

ROCKBRIDGE COUNTY CODE

Chapter 19

LICENSES AND BUSINESS REGULATIONS*

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ARTICLE I. IN GENERAL

Sec. 19-1. Overriding Conflicting Ordinances.

Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current ordinances or resolutions enacted by this Board, whether or not compiled in the Code of The County of Rockbridge, 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 locality.

Secs. 19-2--19-20. Reserved.

ARTICLE II. BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE TAX

DIVISION 1. GENERALLY

Sec. 19-21. Definitions.

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

Alcohol means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States. The

***Cross reference(s)**--Alcoholic beverage licenses, Ch. 3; amusements and entertainment, Ch. 4; permits for musical or entertainment festivals, §4-18; licensing of dogs, Ch. 5; building permits, Ch. 7; land-disturbing permit, Ch. 12; motor vehicle license tax, §25-96 et seq.; home occupations, App. A, §705.00; zoning and building permit procedures, App. A, §802.00.

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

word “alcohol” when used in the phrase “more than three and two-tenths (3.2) per centum of alcohol by weight” shall mean all alcohol whether obtained by distillation, fermentation or otherwise.

Alcoholic beverages means and includes the four (4) varieties of liquor defined herein as alcohol, spirits, wine and beer, and any one or more of such varieties, and every liquid or solid patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four (4) varieties above defined shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained.

Affiliated group means—

(a) One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if:

(i) Stock possession at least eight (80%) percent of the voting power of all classes of stock and at least eighty (80%) percent of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the includable corporations; and

(ii) The common parent corporation directly owns stock possessing at least eighty (80%) of the voting power of all classes of stock and at least eighty (80%) percent of each class of the nonvoting stock of at least one of the other includable corporations. As used in this article, 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.

(b) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

(i) At least eighty (80%) percent of the total combined voting power of all classes of stock entitled to vote at least eighty (80%) percent of the total value of shares of all classes of the stock of each corporation, and

(ii) More than fifty (50%) percent of the total combined voting power of all classes of stock entitled to vote or more than fifty (50%) percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

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

Assessment means a determination of 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 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 Commissioner of Revenue of the County.

Base year means the calendar year preceding the license year, except for contractors subject to the provisions of the Code of Virginia, §58.1-3715. Whenever any person begins a business, trade or occupation on or after January 1 of the license year, so much of the license tax imposed by this chapter as is based on gross receipts shall be measured by the applicant's estimate of gross receipts that will be made and received from the commencement of the business, trade or occupation to the end of the license year.

Beer means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water and containing, unless otherwise expressly provided, more than three and two-tenths (3.2) per centum of alcohol by weight. This definition shall include ale, porter and stout.

Carnival means an aggregation of shows, amusements, concessions and riding devices or any of the above operated together on one lot or street or on contiguous lots or streets, moving from place to place, whether or not the same are owned or actually operated by separate persons. The term includes, but is not limited to, sideshows, dog and pony shows, trained animal shows, circuses and menageries.

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

Business means a course of dealing that requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business; or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Carnival means an aggregation of shows, amusements, concessions and riding devices or any of them operated together on one lot or street or on contiguous lots or streets, moving from place to place, whether or not the same are owned are actually operated by separate persons.

The term includes, but is not limited to, sideshows, dog and pony shows, trained animal shows, circuses and menageries.

Coin-machine amusement operators means any person or persons selling, leasing, renting or otherwise furnishing or providing a coin-operated machine or device operated on the coin-in-the-slot principle; provided, however, the term "operator" shall not include a person, firm or corporation owning less than three (3) coin-operated machines and operating such machines on property owned or leased by such person, firm or corporation. An *amusement machine* is any coin-operated machine other than weighing machines, automatic baggage or parcel checking machines or receptacles, machines vending goods, wares, merchandise or stamps or that provide service only, viewing or photomat machines, devices affording rides to children or for the delivery of newspapers.

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

Contractor shall have the meaning prescribed in §58.1-3714(D) of the Code of Virginia, as amended, whether the work is done or offered to be done by day labor, general contract or subcontract.

Dealer, for purposes of this article, means any person engaged in the business of buying and selling securities, 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 basis.

Definite place of business means an office or a location at which occurs a regular and continuous course of dealing for thirty 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 article. Those engaged in rendering financial services, include, without limitation, the following:

- Buying installment 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
Stockbrokers
Working capital financing

Fortune-teller means a clairvoyant, a practitioner of palmistry, a phrenologist, a faith healer, a star analyst, a handwriting analyst who attempts to predict the future, or any other person who attempts to predict the future.

Gross receipts means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Chapter 37 of Title 58.1 of the Code of Virginia.

Itinerant vender; itinerant auctioneer means a person who shall engage in, do or transact any temporary or transient business in this county either in one locality or in traveling from place to place in the sale of goods, wares and merchandise, and who for the purpose of carrying on such business shall hire, lease, use or occupy any building or structure, motor vehicle, tent, car, boat or public room or any part thereof, including rooms in hotels, lodging houses, or houses of private entertainment, or in any road, street, alley or other public place in the county, for a period of less than one year, for the exhibition of or sale of such goods, wares, or merchandise.

