

CHAPTER 2

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Article I. Business, Professions and Occupations License Ordinance of the Town of Hurt, Virginia

Sec. 2-1. Official title.

The provisions of this Chapter shall be known as the "Business, Professions and Occupations License Ordinance of the Town of Hurt, Virginia", and may be so cited.

Sec. 2-2. Overriding Conflicting Ordinances.¹

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 governing body, whether or not compiled in the Code of the Town of Hurt, to the

1. Virginia Code Ref. Sec. 58.1-3700.1

Replacement Page. (Chapter 2 amended in its entirety 12/3/96. Article III repealed and reenacted 8/5/14).

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.

Sec. 2-3. Definitions.

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

A. "*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 eighty percent of the voting power of all classes of stock and at least eighty 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 eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other includable corporations. As used in this subdivision, 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 eighty percent of the total combined voting power of all classes of stock entitled to vote or at least eighty percent of the total value of shares of all classes of the stock of each corporation, and

b. More than fifty percent of the total combined voting power of all classes of stock entitled to vote or more than fifty 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 subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

Replacement Page. (Chapter 2 amended in its entirety 12/3/96).

B. "*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.

C. "*Assessor*" or "*Assessing Official*" means the Treasurer of the Town of Hurt.

D. "*Base year*" means the calendar year preceding the license year, except for contractors subject to the provisions of Sec. 58.1-3715 of the Code of Virginia and except as provided in this ordinance for beginning businesses.

E. "*Business*" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: 1. advertising or otherwise holding oneself out to the public as being engaged in a particular business; or 2. filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

F. "*Civic or charitable organization*" shall mean any local service club, veterans' post, fraternal society or association, volunteer fire or rescue group or civic league or association not organized for profit but operated exclusively for educational or charitable purposes including the promotion of community welfare or any group which holds itself out to be organized or operated for any charitable purpose, including any church or convention or association of churches, operated for non-secular purposes. In order to qualify for exemption as a civic or charitable organization such organization must certify that the net earnings to be derived from such exempt sales shall be devoted exclusively to charitable, benevolent, humane, philanthropic, patriotic, educational or recreational purposes or such other similar purpose from which the general welfare of the local community will benefit.

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G. "*Contractor*" shall have the meaning prescribed in Sec. 58.1-3714 B. of the Code of Virginia, as amended, whether such work is done or offered to be done by day labor, general contract or subcontract.

H. "*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.

I. "*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 ordinance. For the purpose of taxation hereunder banks and trust companies taxed under Chapter 3, Article III of the Code of the Town of Hurt shall not be included in the definition of financial services.

1. "*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.

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

3. "*Dealer*" for purposes of this ordinance 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.

4. "*Security*" for purposes of this ordinance shall have the same meaning as in the Securities Act (Sec. 13.1-501 et seq.) of the Code of Virginia, 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 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

J. "*Itinerant merchant*" shall mean any person described in Section 58.1-3717 of the Code of Virginia.

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

L. "*Peddler*" shall mean any person described in Section 58.1-3717 of the Code of Virginia.

M. "*Person*" shall include individuals, partnerships, limited liability companies, corporations, unincorporated associations and any other type of business entity.

N. "*Personal services*" shall mean rendering for compensation any repair, personal, business or other services not specifically classified as "financial, real estate or professional service" under this ordinance, or rendered in any other business or occupation not specifically classified in this ordinance unless exempted from local license tax by Title 58.1 of the Code of Virginia.

O. "*Professional services*" means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the 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.

P. "*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, wares and merchandise if it cannot determine or chooses not to disclose the cost of manufacture.

Q. "*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 ordinance, 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

R. "*Retailer*" 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.

S. "*Services*" shall mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

T. "*Tax Commissioner*" shall mean the chief executive officer of the Virginia Department of Taxation or his delegate.

U. "*Wholesaler*" or "*Wholesale Merchant*" shall mean 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.

Sec. 2-4. License Requirement; filing, payment of tax.¹

A. *Application.* Every person engaging in the Town of Hurt in any business, trade, profession, occupation or calling (collectively hereinafter "a business") as defined in this ordinance, unless otherwise exempted by law, shall apply

1. Virginia Code Ref. Sec. 58.1-3703.1 A.1. and 2.

annually for and obtain a license for each such business if (1) such person maintains a definite place of business in the Town of Hurt, (2) such person does not maintain a definite office anywhere but does maintain an abode in the Town of Hurt, which abode for the purposes of this ordinance 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 Secs. 58.1-3717, 3718, or 3728, respectively of the Code of Virginia, or is a contractor subject to Sec. 58.1-3715 of the Code of Virginia, or is a public service corporation subject to Sec. 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 the Town of Hurt; (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.

The license application shall be on forms prescribed by the assessing official and shall require information as to the applicant's gross receipts and such other information deemed necessary by the assessing official to determine the correct amount of tax due.

B. *Filing date; term of license.* Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensing in the Town of Hurt on or before January 1st 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 term of the license shall begin January 1 and end December 31 of each year.

C. *Due date of tax.* 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 31.

D. *Extensions for filing application.* The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for a license,

1. Uniform BPOL ordinance requires that the date for filing applications be set at March 1 in years 2001 and thereafter.

Replacement Page. (Chapter 2 amended in its entirety 12/3/96. Sec. 2-4 amended 8/3/2004).

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 percent of the portion paid after the due date.

E. *Penalties.* A penalty of ten 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 if both the application and payment are late; however, both penalties may be assessed if 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 assessing official 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.* 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 Sec. 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.

G. *Wilful acts.* 1. Wilful failure to file and obtain license. Any such person who shall wilfully fail or refuse to file a license application and obtain a license when due shall be guilty of a Class 3 misdemeanor punishable by a fine of not more than \$500.00. Failure to file an application and obtain a license within fifteen days after service upon such person of a written notice of the requirement to file an application and obtain said license shall constitute wilful failure or refusal to so file and obtain said license.

2. Wilful failure or refusal to supply information; supplying false information. Any such person who shall wilfully fail or refuse to supply when requested any information necessary to the Town in order to properly assess or calculate the taxes due under the provisions of any section of this Chapter 2, or who shall make false statements with the intent to defraud in an application filed hereunder or otherwise, supply false information with said intent shall be guilty of a Class 3 misdemeanor and upon conviction thereof shall be fined not more than \$500.00. Failure by such person to provide information necessary to the Town to calculate the amount of tax due within fifteen days after service upon such person, of a written notice of the requirement to do so shall constitute wilful failure or refusal to do so.

3. Wilful violation of regulations. Any such person who shall wilfully violate any regulation promulgated by the assessing official pursuant to authority conferred by this ordinance shall be guilty of a Class 3 misdemeanor and upon conviction thereof shall be fined not more than \$500.00. Failure by such person to cease and desist from such violation within fifteen days after service upon such person of a written notice of the violation and the action required to comply with said regulation shall constitute wilful failure or refusal to do so.

4. Violation of this Subsection G. does not excuse tax. A conviction for a violation hereunder shall not in any case relieve any such taxpayer from the payment of the tax prescribed or of the monetary penalties imposed for failure to pay such tax.

Sec. 2-5. License fee and tax; part year operation.

A. Every person subject to licensure under this ordinance shall be assessed and required to pay annually a fee or tax from time to time set by the Town Council and shown on the Town of Hurt Master List of Fees and Charges, hereinafter the "Master List" which Master List is incorporated herein by reference and made a part hereof and shall be enforceable as if set out herein.

Replacement Page.(Chapter 2 amended in its entirety 12/3/96. Sec. 2-5 amended 6/9/98. Sec. 2-5 amended effective December 3, 2019.)

Sec. 2-6. "Gross receipts"; exclusions and deductions.¹

A. "*Gross receipts*" shall mean the whole, entire, total receipts attributable to the licensed privilege subject only to the exclusions and deductions set forth herein. As 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. *Exclusions.* 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, 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 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.

1. Virginia Code Ref. Sec. 58.1-3732

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. *Deductions.* 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 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 country in which the taxpayer is liable for an income or other tax based upon income.

