

(Ord. of 12-17-96)

Sec. 15-14. Compliance with zoning 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 regulations of the Town. All such licenses shall be subject to verification to ascertain compliance with the zoning regulations. Failure to comply shall be just cause for refusal to issue or immediate revocation by the Town Treasurer.

(Ord. of 12-17-96)

Sec. 15-15. Miscellaneous license tax rates.

(a) *Coin-operated machines.* The following license taxes shall be charged except as otherwise provided for within this chapter:

- (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) below. "Amusement machine" shall mean 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 or postage stamps 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)).

(b) *Local vehicle license tax.* The local vehicle license tax shall be applicable to any motor vehicle, commercial trailer 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, commercial trailer or semitrailer to

which the license tax applies shall pay a yearly tax of \$27.50 per vehicle for the calendar year. During the transition year of January 1, 2006 through December 31, 2006, the yearly tax per vehicle will be \$19.50 because of the new billing cycle. 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, commercial trailer, or semitrailer to be licensed have been paid and satisfactory evidence that any delinquent motor vehicle, commercial trailer, 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 state's 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 therefore who owes the town a vehicle license tax or is delinquent in paying tangible personal property tax. The Commissioner of the Department of Motor 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.
- (c) *Community antenna television systems.* Community antenna television systems (CATV systems) shall be licensed in accordance with Chapter 6, Article III of this Code.
 - (d) *Dealers in purchase of secondhand gold, silver, etc.* See Chapter 19 of this Code.
 - (e) *Electric power company.* Every firm or corporation doing the business of furnishing heat, light and power by means of electricity in the Town shall collect and remit a consumer utility tax as prescribed in Chapter 11 "Finance and Taxation."
 - (f) *Gas service.* Vendors of gas for heat or power shall collect and remit a consumer utility tax as prescribed in Chapter 11 "Finance and Taxation."
 - (g) *Telegraph and broadcast companies.* Every person engaged in the business of transmitting messages by telegraphy or radio between the Town and other points in the State and who maintains an office within the Town shall pay a license tax of \$30.00 per annum.

(h) *Telecommunication companies.* Telephone and other telecommunications companies shall pay a license fee for the use of the public rights-of-way in furnishing communications by telephone within the Town and for the privilege of doing business in the Town. Such fee shall be a license tax of one-half of one percent per annum of gross receipts of such flat service rates in the Town, accruing to such firm or corporation from sales to the ultimate consumer in the Town.

(i) *Wine, beer, mixed alcoholic beverage.*

(1) *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

(2) *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:

a. Persons operating restaurants, including restaurants located on premises of and operated by hotels or motels:

1. Two hundred dollars per annum for each restaurant with a seating capacity at tables for 50 to 100 persons.
2. Three hundred fifty dollars per annum for each restaurant with a seating capacity at tables for more than 100 but not more than 150 persons.
3. Five hundred dollars per annum for each restaurant with a seating capacity at tables for more than 150 persons.
4. Five hundred dollars per annum for each caterer.
5. Mixed beverage special events licenses, \$10.00 for each day of each event.

b. A private, nonprofit club operating a restaurant located on the premises of such club, \$350.00 per annum.

(j) *Advertising with loudspeaker.*

(1) Every person engaged in advertising and/or attracting attention by loudspeaker,

whether such device shall be mounted, stationery 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.

- (2) Nothing within this section shall be interpreted to prohibit the enforcement of other provisions of the Town Code.

(k) *Contractor bonding.* In addition to any license taxes required elsewhere, the following bond(s) shall be posted by contractors in accordance with the following:

- (1) Every electrical contractor, except class A contractors examined and currently licensed under the provisions of Code of Virginia, § 54.1-1106, shall give bond in the amount of \$5,000.00 with an approved security for the faithful performance of all electrical work in a manner conforming to the National Electrical Code.
- (2) Every plumbing, heating and steamfitting contractor, except class A contractors examined and currently licensed under the provisions of Code of Virginia, § 54.1-1106, shall give bond in the amount of \$5,000.00 with an approved security conditioned to save harmless the Town from any damages arising from any plumbing and making connections on the public sewer, drains or water pipes. Nothing within this section shall be interpreted to prohibit the enforcement of other provisions of the Town Code.

(Ord. of 12-17-96; Ord. of 6-15-99(2); Ord. 2000-7 of 11-7-00; Ord. 2002-6 of 7-2-02; Ord. 2005-3 of 6-7-05; Ord. 2005-4 of 9-20-05)

Editor's note--Ordinance 2000-7 became effective January 1, 2001, therefore the Town of Christiansburg effective rates of one half of one percent of gross receipts formally specified in Sec. 15-15 (e) and (f) were in effect on December 31, 2000 in accord with the maximum rates allowed under former Code of Virginia, § 58.1-3814. Sec. 15-15 (e) and (f) formally specified collection on an annual basis, however amended Code of Virginia, § 58.1-3814 provides for collection on a monthly basis.

Cross reference(s)--Alcoholic beverages, Ch. 4; traffic and motor vehicles, Ch. 28.

State law reference(s)--Local alcoholic beverage licenses and taxes, Code of Virginia, § 4-38.