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

Peddler means any person 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. All persons who do not keep a regular place of business, whether it be a house or a vacant lot or elsewhere, open at all times in regular business hours and at the same place, who shall offer for sale foods, wares and merchandise, shall be deemed peddlers. All persons who keep a regular place of business, open at all times in regular business hours and at the same place, who shall, elsewhere than at such regular place of business, personally or through their agents, offer for sale or sell and, at the time of such offering for sale, deliver goods, ware and merchandise also shall be deemed peddlers as above, but shall not apply to those who sell or offer for sale in person or by their employees or agents ice, wood, charcoal, meats, milk, butter, eggs, poultry, fish, oysters, game vegetables, fruits or other family supplies of a perishable nature or farm products grow or produced by them and not purchased by them for sale. But a dairyman who uses upon the street of the county one or more wagons may sell and deliver from his wagons, milk, butter, cream and eggs in such county without procuring a peddler's license.

Peddlers at to licensed dealers and retailers or at wholesale means any person, who, at

other than a definite place of business operated by the seller, shall sell or offer to sell goods, wares or merchandise to licensed dealers or retailers, and at the time of such sale or exposure for sale shall deliver, or offer to deliver, the goods, wares or merchandise to the buyer. Any delivery made on the day of sale shall be construed as equivalent to delivery at the time of sale.

State law reference(s)--Counties, cities and towns authorized to levy a license tax on peddlers at wholesale, Code of Virginia, §58.1-3718(A).

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 a court of justice. Such terms 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 shall mean rendering for compensation any repair, personal, business or other services not specifically classified as “financial, real estate or professional services” under this article, or rendered in any other business or occupation not specifically classified in this article unless exempted from local license tax by Title 58.1 of the Code of Virginia.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the BPOL Guidelines promulgated pursuant to §58.1-3701 of the Code of Virginia. 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 shall mean 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, ware and merchandise if it cannot determine or chooses not to disclose the cost of manufacture.

Real estate services shall mean 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 article, and such services include, but are not limited to, the following:

- Appraisers of real estate
- Escrow agents for real estate
- Fiduciaries for real estate
- Lessors of real property
- Real estate agents, brokers and managers
- Real estate selling agents
- Rental agents for real estate

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

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

Spirits shall mean any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey and gin, or any one or more of the last four (4) named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the government of the United States.

Wholesaler or Wholesale Merchant shall mean any person 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 too institutional, commercial and industrial users which, because of the quantity, price, or other terms, indicate that they are consistent with sales at wholesale.

Wine shall mean any beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar, including honey and milk, either with or without additional sugar, and containing more than three and two-tenths (3.2) per centum of alcohol by weight.

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

Sec. 19-22. License Requirement.

(a) Unless otherwise exempted by law, every person engaging in any business, trade, profession, occupation or calling as defined in this article (collectively hereinafter *a business*) in this jurisdiction shall apply for a license for each such business if (1) such person maintains a definite place of business in this jurisdiction, (2) such person does not maintain a definite office anywhere but does maintain an abode in this jurisdiction, which abode for the purposes of this article shall be deemed a definite place of business, or (3) 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 §§58.1-3717, 3718, or 3728, respectively, of the Code of Virginia, or is a contractor subject to §58.1-3715 of the Code of Virginia, or is a public service corporation subject to §58.1-3731 of the Code of Virginia. A separate license shall be required for each definite place of business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (1) 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 this jurisdiction; (2) 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 (3) 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 before beginning business if he or she was not subject to licensing in this county on or before January 1 of the license year, or no later than January 31st of the current license year if he or she had been issued a license for the preceding year. Beginning January 1, 1998, any person having been issued a license for the preceding year, or subject to licensing on or before January 1 shall apply for a license no later than March 1 of the current 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 January 31st for 1997, and beginning with the calendar year 1998, on or before March 1st.

(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 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 (10%) percent of the portion paid after the due date.

(e) At the time of any application for issuance or reissuance of a business license, every contractor will be required to provide written certification that such contractor is in compliance with the provisions of Chapter 8 of Title 65.2 of the Code of Virginia requiring maintenance of workers' compensation coverage for his employees, and that he will remain in compliance with such provisions at all times during the effective period of any such business license, if at the time of application, such contractor is required to obtain or maintain such coverage under Chapter 8 of Title 65.2. The County will not issue or reissue a business license under this article to any contractor who is not in compliance with the coverage provisions of Chapter 8 of Title 65.2 of the Code of Virginia. Any person who knowingly presents or causes to be presented to the County a false certificate shall be guilty of a Class 3 misdemeanor.

State law reference(s)--State law provisions requiring workers' compensation coverage for business license, Code of Virginia, §58.1-3714(B).

(f) A penalty of ten (10%) percent of the tax may be imposed upon the 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 determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within thirty days the treasurer may impose a ten (10%) 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.

Acted responsibly means that: (1) 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 (2) 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.

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.

(g) Interest 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. Whenever an assessment of additional or 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 ordinance 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 § 58.1-3916 of the Code of Virginia.

No interest shall accrue on an adjustment of estimated tax liability to actual 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 thirty days from (1) the date of the payment that created the refund, or (2) the due date of the tax, whichever is later.
(Ord. of 1-1-97)

State law reference(s)--Uniform ordinance provisions, Code of Virginia, §58.1-3703.1(A)(1), (2).