Sec. 2-7. Situs of Gross Receipts.¹

A. *General rule.* Whenever the tax imposed by this ordinance 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 of Hurt. 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. Virginia Code Ref. Sec. 58.1-3703.1 A.3.

Replacement Page. (Chapter 2 amended in its entirety 12/3/96).

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 Sec. 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, the gross receipts of the business shall be apportioned between the definite places of businesses as provided in Sec. 58.1-3709 of the Code of Virginia. 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 of Hurt 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 subdivision involved.

Sec. 2-8. Limitations and extensions.¹

A. Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this ordinance, 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 Section 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.²

C. The period for collecting any local license tax shall not expire prior to the period specified in Section 58.1-3940 of the Code of Virginia, two years after the date of assessment if the period for assessment has been extended pursuant to this subdivision, two years after the final determination of an appeal for which collection has been stayed pursuant to the following Section 2-7 B. or 2-7 D. of this ordinance, or two years after the final decision in a court application pursuant to Section 58.1-3984 of the Code of Virginia or similar law for which collection has been stayed, whichever is later.

1. Virginia Code Ref. Sec. 58.1-3703.1 A.4.
2. Applicable to tax years 1997 and thereafter. For tax years 1996 and earlier the limitation period is current year plus three preceding years.

Replacement Page. (Chapter 2 amended in its entirety 12/3/96).

Sec. 2-9. Appeals and Rulings.¹

A. *Review of assessment by assessing official.* Any person assessed with a licensing tax under this ordinance 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 in the jurisdiction (e.g., the name and address to which an application should be directed).

B. *Suspension of collection activity.* 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 Sec. 2-4 F. of this ordinance, 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. *Appeal to Tax Commissioner; Further Appeal to Circuit Court.* Any person assessed with a license tax under this ordinance as a result of an audit may apply within ninety days of the determination by the assessing official on an application pursuant to subsection 2-7 A. above to the Tax Commissioner for a correction of such assessment. The Tax Commissioner shall issue a determination to the taxpayer within ninety 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 Section 58.1-1821 of the

1. Virginia Code Ref. Sec. 58.1-3703.1 A.5.

Code of Virginia, and the Tax Commissioner may issue an order correcting such assessment pursuant to Section 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 Section 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. *Suspension of Collection Activity During Appeal to Tax Commissioner.* On receipt of a notice of intent to file an appeal to the Tax Commissioner under subsection 2-7 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 2-4 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 2-7 B. above.

E. *Written rulings from Assessor.* 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 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.

Sec. 2-10. Recordkeeping and audits.¹

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

1. Virginia Code Ref. Sec. 58.1-3703.1 A.6.

to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the Town of Hurt. 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 Town of Hurt, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

Wherever in this Chapter 2 there are required to be kept records for the purpose of assessing a license tax hereunder such records shall be retained for a period of three years from the last day of the tax year for which said tax is assessed.

Sec. 2-11. Authority of Assessing Official.

The assessing official shall be the Treasurer of the Town of Hurt. The assessing official shall have the authority to promulgate rules and regulations to properly assess the tax due hereunder and to otherwise carry out the provisions of this ordinance.

Sec. 2-12. Evidence.

Proof of a single sale, delivery or the doing of any one act in the course of a profession, occupation or business within the corporate limits of the Town shall be prima facie evidence that such business is being conducted within the Town by the person making the sale, delivery or doing the act.

Sec. 2-13. Severability.

If any part or parts, Article, section or subsection, sentence, clause or phrase of this Code is for any reason declared unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Code.

Article II. Permits and Regulation of Businesses

Part 1. Miscellaneous Regulations as to Business Activities

Sec. 2-14. Going out of business sale--License required.¹

Every person who shall advertise or conduct a sale for the purpose of discontinuing a retail business or to modify the word "sale" in any advertisement with

1. Virginia Code Ref. Sec. 18.2-222 and 18.2-224

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, shall submit a permit application to obtain a permit from the Town Treasurer of the Town of Hurt for said sale. All applications for special sale permits shall be accompanied by an inventory of all goods which are to be offered for sale during the sale and only the goods specified in the inventory list may be advertised or sold at a reduced price during the sale period. Goods not included on the inventory of special sale goods shall not be commingled with or added to the special sale goods. The Town 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.

Each special sale permit shall be valid for a period of no longer than sixty days, and any extension of that time shall constitute a new special sale and shall require an additional permit and inventory. 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.

Any person who advertises such sale shall conspicuously include in the advertisement the permit number assigned for the sale by the Town and the effective dates of the sale as authorized in the permit.

It shall be unlawful for any person to advertise, or conduct, a sale for the purpose of discontinuing a retail business, or to modify 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, unless such person has obtained the permit and paid the fee described herein.

A violation of the provisions of this section shall be punishable as a Class 3 misdemeanor and each day's continuing violation shall constitute a separate offense.

Sec. 2-15. Carnivals, shows, circuses, menageries; registration; bond.¹

Every person, firm, company or corporation which exhibits performances in a side show, dog and pony (or either) show, trained animal show, carnival, circus, menagerie and circus or any other show, exhibition or performance similar thereto shall procure a business license therefor under Article I hereof. No additional license shall be required for the privilege of selling soft drinks, confections, food, souvenirs and novelties on the grounds on which such shows are exhibited.

1. Virginia Code Ref. Sec. 58.1-3728

Replacement Page. (Chapter 2 amended in its entirety 12/3/96).

In addition, each person, firm, company or corporation which exhibits performances in a side show, carnival, circus or menagerie and circus shall annually, before beginning operations in this Town, register and give bond as herein provided. Each registration shall be upon forms provided and shall set forth such information as may be required by the Town Manager and shall be accompanied by a fee of five dollars. Each such person, firm, company or corporation required to give bond shall do so in the principal amount of five hundred dollars, with surety deemed sufficient by the Town Treasurer, conditioned upon the faithful compliance by the principal with all the laws of the Town and State pertaining to side shows, carnivals, circuses and menageries, in respect to licenses, license taxes, bill boards, advertising and obligations.

For the purpose of this section, a "carnival" shall mean an aggregation of shows, amusements, concessions, eating places 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 the same are owned and actually operated by separate persons, firms or corporations or not.

A violation of the provisions of this section shall be punishable as a Class 3 misdemeanor and each day's continuing violation shall constitute a separate offense.

Sec. 2-16. Fortune-tellers, Clairvoyants and Practitioners of Palmistry and Phrenology.¹

Any person who, for compensation, shall pretend to tell fortunes or assume to act as a clairvoyant or to practice palmistry or phrenology shall obtain a license under Article I hereof. Application for such license shall state thereon the name of such applicant, all employees who will practice under the license, and the location, nature and expected duration of the services to be performed. The Treasurer shall refer the application to the chief of police and no such license shall be granted to any person except upon a certificate of the chief of police that such person and such employees thereof have appeared at police headquarters and that each has been photographed, had their fingerprints taken, and given such general description of himself as is required by the chief of police, and has presented to him a certificate signed by three citizens of the town that such person is of good character and honest demeanor except and until the chief of police shall be satisfied from his own knowledge, or from an independent investigation to be made by him that the statements contained in the certificate required to be signed by citizens of the town are true.

A violation of the provisions of this section shall be punishable as a Class 3 misdemeanor and each day's continuing violation shall constitute a separate offense.

1. Virginia Code Ref. Sec. 58.1-3726

**Part 2. Coin-operated Amusement Machines;
Merchants Placing Vending Machines¹**

Sec. 2-17. Amusement operators--Definition.

"Amusement operators" means any person, firm or corporation leasing, renting, or otherwise furnishing or providing a coin-operated amusement machine or device operated on the coin-in-the slot principle in the Town; provided, however, the term "amusement operator" shall not include a person, firm or corporation owning less than three (3) coin machines and operating such machines on property owned or leased by such person, firm or corporation. Amusement operators shall be licensed as prescribed in Sec. 2-5 ~~B~~. 16. of Article I hereof.

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Sec. 2-18. Same--Licensing of illegal machines.

Nothing in this article shall be construed as permitting any person to keep, maintain, exhibit, or operate any coin-operated machine or other device the operation of which is prohibited by law. The Town Treasurer shall not issue any license, the license tax for which is provided by this article, which is unlawful under the provisions of the state law.

Sec. 2-19. Merchants placing vending machines.

Every person engaged in the business of selling goods, wares, and merchandise or postage stamps or service only through the use of coin-operated vending machines shall be deemed to be a retail merchant and shall be licensed and taxed as such.

Sec. 2-20. Amusement operators and merchants placing vending machines to file list of locations.

Every person, before engaging in the business of an amusement operator, or as a merchant placing vending machines as defined above, in this Town shall obtain the appropriate business license and upon making application for such license the applicant shall file with the Town Treasurer in duplicate, a list of the locations of all such machines and devices, leased, rented, or otherwise furnished or placed with others and during the current license year, every amusement operator and every merchant placing vending machines shall notify the Town Treasurer by writing in duplicate, of all changes in locations of such machines and devices within five (5) days after such changes are made.

1. Virginia Code Ref. Secs. 58.1-3700, 58.1-3721, 58.1-3722 and 58.1-3723

Sec. 2-21. Display of information on vending machines.

Every coin-operated amusement machine and every vending machine operated under the provisions of this article shall have conspicuously located thereon a decal, sticker, or other adhesive label denoting the name, trade name, address of each owner, and section number of this article under which such machine is operated or licensed.

Sec. 2-22. Penalty.

Any person, firm or corporation providing any such coin machines or other devices who shall wilfully fail or refuse to file a license application and obtain a license shall be guilty of a Class 3 misdemeanor and shall on conviction thereof be fined not more than \$500.00. Failure to file an application and obtain a license within fifteen days after service upon such person, firm or corporation of a written notice of the requirement to file an application and obtain said license shall constitute a presumption of wilful failure or refusal to so file and obtain a license. Any person, firm or corporation otherwise violating this article shall be guilty of a Class 3 misdemeanor punishable by a fine of not more than \$500.00 and, in addition, the machine or machines or other devices involved shall be forfeited to the Town.

Part 3. Dealers in Precious Metals and Jewels¹

Sec. 2-23. Definitions.

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

1. "Coin" means any piece of gold, silver or other metal fashioned into a prescribed shape, weight and degree of fineness, stamped by authority of a government with certain marks and devices, and having a certain fixed value as money.

2. "Dealer" means any person, firm, partnership, or corporation engaged in the business of (i) purchasing secondhand precious metals or gems; (ii) removing in any manner precious metals or gems from manufactured articles not then owned by such person, firm, partnership, or corporation; or (iii) buying, acquiring, or selling precious metals or gems removed from such manufactured articles. "Dealer" shall mean all employers and principals on whose behalf a purchase is made, and any employee or agent who makes any such purchase for or on behalf of his employer or principal.

1. Title 54, Chapter 23.2

This definition shall not be construed so as to include persons engaged in the following:

a. Purchases of precious metals or gems directly from other dealers, manufacturers, or wholesales for retail or wholesale inventories, provided the selling dealer has complied with the provisions of this chapter.

b. Purchases of precious metals or gems from a duly qualified fiduciary who is disposing of the assets of the estate being administered by such fiduciary in the administration of an estate.

c. Acceptance by a retail merchant of trade-in merchandise previously sold by such retail merchant to the person presenting that merchandise for trade-in.

d. Repairing, restoring or designing jewelry by a retail merchant, if such activities are within his normal course of business.

e. Purchases of precious metals or gems by industrial refiners and manufacturers, insofar as such purchases are made directly from retail merchants, wholesalers, dealers, or by mail originating outside the Commonwealth of Virginia.

f. Persons regularly engaged in the business of purchasing and processing nonprecious scrap metals which incidentally may contain traces of precious metals recoverable as a by-product.

g. Banks, branches thereof, trust companies or bank holding companies, or any wholly owned subsidiary thereof, engaged in the business and buying gold and silver bullion.

3. "Gems" means any item containing precious or semiprecious stones customarily used in jewelry.

4. "Precious metals" means any item except coins composed in whole or in part of gold, silver, platinum, or platinum alloys.

Sec. 2-24. Coins exempt.

Neither the provisions of this article nor of any ordinance of the Town of Hurt, Virginia shall apply to the sale or purchase of coins.

Sec. 2-25. Permit required; method of obtaining permit; no convictions of certain crimes; approval of weighing devices; renewal; permanent location required.

A. No person shall engage within the Town of Hurt, Virginia in the activities of a dealer as defined in Sec. 2-23 without first obtaining a permit from the Hurt Chief of Police.

Replacement Page. (Chapter 2 amended in its entirety 12/3/96).

B. To obtain a permit, the dealer shall file with the Hurt Chief of Police an application form which shall include the dealer's full name, any aliases, address, age, sex, and fingerprints; the name, address, and telephone number of the applicant's employer, if any; and the location of the dealer's place of business. Upon filing this application and the payment of a two hundred dollar application fee, the dealer shall be issued a permit by the Hurt Chief of Police or his designee, provided that the applicant has not been convicted of a felony or crime of moral turpitude within seven years prior to the date of application. The permit shall be denied if the applicant has been denied a permit or has had a permit revoked under any ordinance similar in substance to the provisions of this chapter.

C. Before a permit may be issued, the dealer must have all weighing devices used in his business inspected and approved by local or State weights and measures officials and present written evidence of such approval to the Hurt Chief of Police.

D. This permit shall be valid for one year from the date issued and may be renewed in the same manner as such permit was initially obtained with an annual permit fee of two hundred dollars. No permit shall be transferable.

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

Sec. 2-26. Records to be kept; copy furnished to Chief of Police; inspection of records.

A. Every dealer shall keep at his place of business an accurate and legible record of each purchase of precious metals or gems. The record of each such purchase shall be retained by the dealer for not less than twenty-four months. These records shall set forth the following:

1. A complete description of all precious metals or gems purchased from each seller. The description shall include all names, initials, serial numbers or other identifying marks or monograms on each item purchased, the true weight or carat of any gem, and the price paid for each item;
2. The date and time of receiving the items purchased; and
3. The name, address, age, sex, race, driver's license number or social security number, and signature of the seller.

B. The information required by paragraph A of Sec. 2-26 shall appear on each bill of sale for all precious metals and gems purchased by a dealer, and a copy shall

Replacement Page. (Chapter 2 amended in its entirety 12/3/96).

be mailed or delivered within twenty-four hours of the time of purchase to the Chief of Police of the Town of Hurt, Virginia.

C. Every dealer shall admit to his premises during regular business hours the Hurt Chief of Police, or his sworn designee, or any law-enforcement official of the State or federal governments, and shall permit such law-enforcement officer to examine all records required by this article, and to examine any article listed in a record which is believed by the officer or official to be missing or stolen.

Sec. 2-27. Credentials required from seller.

No dealer shall purchase precious metals or gems without first ascertaining the identity of the seller by requiring an identification issued by a governmental agency with a photograph of the seller thereon, and at least one other corroborating means of identification.

Sec. 2-28. Prohibited purchases.

A. No dealer shall purchase precious metals or gems from any seller who is under the age of eighteen.

B. No dealer shall purchase precious metals or gems from any seller who the dealer believes or has reason to believe is not the owner of such items, unless the seller has written and duly authenticated authorization from the owner permitting and directing such sale.

Sec. 2-29. Dealer to retain purchases.

A. The dealer shall retain all precious metals or gems purchased for a minimum of ten calendar days from the date on which a copy of the bill of sale is received by the Hurt Chief of Police. Until the expiration of this period, the dealer shall not sell, alter, or dispose of a purchased item in whole or in part, or remove it from the Town.

B. If a dealer performs the service of removing precious metals or gems, he shall retain the metals or gems removed and the article from which the removal was made for a period of ten calendar days after receiving such article and precious metals or gems.

Sec. 2-30. Record of disposition.