Sec. 19-23. Situs of Gross Receipts.

(a) General Rule. Whenever the tax imposed by this article 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 this jurisdiction. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which 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 § 58.1-3715 of the Code of Virginia.

(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 a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to 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, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then the definite place of business from which the services are directed or controlled.

(b) Apportionment. If the licensee has more than one definite place of business and it is impractical 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 § 58.1-3709 of the Code of

Virginia, the gross receipts of the business shall be apportioned between the definite places of businesses on the 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 this jurisdiction 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 Virginia 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% 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 1-1-97)

State law reference(s)--Uniform ordinance provisions, §58.1-3703.1(A)(3), and 58.1-3708.

Sec. 19-24. 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 a 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 Virginia retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, or for 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 allowances granted by the business to its customers.
- (4) Receipts that 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.

(b) 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 said 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 that 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.

(Ord. of 1-1-97)

State law reference—Similar state law provisions, Code of Virginia, §58.1-3732.

Sec. 19-25. Limitations and Extensions.

(a) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this article, 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 before 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 §58.1-3903 of the Code of Virginia, 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 and the six preceding years.

(c) The period for collecting any local license tax shall not expire before the period specified in §58.1-3940 of the Code of Virginia, or two years after the date of assessment if the period for assessment has been extended pursuant to this section, or two years after the final determination of an appeal for which collection has been stayed pursuant to subsection 19-26(b) or (d) of this article, or two years after the final decision in a court application pursuant to §58.1-3984 of the Code of Virginia or similar law for which collection has been stayed, whichever is later.

(Ord. of 1-1-97)

State law reference(s)--Uniform ordinance provisions, Code of Virginia, §58.1-3703.1(A)(4).

Sec. 19-26. Appeals and Rulings.

(a) Any person assessed with a licensing tax under this article as a 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 in the County (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 19-22(g) of this article, 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 (1) to depart quickly from the locality, (2) to remove his property therefrom, (3) to conceal himself or his property therein, or (4) to 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 article as a result of an audit may apply within 90 days of the determination by the assessing official on an application pursuant to subsection 19-26(a) and (b) 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 §58.1-1821 of the Code of Virginia, and the Tax Commissioner may issue an order correcting such assessment pursuant to §58.1-1822 of the Code of Virginia. Following such an order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to §58.1-3984 of the Code of Virginia. 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 a 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 19-26(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 19-22(g), 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 19-26(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 (1) there is a change in the law, a court decision, or (2) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any persons who acts on a written ruling that later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

(Ord. Of 1-1-97)

State law reference(s)--Uniform ordinance provisions, Code of Virginia, §58.1-3703.1(A)(5).

19-27. Recordkeeping and audits.

Every person who is eligible for assessment 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 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 to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the County. 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 the county, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

(Ord. of 1-1-97)

State law reference(s)--Uniform ordinance provisions, Code of Virginia, §58.1-3703.1(A)(6).

Sec. 19-28. License Fee and Tax.

Every person or business subject to licensure under this article shall be assess and required to pay annually a license fee of thirty dollars (\$30.00) or the applicable rate per one hundred dollars of gross receipts, as defined and specified herein, whichever is greater.

(Ord. of 1-1-97)

Sec. 19-29. Proration of license taxes.

Notwithstanding any other provision of law, general or special, and regardless of the basis or method of measurement or computation, the county shall not impose a license tax based on gross receipts on a business, trade, profession, occupation or calling, or upon a person, firm or corporation for any fraction of a year during which such person, firm or corporation has permanently ceased to engage in such business, trade, profession, occupation or calling within the county. In the event a person, firm or corporation ceases to engage in a business, trade, profession or calling within the county during a year for which license tax based on gross receipts has already been paid, the taxpayer shall be entitled, upon application, to a refund for that portion of the license tax already paid, prorated on a monthly basis so as to ensure that the licensed privilege is taxed only for that fraction of the year during which it is exercised within the county. The county may elect to remit any refunds in the ensuing fiscal year, and may offset against any amount of past-due taxes owed by the same taxpayer. In no event shall the county be required to refund any part of a flat fee [**existing code says "flat feet"—surely that's a typo**] or minimum flat tax.

State law reference – Proration of license taxes, Code of Virginia, §58.1-3710.

Secs. 19-30--19-50. Reserved.

DIVISION 2. SCHEDULE OF LICENSE TAXES*

Sec. 19-51. Contractors.

Every person conducting or engaging in the business of contracting and persons

***State law reference(s)**--General authority of county to levy license taxes and limitation on amount thereof, Code of Virginia, §§58.1-3703, 58.1-3706.

constructing on their own account for sale shall pay an annual license fee of thirty dollars (\$30.00) or ten cents (\$0.10) per one hundred dollars (\$100.00) of gross receipts, whichever is greater.