Each dealer shall keep and 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

Replacement Page. (Chapter 2 amended in its entirety 12/3/96).

required by Sec. 2-29. This record shall also show the name and address of the seller from whom the dealer purchased such item.

Sec. 2-31. Bond or letter of credit required of dealers when permit obtained.

A. Every dealer shall secure a permit as required by Sec. 2-25, and each dealer at the time of obtaining such permit shall enter into a recognizance to the Town of Hurt, Virginia secured by a corporate surety authorized to do business in the Commonwealth of Virginia, in the penal sum of ten thousand dollars, conditioned upon due observance of the terms of this article. In lieu of a bond, a dealer may cause to be issued by a bank authorized to do business in the Commonwealth of Virginia a letter of credit in favor of the Town of Hurt, Virginia in the sum of ten thousand dollars.

B. A single bond upon an employer or principal may be written or a single letter of credit issued to cover all employees and all transactions occurring at a single location.

Sec. 2-32. Private action on bond or letter of credit.

If any person shall be aggrieved by the misconduct of any dealer who has violated the provisions of this article, he may maintain an action for recovery in any court of proper jurisdiction against such dealer and his surety, provided that recovery against the surety shall be only for that amount of the judgment, if any, which is unsatisfied by the dealer.

Sec. 2-33. Exemptions from article.

The Chief of Police, or his designee, may waive by written notice implementation of any one or more of the provisions of this article, except Sec. 2-28, for particular numismatic, gem, or antique exhibitions or craft shows sponsored by nonprofit organizations, provided that the purpose of the exhibitions is nonprofit in nature, notwithstanding the fact that there may be casual purchases and trades made at such exhibitions.

Sec. 2-34. Severability.

Should any section or provisions or portion thereof of this ordinance be declared to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance.

Replacement Page. (Chapter 2 amended in its entirety 12/3/96).

Sec. 2-35. Penalties; first and subsequent offenses.

A. Any person convicted of violating any of the provisions of this article shall be guilty of a Class 2 misdemeanor for the first offense. Upon conviction of any subsequent offense he shall be guilty of a Class 1 misdemeanor.

B. Upon the first conviction by any court of a dealer for violation of any provision of this chapter, the Chief of Police may revoke his permit to engage in business as a dealer under this chapter for a period of one full year from the date the conviction becomes final. Such revocation shall be mandatory upon a second conviction.

Part 4. Taxicabs

Sec. 2-36. License Prerequisite and Compliance to Regulations.

It shall be unlawful for any person to operate, or cause to be operated, within the Town, any taxicab unless a license therefor has been issued to the owner thereof and all the conditions, regulations and restrictions set forth herein have been complied with and all state requirements have been met when such taxicab has a place in the Town of Hurt as the base for its operation or taxicab stand.

Sec. 2-37. License Tax.

A license tax shall be paid for each place used as the base of operation for taxicabs or a taxicab stand in the Town of Hurt as shown on the Town of Hurt Master List of Fees and Charges, hereinafter the "Master List" which Master List is incorporated herein by reference and made a part hereof and shall be enforceable as if set out herein.

Sec. 2-38. Rates.

The rates charged for services rendered by taxicabs based in the Town of Hurt shall be subject to the approval of the Town Council and such rates shall be kept posted in a conspicuous place inside the vehicle at all times.

Sec. 2-39. Inspection of Vehicles.

Each taxicab shall be subject to inspection by the police department at any time. If any such vehicle shall be found to be in an unsafe, unfit or unclean condition, the owner thereof shall be notified that such vehicle shall not be operated until such defective or unclean condition has been remedied. If any such owner shall continue to operate such vehicle, the Town Council shall have the right to revoke the certificate of such owner to continue to operate such taxicab from the Town of Hurt as its base of operation.

Replacement Page. (Chapter 2 amended in its entirety 12/3/96. Sec. 2-37 amended effective December 3, 2019).

Sec. 2-40. Information on Vehicle.

Every taxicab operating under this Article shall bear on the outside, on at least two sides, the name of the owner in letters not less than two inches high and visible for a distance of one hundred feet.

Sec. 2-41. Prerequisite to License.

No license for the operation of a taxicab shall be issued unless and until the Council has issued a certificate to the owner thereof.

Sec. 2-42. Application for Certificate.

Application for a certificate shall be made by the owner, or proposed owner, to the council of the town upon forms provided therefor and shall furnish the following information under the oath of the applicant.

- A. The full name and the home and business address of the applicant.
- B. The trade name under which the applicant does or proposes to do business.
- C. The financial ability and responsibility of the applicant.
- D. The number and kind of vehicles to be operated.
- E. The location of the taxi stand to be used, if any.
- F. Each conviction or plea of guilty for the violation of any criminal law, whether such violation be of a Town or City ordinance, state law or federal law.
- G. The specific experience of the applicant in the transportation of passengers for hire.
- H. The facts or circumstances upon which the applicant bases his belief that public convenience and necessity require the granting of his application.

Sec. 2-43. Same--Filing with Town Clerk.

Applications for certificates shall be filed with the Town Clerk of the town at least 30 days prior to the regular council meeting at which such application is to be acted upon.

Sec. 2-44. Determination of Public Convenience and Necessity.

The council of the town shall determine the public convenience and necessity require the operation of the taxicabs which application has been filed. In making this determination, the following shall be considered:

- A. The adequacy and efficiency and safety of existing taxicab service.

Replacement Page. (Chapter 2 amended in its entirety 12/3/96).

- B. The probable permanence and quality of the services offered by the applicant.
- C. The financial ability, character and qualification and responsibility of the applicant.
- D. The number and character of vehicles and the character and location of taxistand proposed to be used.
- E. The experience of the applicant in the transportation of passengers for hire in taxicabs.

Sec. 2-45. Authority of Council as to Grant or Refusal.

The council shall have the authority to grant a certificate as applied for, or to deny the application in the exercise of a sound discretion, after a consideration of the factors prescribed in the application.

Sec. 2-46. Issuance and Contents.

Upon determination by the council that any application shall be granted, a certificate shall be issued to the applicant by the clerk and shall contain the following:

- A. The name and address of the owner.
- B. The number, kind and description of vehicles, the operation of which is authorized by the certificate.
- C. The date of issuance and the date of expiration.
- D. The fact that the certificate is being issued subject to laws and ordinances governing the operation of taxicabs in the town.

Sec. 2-47. Duration.

Every certificate issued under this article shall be good and valid, unless sooner revoked or suspended, from the date of issuance until the following thirty-first day of December of each year.

Sec. 2-48. Applications for Renewal.

Applications for renewal of certificates to original applications shall be filed with the clerk at least seven days prior to the regular council meeting in December. Such applications shall be acted on at the regular council meeting in December or at such other time as council may in writing notify the holders of said certificates, with at least seven days notice.

Replacement Page. (Chapter 2 amended in its entirety 12/3/96).

Sec. 2-49. Transfer.

Any certificate issued under the provisions of this article shall be transferable only by and with the consent of the council. Application for any such transfer shall be filed with the town clerk and, upon the filing of such application for transfer, the person to whom the transfer is to be made shall file an application as if an original application were being made. The proceedings upon such transfer shall be the same as upon an original application.

Sec. 2-50. Revocation or Suspension.

The Council may for cause cancel or revoke, or suspend any certificate issued pursuant to the provisions of this Article after due notice to the certificate holder.

Article III. Licensing of Motor Vehicles

Sec. 2-51. Vehicles required to be licensed—Situs; student owners; exemptions.¹

- (a) Except as otherwise provided in this Article III, every person who shall own or lease a motor vehicle normally garaged, stored, or parked in the Town of Hurt shall pay an annual Town license fee for such vehicle as required herein.
- (b) The situs for the imposition of licensing fees under this article shall in all cases, except as hereinafter provided, be the locality in which the motor vehicle is normally garaged, stored or parked. If it cannot be determined where the said personal property is normally garaged, stored or parked, the situs shall be the domicile of its owner. In the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he/she has paid a personal property tax on the motor vehicle in his/her domicile.
- (c) The Town of Hurt shall not impose any license fee upon any daily rental vehicle, as defined in Virginia Code Ann. § 58.1-2401 (Repl. Vol. 2004), the rental of which is subject to the tax imposed by Virginia Code Ann. § 58.1-2402 A.4. (Cum. Supp. 2005).

1. Virginia Code Ref. Secs. 46.2-663 and 46.2-664

Replacement Page. (Chapter 2 amended in its entirety 12/3/96. Article III repealed and reenacted 8/5/14).

Sec. 2-52 Assessment of license fee.

There is hereby assessed to any person owning or leasing a motor vehicle, normally garaged, stored or parked in the Town of Hurt on January 1 of each year a Town of Hurt motor vehicle license fee.

Sec. 2-53 Amount of town license fee.

An annual town license fee shall be imposed on all motor vehicles as stated in Sec. 2-52 and 2-57 for each such vehicle. All annual town motor vehicle fees shall be imposed in the amount shown on the Town of Hurt Master List of Fees and Charges, hereinafter the "Master List" which Master List is incorporated herein by reference and made a part hereof and shall be enforceable as if set out herein. Such fees shall be payable on or before December 5th of each year, beginning December 5, 2014.

Sec. 2-54. Same—Exemptions and reductions.

- (a) The provisions of this article shall not be construed as to impose a license fee upon any motor vehicle when:
 - (1) A similar tax or license fee is imposed by another county, city or town wherein such motor vehicle is normally garaged, stored, or parked.
 - (2) The motor vehicle is owned by a nonresident of the Town of Hurt and is used exclusively for pleasure or personal transportation and not for hire or for the conduct of any business or occupation other than that set forth in paragraph (3) of this subsection.
 - (3) The motor vehicle is owned by a nonresident and is used for transportation into and within the Town of Hurt for sale in person or by his employees of wood, meats, poultry, fruits, flowers, vegetables, milk, butter, cream or eggs produced or grown by him, and not purchased by him for sale.
 - (4) The motor vehicle is kept by a dealer or manufacturer for sale or for sales demonstration.
 - (5) Any vehicle that is exempt under provisions of state law.
 - (6) Antique motor vehicles, as defined in Virginia Code Ann. § 46.2-100 (Repl. Vol. 2005), registered and licensed by the state in accordance with Virginia Code Ann. § 46.2-730 (Repl. Vol. 2005) shall be exempt from the payment of the license fee levied under this article provided that other conditions prescribed herein are met. In order to qualify for exemption hereunder, an antique motor vehicle registered and licensed under Virginia Code Ann. § 46.2-730 shall not be used

Replacement Page. (Chapter 2 amended in its entirety 12/3/96. Article III repealed and reenacted 8/15/14. Sec. 2-53 amended effective December 3, 2019.)

for general transportation purposes, including but not limited to, daily travel to and from the owner's place of employment, but shall only be used:

- a. For participation in club activities, exhibits, tours, parades and similar events;
- b. On the highways of the commonwealth for the purpose of testing their operation, obtaining repairs or maintenance, transportation to and from events as described in subdivision a. of this subsection, and for occasional pleasure driving not exceeding 250 miles from the residence of the owner.

Sec. 2-55. Additional exemptions.

- (a) *Disabled veterans.* No annual license fee prescribed in section 2-53 shall be required for any one motor vehicle owned and used personally by any veteran who has either lost, or lost the use of, a leg, arm or hand; is blind; or is permanently and totally disabled as certified by the U.S. Veteran's Administration when such vehicle displays special permanent plates of a type approved by the commissioner of the state department of motor vehicles.
- (b) *Volunteer rescue squad members.* No annual license fee prescribed in section 2-53 shall be required for any one motor vehicle owned or leased and used personally by any active member of a volunteer rescue squad.
- (c) *Volunteer fire department.* No annual license fee prescribed in section 2-53 shall be required for any one motor vehicle owned or leased and used personally by any active member of a volunteer fire department.
- (d) *Prisoners of war.* No annual license fee prescribed in section 2-53 shall be required for any one motor vehicle owned and used personally by any person who has been a prisoner of the enemy in any war when such vehicle displays special permanent plates of a type approved by the commissioner of the state department of motor vehicles.
- (e) *National Guard members.* The annual license fee required for any one motor vehicle and owned and used personally by any member of the state National Guard when such vehicles display special permanent plates of a type approved by the commissioner of the state department of motor vehicles shall be one-half the amount prescribed in section 2-53.

Replacement Page. (Chapter 2 amended in its entirety 12/3/96. Article III repealed and reenacted 8/15/14).

Sec. 2-56. Payment of personal property taxes prerequisite.

No motor vehicle shall be licensed by the department of motor vehicles until such applicant for such license has paid all personal property taxes and the license fee assessed hereunder upon the motor vehicle to be licensed and until the department of motor vehicles has been provided satisfactory evidence by the treasurer of the Town of Hurt that any delinquent motor vehicle personal property taxes or license fees which have been properly assessed or are assessable against the applicant by the town have been paid.

Sec. 2-57. License year.

The license year with respect to which the fee required to be paid under this article is assessed shall be January 1 through December 31 of each year. The fee assessed under this article shall be assessed to the owner of each motor vehicle as provided in this article for motor vehicles owned January 1 of each year. The fee shall be payable on or before December 5 of each year and with respect to any fees not paid at that time there is hereby imposed a fee to reimburse the Town of Hurt for costs associated with administration of the Vehicle Registration Withholding Program with the Commonwealth of Virginia Department of Motor Vehicles (DMV) if a DMV stop order has been issued prior to payment. The fee herein assessed will be based upon ownership of vehicles on fee day, that is, January 1 of each year, and the period for which the license fee is effective shall be January 1 through December 31 of the next ensuing year. The amount of the above-described reimbursement is shown on the Town of Hurt Master List of Fees and Charges, hereinafter the "Master List" which Master List is incorporated herein by reference and made a part hereof and shall be enforceable as if set out herein.

Sec. 2-58. Failure to pay license fee, personal property tax, etc.; penalty.

- (a) In the event that the license fee required by this article is not paid, or if any personal property taxes, properly assessed against such vehicle, are not paid on or before December 5 of each year, with respect to each owner or co-owner of any motor vehicle as to which the license fee has not been paid, or any personal property taxes have not been paid, the town treasurer shall mail to the owner/co-owner by first class mail a notice of intent to request the Commonwealth of Virginia Department of Motor Vehicles under the Vehicle Registration Withholding Program to deny his or her registration renewal with respect to the vehicle which is subject to the license fee or personal property herein. In the event of payment of that vehicle license fee and/or delinquent personal property taxes, the town treasurer shall provide to the vehicle owner/co-owner has paid in full all outstanding local vehicle fees and delinquent taxes to the locality, together with the penalty, interests and administrative fee hereinabove set forth.

Supplement Page. (Chapter 2 amended in its entirety 12/3/96. Article III repealed and reenacted 8/15/14. Sec. 2-57 amended effective December 3, 2019.)

- (b) It shall be unlawful for any owner of a motor vehicle to fail to pay the local license fee or personal property taxes assessed with respect to each motor vehicle, trailer or semi-trailer after December 5 of each year.
- (c) A violation of this section shall constitute a Class 4 misdemeanor and shall be punished by a fine of \$100.00.
- (d) A violation of this section by the registered owner of the vehicle shall not be discharged by prepayment of a fine or by payment of a fine imposed by the court except upon presentation of satisfactory evidence that the required license has been obtained.

Supplement Page. (Chapter 2 amended in its entirety 12/3/96. Article III repealed and reenacted 8/15/14).

TOWN OF HURT

REGULATIONS

BUSINESS, PROFESSIONS AND OCCUPATIONS LICENSE TAX

The following regulations are promulgated by the Treasurer of the Town of Hurt pursuant to authority conferred by Section 2-11 of the Code of the Town of Hurt.