- (1) A contractor, for purposes of this classification, shall be any person who accepts or offers to accept:
 - a. Orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, or other metal or any other building material;
 - b. Contracts to do any paving, curbing or other work on sidewalks, streets, alleys or highways, on public or private property, using asphalt, brick, stone, cement, concrete, wood or any composition;
 - c. An order or contract to excavate earth, rock or other material for foundation or any other purpose, or for cutting, trimming or maintaining rights-of-way;
 - d. An order or contract to construct any sewer of stone, brick, terra-cotta or other material;
 - e. Orders or contracts for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing or maintaining of electric wiring; or the erecting, installing, repairing or maintaining of lines for the transmission or distribution of electric light and power or other utility services;
 - f. An order or contract to remodel, repair, wreck or demolish a building;
 - g. An order or contract to bore or dig a well;
 - h. An order or contract to install, maintain or repair air-conditioning apparatus or equipment.

- (2) Contracting generally includes, but is not limited to, persons engaged in the following occupations, businesses or trades:

Air-conditioning;
Brick contracting and other masonry;
Building;
Cementing;
Dredging;
Electrical contracting;
Elevator installation;

Erecting signs that are assessed as realty;
Floor scraping or finishing;
Foundations;
House moving;
Paint and paper decorating;
Plastering;
Plumbing, heating, steamfitting;
Refrigeration;
Road, street bridge, sidewalk or curb and gutter construction;
Roofing and tinning;
Sewer drilling and well digging;
Sign painting;
Structural metal work;
Tile, glass, flooring and floor covering installation;
Wrecking, moving or excavating.

- (3) A person is not a contractor if he is engaged in the business of selling and installing air conditioning units that are placed in windows or other openings with frames and require no ducts. The permanent installation of a unit in the wall of the building is contracting.
- (4) Any person engaged in the business of selling and erecting or erecting tombstones is not a contractor, but is engaged in either retail or wholesale sales.
- (5) Any person engaged in the business of wrecking or demolishing a building and who then sells the materials obtained is engaged in retail or wholesale sales as to the sale of the materials.
- (6) Soliciting business for a contractor is not contracting but is a business service.
- (7) Every contractor, whether a general contractor or a subcontractor, is a contractor for purposes of local license taxation. The imposition of a license tax on the gross receipts of a general contractor and also a subcontractor is not double taxation. Each is engaged in business in his own right and licensable accordingly.
- (8) A person who merely sells a prefabricated building or structure is not a contractor, but if the person or a subcontractor for that person erects the building or structure, then the seller is a contractor.
- (9) Any person who sells floor coverings and furnishes and installs the floor covering under a contract with a general contractor (whether the covering be carpet, linoleum, tile or other covering) is a contractor. If floor coverings are sold at retail and installed as part of or incidental to the sale, then the transaction is not contracting but a retail sale.
- (10) If the installation of an appliance requires the running of electrical, water or gas

lines or service outlets, or the performance of any other function previously defined as contracting, then the installation is contracting.

- (11) The mere hauling of sand, gravel and dirt is not contracting but is a business service.
- (12) Whether a person is a contractor or employed as a laborer depends on the facts in each case. The elements to be considered in making the distinction include, but are not limited to, the method of compensation, who supplies the materials and primarily who has the right of control.
- (13) Persons constructing for their own account for sale shall be included in the contracting category for the purpose of calculating the business license tax and this category shall include speculative builders.

Cross reference(s)--Buildings and building regulations, Ch. 7.

State law reference(s)--Similar provisions, Code of Virginia, §§58.1-3714, 58.1-3715.

Sec. 19-52. Retail sales.

Every person conducting or engaging in the business of retail sales shall pay an annual license fee of thirty dollars (\$30.00) or thirteen cents (\$0.13) per one hundred dollars (\$100.00) of gross receipts, whichever is greater.

- (1) Definitions:
 - a. *Retail sale* means the sale of goods, wares and merchandise for any purpose other than resale, but not including sales at wholesale to institutional, commercial and industrial users.
 - b. *Retail merchant* means any person who makes retail sales.
- (2) Any peddler or itinerant merchant who sells goods, wares or merchandise at retail is engaged in retail sales and shall be subject to local license taxation as such.
- (3) Every person who is both retail merchant and wholesale merchant is required to obtain both classes of license; provided, however, that any retail merchant who desires to do a wholesale business also may elect to do such wholesale business under his retailer's license by paying license taxes as a retailer on both his retail and wholesale business.
- (4) Any person engaged in repair service who sells parts in addition to or as part of the repair service, is engaged in retail or wholesale sales as to the sales of the repair parts.
- (5) Banks and savings and loan associations that sell promotional items are engaged in retail sales as to the sales of the promotional items and are not exempt from

local license taxation as to those sales.