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- 2.01. License taxes levied; doing business without a license prohibited.
- 2.02. Application for license; to whom made; contents.
- 2.03. Affidavit to application.
- 2.04. Issue of license; payment of tax.
- 2.05. Licenses to designate place of business; separate license required for each place of business; doing business elsewhere.
- 2.06. Licenses for members of firm practicing profession or calling.
- 2.07. How license assignable.
- 2.08. Effect of change in partners or name of firm.
- 2.09. License may be altered when place of business changed.
- 2.10. Gross Receipts Tax on business, profession, trade or occupation beginning business.
- 2.11. Gross Receipts Tax when not previously in business full year.
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I. General Regulations

2.01. License taxes levied; doing business without a license prohibited.

No person, firm or corporation subject to the Business, Professions and Occupations License Tax Ordinance of the Town of Hurt, hereinafter referred to in these regulations as "the Ordinance", shall conduct in the Town, without a Town license, any of the businesses, employments or professions set forth in the Ordinance. The Town license taxes are annually levied by the Ordinance on every person, firm and corporation prosecuting any such business, employment or profession and no such license shall be issued without the payment of the specified tax.

2.02. Application for license; to whom made; contents.

Every person, firm or corporation desiring to prosecute any business, employment or profession shall, unless otherwise provided by law, obtain a license therefor and as a pre-requisite to obtaining said license, shall make application therefor in writing to the Treasurer of the Town.

The application shall state:

(1) The definite place or house where the business, employment or profession is to be prosecuted;

(2) The name of the applicant;

(3) Whether the applicant is an individual, a firm or a corporation;

(4) The residence address of the applicant;

(5) The name and residence address of each member of the firm, if a firm be the applicant, and, if a corporation be the applicant, whether domestic or foreign and, if foreign, the date of its authority to do business in Virginia issued by the State Corporation Commission;

(6) The nature of the business, employment or profession for which the application for a license is made;

(7) The number of years the applicant has prosecuted in this State such business, employment or profession; and

(8) In any case in which the amount of the license tax is measured by gross receipts, purchases or commissions, the application shall state the amount of applicant's gross receipts, purchases or commissions, as applicable, during such period as may be specified by the Treasurer in order to enable the Town to calculate the amount of the tax.

(9) Such other information as may be required by law and the forms of application prescribed by the Treasurer's Office.

The Treasurer may require such forms, properly filled out to be filed in duplicate or triplicate and may reject any incomplete application.

2.03. Affidavit to application.

Every application for a license shall have incorporated therein or annexed thereto the affidavit of the applicant to the effect that the statements contained in the application are true. If the applicant be an individual the affidavit must be made by him, if a firm by one of the members and if a corporation by the officer having knowledge of the correctness of the statements made in the application.

2.04. Issue of license; payment of tax.

Upon the receipt of every application for a license with the affidavit required in Section 2.03, the Treasurer, if satisfied of its correctness and completeness, shall, based on the information supplied in the said application, compute the tax prescribed by law and upon payment thereof shall issue a license to the applicant to prosecute the business, employment or profession named in the application.

2.05. Licenses to designate place of business; separate license required for each place of business; doing business elsewhere.

A separate license shall be required for each definite place of business. Every license granting authority to engage in or exercise in any business, employment or profession, unless expressly authorized elsewhere or otherwise, shall designate the place of such business, employment or profession at some specified house or other definite place within the Town of Hurt. Engaging in or exercising any such license, business, employment or profession elsewhere than at such house or definite place, unless expressly authorized elsewhere or otherwise by law, shall be held to be without license. A license which does not specify such house or definite place where business, employment or profession is limited thereto by law shall be void.

2.06. Licenses for members of firm practicing profession or calling.

When two or more persons subject to the license tax imposed on professional services are associated for the practice of that profession regardless of the form of the association the license shall be issued to the firm and the gross receipts upon which the tax is calculated shall be the total gross receipts of the firm.

The said license shall be issued in the name of the firm with names of the individual members set forth thereon.

2.07. How license assignable.

A license other than to authorize the conduct of a profession may be assigned to any person to whom it might have been originally granted and, in the event of the death of the licensee, the license may be assigned by his personal representative in like manner and with the like effect as might have been done by the licensee himself. If the license was obtained, or had its validity by reason of a certificate of any court, or of any oath or bond, the assignment shall not be valid without a like certificate in

favor of the assignee and a like oath or bond by the assignee as was required for the original grant. A license when assigned shall be a personal privilege to the assignee and shall not be exercised by any person other than the assignee, unless otherwise authorized by law. If the license tax already paid by the assignor is less than the license tax already which would be assessable against the assignee but for the assignment, an additional license tax shall be paid by the assignee equal to the difference between the tax paid on the assigned license and the license tax which would be otherwise assessable against the assignee.

2.08. Effect of change in partners or name of firm.

No change in the name of the firm, nor the taking in of a new partner, nor the withdrawal of one or more of the firm, shall be considered as commencing business, but if any one or more of the partners remain in the firm, the business shall be regarded as continuing; and if they dissolve and one or more of the partners continue business, any tax on the purchases, sales or profits of the business, which might otherwise be chargeable to the firm, may be apportioned among them according to the justice of the case.

2.09. License may be altered when place of business changed.

When a person has obtained a license to carry on any business, employment or profession at any definite place in the Town and desires to remove to any other place in the Town and wishes his license altered accordingly, the Treasurer shall make such alteration.

9.10. Gross Receipts Tax on business, profession, trade or occupation beginning business.

For the purpose of ascertaining the tax to be paid by a business, profession, trade or occupation subject to licensure under the Ordinance beginning business when such tax is based upon gross receipts, purchases or commissions, as applicable, the operator of said business shall estimate the gross receipts, purchases or commissions expected between the date of the issuance of the license and the thirty-first of December following.

2.11. Gross Receipts Tax when not previously in business full year.

The license tax of a business, profession, trade or occupation which was licensed at a definite place of business for only a part of the next preceding license year shall be computed for the then current license year on the basis of an estimate of gross receipts, purchases or commissions, as applicable, expected throughout the then current license year.

2.12. Underestimates of Gross Receipts.

Every underestimate under either of the two preceding sections shall be subject to correction by the Town Treasurer, whose duty it shall be to assess such business, profession, trade or occupation with such additional taxes as may be found to be due after the close of the license year on the basis of the true gross receipts, purchases or commissions, as applicable. Every overestimate under either of the two preceding sections, shall, upon application of the taxpayer for a correction thereof, be corrected by the Town Treasurer, whose duty it shall be to refund to such taxpayer any such overpayment as may be found, after the close of the license year, to have been paid on the basis of the true gross receipts, purchase or commissions, as applicable.

2.13. Invoices and record of purchases; correspondence of report thereto.

Each person, firm or corporation engaged in a business, profession, trade or occupation to which a license tax based upon gross receipts, purchases or commissions, as applicable, is subject under any provision in the Ordinance shall keep and preserve an accurate record of all gross receipts, purchases or commissions, as applicable. Such records shall be open to inspection and examination by the Treasurer and the report of gross receipts, purchases or commissions, as applicable of the business, profession, trade or occupation required under the Ordinance shall be taken from that record. The proprietor, manager, partner or officer of such business, profession, trade or occupation shall make oath to the correctness of the report, that the same is in accordance with such record and that the record has been accurately kept. Upon request by the Treasurer to the taxpayer the Treasurer may examine the said record and verify the taxpayer's report of gross receipts, purchases or commissions, as applicable by that record.

II. Regulations as to Specific Business, Professions and Occupations

A. Contractors

2.14. Who are contractors; listing of contractors.

A. A person shall be classified as a contractor if he regularly performs, or engages others to perform, any of the work described in paragraph B of Virginia Code § 58.1-3714 on buildings, structures or real estate (i) owned by him when the buildings, structures or real estate will be offered for sale upon completion of such work; or (ii) owned by others.

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

2.15. Miscellaneous provisions as to contractors.

A. Contractors include persons who subdivide and improve real estate, and speculative builders who build houses or other buildings with the intention to offer the subdivided lots or completed buildings for sale. A person who would otherwise be classified as a contractor shall not lose such classification because real estate is temporarily leased until it can be sold, or leased with an option to purchase instead of sold, unless the leasing activity constitutes a separate licensable business. Any gross receipts from such leases shall be considered ancillary to the business of contracting.