- (6) In the sale of blank checks, a bank is not engaged in retail sales as to the sale of blank checks if the customer places an order for the checks directly with the printer and authorizes the bank to collect for the printer by charging his account, and the bank is not obligated to pay for the checks except insofar as it honors the customer's authorization. If, however, the customer places his order with the bank, and the bank contracts with the printer and is liable to the printer, whether or not the bank actually collects from the customer, then the bank is engaged in retail sales.
- (7) A charitable institution or other not-for-profit organization that engages in the business of buying and selling merchandise may be subject to a local license tax as a retail or wholesale merchant, even though the proceeds are subsequently used for charitable purposes.
- (8) A lunch counter operated by an organization open to members only, the proceeds from which are used to maintain the organization, may be subject to a local license tax.
- (9) Any hotel, motel, boardinghouse or lodginghouse that also furnishes or sells food or merchandise for compensation is engaged in retail sales as to the sales of the food or merchandise.
- (10) A person is not subject to a local license tax if his business in this state is limited solely to the solicitation of orders by catalogs mailed from outside this state to mail order buyers in this state and who fills orders from outside this state. However, if the catalogs are distributed by a Virginia resident by mail or in person or if the person engaged in the mail order business has a definite place of business in this state at which mail orders are received or filled, the mail order business may be treated the same as any other retail or wholesale business for purposes of local license taxes.
- (11) Any person who merely fills prescriptions for or fits corrective lenses and eyeglass frames is a retail merchant. However, any practitioner who examines eyes is engaged in rendering a professional service.
- (12) Any practitioner of a profession who sells goods, wares or merchandise in connection with the practice of the profession may be engaged in making retail sales depending on the nature of the products sold and the service performed.

Examples in this area are as follows:

- a. A medical doctor who engages in the sale of drugs or other goods, wares or merchandise as well as to those sales. However, a medical doctor is not a merchant as to the drugs used in giving an immunization to a patient.

- b. A chiropodist who sells shoes in connection with his practice is a retail merchant as to such sales.
- (13) A job printer is a manufacturer and is engaged in either retail or wholesale sales as to the sales of the items printed.
- (14) The sales price alone is not determinative of whether the sale is at retail or wholesale. The fact that a person sells goods, wares or merchandise at wholesale prices, at cost or at less than cost does not prevent the person from being classified as a retail merchant if the sales fall within the definition of a retail sale.
- (15) Any person who purchases rough stone already cut and who then polishes, glazes and cuts lettering in the stone is not a manufacturer and is engaged in either retail or wholesale sales.
- (16) Any person who sells goods at retail through a commission merchant may be held liable for a local license tax as to such sales.

Sec. 19-53. Financial, real estate and professional services.

Every person conducting or engaging in the business of financial, real estate and/or professional services shall pay an annual license fee of thirty dollars (\$30.00) or thirty-eight cents (\$0.38) per one hundred dollars (\$100.00) of gross receipts, whichever is greater.

- (1) *Financial service.* Any person rendering a service for compensation in the form of a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange is providing a financial service, unless such service is specifically provided for under another section.
- (2) Those engaged in rendering financial services include, but are not limited to, the following:

- Buying installment 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.

(3) Any person other than a national bank or bank or trust company organized under the laws of this state, or duly licensed and practicing attorney at law, that engages in the business of buying or selling for others on commission or for other compensation, shares in any corporation, bonds, notes or other evidences of debt is a stockbroker. The fact that orders are taken subject to approval by a main office does not relieve the broker from local license taxation. Also, an insurance company engaged in selling mutual funds is a broker as to that portion of its business.

(4) *Real estate service.* Any person rendering a service for compensation as lessor, buyer, seller, developer, agent or broker is providing a real estate service, unless the service is specifically provided for under another section.

(5) Those rendering real estate 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.

(6) *Professional service.* A person is engaged in providing a professional service if engaged in rendering any service specifically enumerated below or engaged in any 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 as a vocation.

(7) Those engaged in rendering a professional service include, but are not limited to, the following:

Architects;
Attorneys-at-law;
Certified public accountants;
Dentists;
Engineers;
Land surveyors;
Pharmacists;

Practitioners of the healing arts (as defined in Va. Code §54-273(2));
Surgeons;
Veterinarians.

Sec. 19-54. Repair, personal, business and other services.

Every person conducting or engaging in the business of repair, personal or business service or any other business or occupation not specifically listed or excepted herein shall pay an annual license fee of thirty dollars (\$30.00) or twenty-three cents (\$0.23) per one hundred dollars (\$100.00) of gross receipts, whichever is greater.

(1) Definitions:

- a. *Repair service.* The repairing, renovating, cleaning or servicing of some article or item of personal property for compensation is a repair service, unless the service is specifically provided for under another section of these guidelines.
- b. *Personal service.* Any service rendered for compensation either upon or for persons, animals or personal effects is a personal service, unless the service is specifically provided for under another section.
- c. *Business service.* Any service rendered for compensation to any business, trade, occupation or governmental agency is a business service, unless the service is specifically provided for under another section of these guidelines.

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

- (2) Those rendering a repair, personal or business service or other service as provided in this section include, but are not limited to, the following:

Advertising agencies;
Airports;
Ambulance services;
Amusements and recreation services (all types);
Animal hospitals, grooming services, kennels or stables;
Auctioneers and common criers;
Automobile driving schools;
Barber shops, beauty parlors, and hairdressing establishments, schools and services;
Bid or building reporting service;
Billiard or pool establishments or parlors;
Blacksmith or wheelwright;
Bondsman;
Booking agents or concert managers;
Bottle exchanges;
Bowling alleys;