B. The mere subdivision of land into lots, without more, is not contracting. However, a person who installs water or sewer systems, roads, or engages in any other activity described in Virginia Code § 58.1-3714 B. on his own land with the intent to offer the land for sale is a contractor regardless of whether the land is subdivided.

C. A person shall not be deemed to be engaged in the business of contracting solely because he acts as his own prime contractor to build or improve a building which he intends to occupy as his residence, office or other place of business, or actually so occupied within a reasonable time prior to the sale of the premises.

D. Installation by merchant. A merchant shall not be deemed to be a contractor solely because he delivers and installs an appliance or other merchandise he sells when the installation uses existing openings and connections. If, however,

the installation requires making openings in a wall, running ductwork, wires or plumbing, or any other work described in paragraph B of Virginia Code § 58.1-3714, then the installation work may be deemed contracting. The following are examples of the application of this paragraph:

1. A merchant engaged in the business of selling and erecting or erecting tombstones is not a contractor solely because he places or erects the tombstone on a gravesite, but is engaged in either retail or wholesale sales.

2. While a person engaged in the business of wrecking or demolishing a building is a contractor, the subsequent sale of the materials after they have been separated, cleaned, graded, etc. may be classified as either retail or wholesale sales. However, bulk sales of such material from the demolition site may be classified as ancillary to the demolition contract.

3. 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.

E. A merchant who sells floor coverings (whether the covering be carpet, linoleum, tile or other covering) and installs the floor covering as part of or incidental to the sale, then the transaction is not contracting but a retail or wholesale sale. The fact that the purchaser is a general contractor or other institutional, commercial or industrial entity, coupled with the quantity sold and other terms, may affect the classification of the sale as a wholesale rather than retail sale. A person who has no inventory of floor coverings from which sales are regularly made would not be classified as a merchant. A person other than a merchant who enters into a contract to install floor coverings would be classified as a contractor, whether the contract is for installation only or sale and installation.

F. The mere hauling of sand, gravel and dirt excavated by another is not contracting but is a business service.

G. Soliciting business for a contractor is not contracting but is a business service.

2.16. No license required except where principal office located; \$25,000 exception; proration of license.

A. When a contractor shall have paid a State license and/or any local license required by the city, town or county in which his principal office and any branch office or offices may be located, no further license shall be required by the Town of Hurt for conducting any such business within the confines of the town, except where the amount of business done by any such contractor in this town exceeds the sum of twenty-five thousand dollars in any year, then he shall obtain a local license based on the amount of business done within the town.

B. The contractor's license tax imposed by this Article shall be prorated on all orders and contracts covering more than one calendar year so as to insure that the

gross amount of each such order or contract is used only once as a basis for determining the amount of taxation due the Town.

B. Retail Merchants

2.17. Retail Merchants.

All goods, wares and merchandise manufactured by any retail merchant and sold in this town, as merchandise, shall be considered as sales within the meaning of this article. But this article shall not be construed as applying to manufacturers who sell at the place of manufacture goods, wares and merchandise manufactured by them.

The term "retail merchant", as used in this article, means every merchant who sells at retail only and not for resale.

Any person who shall cook, or otherwise furnish for compensation, diet or refreshments of any kind, for casual visitors at his house, for consumption therein, and who does not furnish lodging, and who is not the keeper of a hotel or lodging house, is classified as a retail merchant for the purposes of this Chapter, and shall be licensable as such. Any person who shall sell soft drinks from a soda fountain is also classified as a retail merchant and shall be licensable as such. Moreover, a caterer is classified as a retail merchant, licensable as such, and for the purpose of measuring his license tax, his gross receipts shall be regarded as sales. Tangible personal property not constituting a part of merchants' capital, that is to say, tangible personal property not offered for sale as merchandise, or, in the case of the business classified by this paragraph as that of a retail merchant, tangible personal property not intended for sale in the same or in a different form in the ordinary and regular conduct of the business, shall be reported as tangible personal property and assessed as such for local taxation.

2.18. Listing of Retail Merchants.

Without limitation of the businesses and trades comprehended within the terms of the Ordinance every person engaged in any of the following trades or businesses at retail shall be deemed to be a retail merchant within the scope of this section:

- Auto accessory, tire, battery;
- Aircraft, or aircraft parts;
- Antiques;
- Auto sales, motor vehicle dealers;
- Bakeries, caterers;
- Bicycles;
- Boats, motors;
- Books, stationery;
- Building materials

Candy, nut store;
 Cigar, tobacco stands;
 Coal, and ice;
 Confectionery;
 Custom Tailor;
 Dairy products;
 Delicatessen;
 Department stores;
 Drapery, curtain, upholstery;
 Drug;
 Dry goods stores;
 Egg, poultry;
 Family clothing;
 Farm equipment;
 Fish, sea food market;
 Floor covering;
 Florists;
 Fruit stores, vegetable markets;
 Fuel;
 Furniture;
 Furriers;
 Garden supplies;
 Gasoline Service Stations;
 General Stores;
 Gift, novelty, souvenir;
 Grocery;
 Hardware;
 Heating, plumbing, electrical equipment;
 Hog, grain, feed, seed;
 Hosiery;
 Jewelry;
 Livestock dealer;
 Luggage;
 Lumber goods;
 Meat market;
 Men's and boys's clothing;
 Merchant placing vending machines for sale of goods, wares and merchandise
 only;
 Millinery;
 Motorcycle;
 Musical instrument;

Newsstand;
Office, store, appliance supply;
Optical;
Printing shops, job printer, bookbinding, duplicating process;
All other clothing;
Paint, glass, wallpaper;
Photographic, supply equipment;
All radio or household appliances;
Restaurants, eating places, night clubs;
Secondhand stores, including junk dealers;
Scientific, medical supplies;
Shoes;
Soda fountain;
Solicitors for sales businesses (Ref. Reg. 2.42)
Sporting goods;
Undertakers;
Used cars;
Variety stores;
Workmen's clothing;
Other retail stores and retail merchants.

2.19. Freight as part of purchase price.

If the freight paid by a retail merchant on any article sold by him shall exceed twenty-five per centum of the price paid by him for the article itself, the amount of such freight in excess of twenty-five per centum of the purchase price of the article shall be eliminated from consideration in ascertaining the amount of sales of such merchant and the tax to be paid thereon.

2.20. When merchant's license required of manufacturer.

A manufacturer engaged in business in this Town may, without a retail merchant's license, sell at the place of manufacture the goods, wares and merchandise manufactured by him. If a manufacturer desires to sell, at a definite place or store, other than the place of manufacture, at retail only and not for resale, the goods, wares and merchandise manufactured by him, then such manufacturer must take out a retail merchant's license.

2.21. Manufacturer's report of retail sales.

When a manufacturer establishes a place or store for the sale of his goods, other than at his place of manufacture, at retail only and not for resale the amount of the license tax is to be measured not only by the amount of sales made by such manufacturer of goods, wares and merchandise purchased from others, but also by the

goods, wares and merchandise manufactured by him and sent from the place of manufacture to his store for sale and sold. Such manufacturer shall report not only the amount of sales of goods purchased by him from others, and sold, but also the amount of sales of goods manufactured by him either within or without this Town and offered for sale by him and sold at his store or definite place in this Town other than the place of manufacture.

2-22. Coal, wood and ice dealers may peddle; exception.

Dealers in coal, wood or ice paying a retail merchant's license tax under this article may peddle the same from vehicles without paying additional tax; provided that dealers in coal, wood or ice who peddle the same from vehicles which do not bear Virginia motor vehicle license plates shall be considered peddlers.

2.23. Merchants placing vending machines deemed retail merchant.

Every person engaged in the business of selling goods, wares, and merchandise or postage stamps or service only through the use of coin-operated vending machines shall be deemed to be a retail merchant.