Brokers and commission merchants other than real estate or financial brokers;
Business research and consulting services;
Chartered clubs;
Child care attendants or schools;
Collection agents or agencies;
Commercial photography, art and graphics;
Commercial sports;
Dance halls, studios and schools;
Data processing, computer and systems development services;
Developing or enlarging photographs;
Detective agency and protective services;
Drafting services;
Engraving;
Erecting, installing, removing or storing awnings;
Extermination services;
Freight traffic bureaus;
Fumigating or disinfecting;
Funeral services and crematories;
Golf courses, driving ranges and miniature golf courses;
Hauling of sand, gravel or dirt, coal or firewood;
Hotels, motels, tourist courts, boarding and roominghouses and trailer parks and campsites;
House cleaning services;
Impounding lots;
Information bureaus;
Instructors, tutors, schools and studios of music, ceramics, art, sewing, sports and the like;
Interior decorating;
Janitorial services;
Laundry cleaning and garment services including laundries, dry cleaners, linen supply, diaper service, coin operated laundries and carpet and upholstery cleaning;
Mailing, messenger and correspondent services;
Marinas and boat landings;
Movie theaters and drive-in theaters;
Nickel plating, chromizing and electroplating;
Nurses and physician registries;
Nursing and personal care facilities including nursing homes, convalescent homes, homes for the retarded, old age homes and rest homes;
Packing, crating, shipping, hauling or moving goods or chattels for others;
Parcel delivery service;
Parking lots, public garages and valet parking;
Pawnbrokers;
Personnel services, labor agents and employment bureaus;
Piano tuning;
Picture framing and gilding;

Porter services;
Press clipping services;
Private hospitals;
Promotional agents or agencies;
Public relations services;
Realty multiple listing services;
Renting or leasing any items of tangible personal property;
Reproduction services;
Secretarial services;
Septic tank cleaning;
Shoe repair, shoe shine and hat repair shops;
Sign painting;
Storage, all types;
Swimming pool maintenance and management;
Tabulation services;
Taxidermist;
Telephone answering services;
Theaters;
Theatrical performers, bands and orchestras;
Towing services;
Transportation services including buses and taxis;
Travel bureaus;
Tree surgeons, trimmers and removal services;
Turkish, Roman or other like baths or parlors;
Wake-up services;
Washing, cleaning or polishing automobiles.

- (3) Any person buying or selling any kind of goods, wares or merchandise for another on commission is a commission merchant and is engaged in a business service.
- (4) Sign painting is a service unless the sign is painted on the side of a building or any other structure assessed as realty in which case the sign painting is contracting.
- (5) An amusement is a type of entertainment or show for which compensation is received and that is not specifically provided for under another section.

Sec. 19-55. Wholesale sales.

Every person conducting or engaging in the business of wholesale sales, as defined in section 19-21, shall pay an annual license fee of five cents (\$0.05) per one hundred dollars (\$100.00) of purchases of the preceding year.

Sec. 19-56. Telephone and telegraph companies.

Every person engaged in the business of providing telephone and telegraph communications in the county shall pay for the privilege an annual license tax equal to one-half of one (0.5) percent of the gross receipts during the next preceding year, as hereinbefore defined, from business accruing to such person from such business in the county; provided, however, charges for long distance telephone calls shall not be considered receipts of business in the county.

Cross reference(s)--Utility tax, §25-141 et seq.; additional tax on telephone services, §25-161 et seq.

Sec. 19-57. Water or sewer, heat, light, and power companies.

Every person furnishing water or sewer, heat, light, and power for domestic commercial and industrial consumption in the county shall pay for the privilege and annual license tax equal to one-half of one (0.5) percent of the gross receipts, as hereinabove defined, of such business derived from within the county during the next preceding year, calendar or fiscal year, excluding such service furnished to federal, state and local public authorities and offices and agencies thereof and excluding such service furnished to other electric utilities for resale.

Sec. 19-58. Carnivals.

Every person, firm, company or corporation which exhibits in the county an aggregation of shows, amusements, concessions and riding devices or any of them operated together on one lot or street or on contiguous lots or streets shall pay for the privilege a license tax of one hundred dollars (\$100.00) for each engagement.

Cross reference(s)--Amusements and entertainment, Ch. 4.

Sec. 19-59. Coin-operated machine operators.

The operator, in the county, shall pay for the privilege of selling, leasing, renting, or otherwise furnishing or providing a coin-operated machine or device operated on the coin-in-the-slot principle, a license tax of one hundred thirty dollars (\$130.00) for ten (10) or more machines and/or devices or sixty-five dollars (\$65.00) for less than ten (10) machines and/or devices.

Cross reference(s)--Amusements and entertainment, Ch. 4.

Sec. 19-60. Fortunetellers.

Every person who, for compensation shall pretend to tell fortunes, assume to act as a clairvoyant; a practitioner of palmistry, a phrenologist, a faith healer, a star analyst, a handwriting analyst who attempts to predict the future, or any other person who attempts to predict the future shall pay for the privilege in the county a license tax of two hundred fifty dollars (\$250.00).

Sec. 19-61. Peddlers; itinerant merchants.

Any person who carries from place to place any goods, wares or merchandise and offers to sell or barter the same, or actually sells or barter the same or any person who engages in,

does or transacts any temporary or transient business in Rockbridge County shall pay for the privilege in the county a license tax of three hundred dollars (\$300.00) per calendar year.

State law reference(s)--Peddlers, itinerant merchants, Code of Virginia, §58.1-3717.

Sec. 19-62. Reserved.

Sec. 19-63. Peddlers at wholesale (licensed dealers/retailers).

Any person, firm or corporation, who or which sells or offers to sell goods, wares or merchandise to licensed dealers or retailers, other than at a definite place of business operated by the seller, and at the time of such sale or exposure for sale delivers, or offers to deliver the goods, wares or merchandise, shall pay for the privilege in the county a license tax at a rate of five cents (\$0.05) per calendar year.

State law reference(s)--Peddlers at wholesale, Code of Virginia, §58.1-3718(A), (B).

Sec. 19-64--19-70. Reserved.

ARTICLE III. DEALERS IN PRECIOUS METALS AND JEWELS*

Sec. 19-71. Purpose and policy.

(a) This article is enacted to secure and promote the health, safety and general welfare of the inhabitants of the county.

(b) It hereby is declared that the business of purchasing or otherwise dealing in antique, used or scrap jewelry and precious metals, where the said purchase is for resale in its original form or is changed by remounting, melting, reforming, remodeling or recasting or for resale as scrap or in bulk are businesses affecting the public health, safety and general welfare.

Sec. 19-72. Definitions.

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

Dealer means any person, firm, partnership, corporation or association engaged at any location in the county in the business of purchasing precious metals or gems or making loans for which precious metals or gems are received and held as security and shall include merchants whose business is itinerant in the county. A dealer includes employers and principals on whose behalf the purchase or loan was made and all employees and agents who personally make such purchases and loans. The term dealer shall not include any retail or wholesale jewelry establishment duly licensed at a permanent location for the conduct of business within the county insofar as such businesses make purchases directly from manufacturers or wholesalers of

***State law reference(s)**--Precious metals dealers, Code of Virginia, §54.1-4100 et seq.

precious metals or gems for inventory purposes.

Gems or jewels shall mean any item containing or having any precious or semiprecious stones customarily used in jewelry or ornamentation.

Precious metals shall include, but not be limited to, any item containing as part of its composition in any degree gold, silver, platinum and shall include all other metals customarily denoted as precious metals by the jewelry trade.

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

Sec. 19-73. License requirements.

It shall be unlawful for any dealer to purchase precious metals or gems or make loans for which precious metals or gems are received and held as security without first obtaining a license from the commissioner of revenue of the county (who has been designated by the sheriff to handle said licenses) as provided herein and without complying with all other provisions of this article. Possession of a license issued in another jurisdiction shall not relieve a dealer of the obligation to obtain the license required herein. However, any dealer in the county that, on and after January 1, 1981, will be subject to the county BPOL tax, is not required to pay the license fee as set forth hereinafter, but shall be subject to all other sections of this article.

Sec. 19-74. Application for license; fee; bond.

Application for the license required under this article shall be submitted on a form prescribed by the commissioner of revenue, which application shall contain the applicant's full name, address, age, date of birth, sex and aliases, if any, fingerprints, the name, address and telephone number of the applicant's employer, if different from the applicant, and the precise location of the place of business of the dealer and the date or dates of operation for which the license is requested. The application further shall require that the applicant list convictions during the past seven (7) years, if any, of felonies or crimes of moral turpitude of the applicant or the applicant's employer or officers, if different from the applicant. Attached to such application shall be a certified check or money order in an amount sufficient to cover the cost of the license at the rate of two hundred fifty dollars (\$250.00) per year for the requested dates of operation plus a processing fee of seventy-five cents (\$.75). Before any license is issued, the applicant shall enter with either one corporate or two (2) personal sufficient sureties into a joint and several recognizance to the county in the penal sum of ten thousand (\$10,000.00) five thousand (\$5,000) conditioned upon due observance of the terms of this article. Before action will be taken upon such an application, the dealer applicant must have all weighing devices used in the business inspected and approved by local or state weights and measures officials and present written evidence of such approval to the commissioner of revenue.

The commissioner of revenue shall act upon such application within a period of twenty-four (24) hours after its receipt unless such twenty-four-hour period terminates on a nonbusiness day in which case, action will be taken prior to 11:00 a.m. of the next full business day. The application may be denied for failure to comply with any of the requirements in submitting the application and/or because the applicant and/or the applicant's employer is unable to produce

satisfactory evidence of good character. A license shall be valid for one year from the date issued and may be renewed annually in the same manner as outlined above with an annual fee to be the same as the application fee.

State law reference(s)--Code of Virginia, §54.1-4108.

Sec. 19-75. Display of license; nonassignability.

The license issued under this article shall be publicly displayed by the dealer. The license is personal to the dealer to whom it was issued and is not assignable.

Sec. 19-76. Retention of purchases for a minimum period.

It shall be unlawful for any dealer to sell, exchange, barter or remove from the place from which said business is conducted or to change the form of any said items by remounting, melting, cutting, smashing or otherwise changing the form of any items purchased that fall within the definition of precious metals, gems and jewels for a period of ten calendar days from the date and time of filing the daily report required under this article.

State law reference(s)--Dealer to retain purchases, Code of Virginia, §54.1-4104.

Sec. 19-77. Dealer records and reports.

The dealer shall keep a log in duplicate upon which shall be entered a clear and accurate description of all items of precious metals, gems and jewels purchased, including where applicable the weight, serial numbers, names, initials, monograms or any other identification marks which appear on any such item, the true weight or carat of any gem, the date, time and place of purchase and the amount of money paid, the full name, complete residence address, work place, home and work telephone numbers, date of birth, sex, race, height, weight, hair and eye color, and other identifying marks of the seller, verification of the identification by the exhibition of a government-issued identification card such as a driver's license or military identification card (the record shall contain the type of identification exhibited, the issuing agency, and the number thereon), and a statement of ownership from the seller. The seller and the dealer shall sign the log below the description of each transaction. The dealer shall deliver to the Rockbridge County Sheriff a copy of the log of the previous day's business prior to noon of the day following the date of such transaction. The log of the dealer shall be carefully preserved without alteration and shall be open at all times to the inspection of the sheriff, any deputy sheriff of this county, the Lexington Chief of Police, any member of the Virginia State Police and any other properly identified police officer.

Each dealer shall maintain for at least twenty-four months an accurate and legible record of the name and address of the person, firm, or corporation to which he sells any precious metal or gem in its original form after the waiting period required by §19-76 hereinabove. The record shall also show the name and address of the seller from whom the dealer purchased the item.

State law reference(s)--Records required, Code of Virginia, §§54.1-4101, 4105.

Sec. 19-78. Identification of seller and statement of ownership.

The dealer shall ascertain the name, address and age of each seller by requiring the seller to verify same by some form of identification issued by a governmental agency which contains a picture or photograph of the seller. No purchase shall be made from any seller unable to verify identification as specified in this section. Every dealer shall also obtain a statement of ownership from the seller, which shall contain information received by the commissioner of revenue.

State law reference(s)--Code of Virginia, §54.1-4102.

Sec. 19-79. Prohibited purchases.

No dealer shall purchase from or make a loan to any seller who is under the age of eighteen (18) years. No dealer shall purchase from or make a loan to any person whom the dealer believes or has reason to believe is not the owner of the items offered for sale or security.

Cross reference(s)--Minors, §22-21.

State law reference(s)--Prohibited purchases, Code of Virginia, §54.1-4103.

Sec. 19-80. Availability of bond proceeds.

Any person aggrieved by the dealer's violation of any of the provisions of this article who shall recover a final judgment against such dealer may maintain an action in his own name upon the bond and surety only for that amount of the judgment that is unsatisfied by the dealer.

State law reference(s)--Code of Virginia, §54.1-4107.

Sec. 19-81. Penalty.

Any dealer who violates any of the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or a jail term of not more than twelve (12) months, either or both.

Secs. 19-82--19-90. Reserved.

ARTICLE IV. SPECIAL SALES PERMITS (GOING OUT OF BUSINESS)

Sec. 19-91. Purpose.

In accordance with Code of Virginia, §§18.2-223 and 18.2-224, this article is established for the purpose of requiring that a permit be obtained by retail businesses before they advertise or conduct a sale for the purpose of discontinuing their businesses.

(Ord. of 6-13-90(2), §1)

Sec. 19-92. Permit--Required.

Prior to the time that any retail business advertises or conducts a sale for the purpose of discontinuing its retail business, or modifies the word "sale" in any advertisement with the words "going out of business" or any other words which tend to insinuate that the retail business is to be discontinued and the merchandise liquidated (hereinafter the "sale"), such owner or manager of the business shall apply for and obtain a permit in accordance herewith (hereinafter "permit").

(Ord. of 6-13-90(2), §2(A))

Sec. 19-93. Same--Application; inventory of special sale goods.

The owner or manager of a retail business shall submit a written application (in the form of a letter request) for a permit to the county commissioner of revenue at least twenty (20) days prior to the date the business intends to conduct a sale. Such application shall be accompanied by an inventory, including the kind and quantity of all goods which are to be offered for sale during the sale. Only the goods specified in the inventory list may be advertised at a reduced price or sold at a reduced price during the sale. Goods not included on the inventory of special sale goods shall not be commingled with or added to the special sale goods. The county shall have the right to revoke a special sale permit upon proof that goods not appearing on the original inventory of special sale goods have been commingled with or added to the special sale goods.

(Ord. of 6-13-90(2), §2(B))

Sec. 19-94. Same--Period of validity; extension.

Each permit shall be valid for a period of no longer than sixty (60) days, and any extension of that time shall constitute a new sale which shall require an additional application (including an inventory) and permit. An additional permit beyond the initial sixty-day permit may be granted solely for the purpose of liquidating only those goods contained in the initial inventory list and which remain unsold.

(Ord. of 6-13-90(2), §2(C))

Sec. 19-95. Same--Advertisement requirements.

The owner or manager of a retail business advertising a sale shall conspicuously include in the advertisement the permit number assigned by the county for the sale and the effective dates of the sale as authorized in the permit.

(Ord. of 6-13-90(2), §2(D))

Sec. 19-96. Same--Fee.

Each application for a sale permit shall be accompanied by a non-refundable check made payable to the "County Treasurer" in the amount of sixty-five dollars (\$65.00).

(Ord. of 6-13-90(2), §2(E))

Sec. 19-97. Penalty for violation.

Violation of this article shall subject the owner and manager of such a retail business to prosecution and punishment of a Class 1 misdemeanor.

(Ord. of 6-13-90(2), §2(F))