2.24. Retail merchant--tax when going out of business.

If, after the close of the year for which the license is issued, a retail merchant should elect not to renew it, but desires the privilege to sell whatever goods, wares and merchandise he may have on hand at the time, it may be lawful for him to do so upon the payment of a license tax measured by the retail sales value of such goods, wares and merchandise, which value shall be estimated by the Treasurer.

C. Financial, Real Estate and Professional Services

2.25. Listing of financial, real estate and professional services.

Every person conducting or engaging in or regularly performing any of the following occupations shall be classified under the category "financial, real estate and professional services":

A. 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
- Finance companies

- Installment financing
- Inventory financing
- Loan or mortgage brokers
- Loan or mortgage companies
- Safety deposit box companies
- Security and commodity brokers and services
- Small loan companies
- Stockbroker
- Working capital financing

B. 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

C. Those engaged in rendering a professional service include, but are not limited to, the following:

- Architects
- Attorneys-at-Law
- Auditing Companies
- Certified public accountants
- Dentists
- Engineers
- Land surveyors
- Practitioners of the healing arts (the art or science or group of arts or sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities)
- Surgeons
- Veterinarians

D. Repair, Personal and Business Services

2.26. Listing of repair, business and personal services.

Every person conducting or engaging in, or regularly performing, any of the following business or personal service occupations, businesses or trades shall be classified as a repair, personal or business service under the Ordinance:

- Advertising agencies
- Airports
- Ambulance services

Amusements and recreation services (including amusement halls and family recreation centers)
Amusement parks
Animal hospitals, grooming services, kennels or stables
Artists
Auctioneers and common criers
Automobile repair shops, except where in connection with a licensed service station
Automobile driving schools
Barber shops, beauty parlors, and hairdressing establishments, schools and services
Bid or building reporting service
Billiard or pool establishments or parlors
Billposters and billboards
Blacksmith shops, wheelright, radio, television, electric or furniture repair shops
Boat landings
Bondsman
Bookkeepers, public (other than professions as described in Sec. 2.25)
Booking agents or concert managers
Bowling alleys
Brokers and commission merchants other than real estate or financial brokers
Business and governmental research and consulting services
Chartered clubs
Child care attendants or schools
Collection agents or agencies
Commercial photography, art and graphics
Court reporting and public stenographers
Dance halls
Dance studios and schools
Data processing, computer and systems development services
Developing or enlarging photographs
Detective agency and protective services
Drafting services
Employment agencies
Engraving
Erecting installing, removing or storing awnings
Extermination services (unless the services involve performing functions defined as contracting under subsection B of Sec. 58.1-3714 of the Virginia Code)
Farrier or blacksmith
Freight traffic bureaus
Fumigating or disinfecting
Funeral services and crematories

Golf courses, driving ranges and miniature golf courses
Hauling of sand, gravel or dirt (excavated by others)
Home for adults (licensed by Department of Social Services)
Hospitals, profit or nonprofit
Hotels, motels, tourist courts, boarding and rooming houses and transient trailer parks and campsites
House cleaning services
Information bureaus
Instructors, tutors, schools and studios of music, ceramics, art, sewing, sports and the like
Interior decorating
Janitorial services
Labor agents
Laundry cleaning and garment services including laundries, dry cleaners, linen supply, diaper service, coin operated laundries and carpet and upholstery cleaning
Lumber brokers
Mailing, messenger and correspondent services
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 services
Parking lots, public garages and valet parking
Pawnbrokers
Personnel services, labor agents and employment bureaus
Photographers and photographic services (except in the course of employment by a newspaper, magazine or television station and except as described in Sec. 2-5 B. 15. of the Ordinance)
Piano tuning
Picture framing and gilding
Porter services
Press clipping services
Professional sports (i.e., commercial rather than amateur)
Promotional agents or agencies
Public relations services
Realty multiple listing services
Repairs, watch and clock
Renting or leasing any items of tangible personal property
Reproduction services
Research and development laboratories
Secretarial services

Septic tank cleaning
Shoe repair, shoe shine and hat repair shops
Sign painting (unless the painting services involve performing functions defined as contracting under subsection B of Sec. 58.1-3714 of the Code of Virginia)
Solicitors for service businesses (Ref. Reg. 2.42)
Storage--all types
Swimming pool maintenance and management
Tabulation services
Tax preparers (other than professionals described in Sec. 2.25)
Taxicab companies
Taxidermist
Telephone answering services
Temporary employee services
Testing laboratories
Theaters
Theatrical performers, bands and orchestras
Tires, recapping and repairing
Towing services
Transportation services including buses and taxis
Travel agencies
Tree surgeons, trimmers and removal services
Trucking companies, intrastate
Wake-up services
Washing, cleaning or polishing automobiles
Welding, except where done in connection with another licensed business
Wood dealers

2.27. Provisions as to Amusement Parks.

The owner or operator of a permanent park, open to the public for at least four months as a permanent place of amusement, which shall be operated continuously, each day, Sundays and holidays excepted, for at least four months, may operate a bowling alley, trained animal show, hobby-horse or merry-go-round, ferris wheel, moving picture show, theatrical performances, old mill or similar entertainment, bath houses, boat houses, parking stations to the extent that they are not within the definition of a garage contained in this Code, refreshment and confectionery stands other than for the sale of beer and wine of any alcoholic content or tobacco, provided the items enumerated as coming within the scope of the privilege conferred by a license taken out under this section are located, conducted or operated within the area of such amusement park and are under the supervision and control of the owner or operator of the park, upon the payment of a license tax as provided in the Ordinance. The operation of a carnival or circus or show of any kind which moves from place to place shall not be allowed under the license provided for as an amusement park.

Any and all coin-operated devices or machines to be operated in connection with said amusement park shall be separately licensed under the provisions of the Ordinance.

2.28. Charitable showings of moving picture shows.

When any exhibition of a motion picture is given for benevolent, charitable or educational purposes and the exhibitor thereof receives no part of the receipts from such exhibition as his compensation, then the proceeds from such exhibition shall be excluded from the computation of said exhibitor's gross receipts for the year in which such exhibition is made.

2.29. Theatrical and public performances, exhibitions, etc.

A license shall be required for the exhibition for compensation of any theatrical performance or any performance similar thereto or any panorama or public performance or exhibition of any kind or the giving of any lecture, literary reading or other performance, except for benevolent, charitable or educational purposes. Non-profit organizations sponsoring and producing such theatrical performances, shall also be exempt. Whenever theatrical performances shall be licensed, the actors acting thereat under the license shall be exempt from the license tax; but unless the performances shall be so licensed, each person engaged therein shall be liable to the penalty for the violation of this section.

Nothing herein shall be construed as taxing games of football, baseball, basketball, or kindred ball games.

2.30. Auctioneers and common criers.

Any person licensed as an auctioneer or common crier may sell by auction any property not prohibited by law. Such license shall be issued annually and shall be non-proratable. Any licensed auctioneer who buys and sells on his own account is not relieved of any license tax imposed by law on a person who buys and sells on his own account. Nothing in this section shall be construed as exempting from any tax imposed by law anyone for whom an auctioneer sells.

No person shall sell at auction or public outcry, for compensation without a license, except in the following cases:

(1) The estate of a decedent may be sold by his personal representatives or his agent, according to law or the provisions of the will.

(2) Property conveyed by deed of trust or decreed or ordered to be sold by a court may be sold according to the deed, decree or order.

(3) Any person may sell the agricultural products of this State arising from his own or other labor under his control or his real or personal estate not sold or purchased on speculation.

(4) Any officer may sell property distrained by him under execution or other legal process.

(5) Any person, firm or corporation licensed by the Town as a Real Estate Broker.

E. Miscellaneous Provisions

2.31. Stockbrokers.

Any person, firm or corporation, other than a national bank or bank or trust company organized under the laws of this State, or a 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 shall be deemed to be a stockbroker and taxed under Sec. 2-5 B. 3. of the Ordinance.

2.32. Dealing in options or futures.

Any person, firm or corporation engaged in buying and selling, or who receives orders to buy or sell, cotton, grain, provisions or other commodities shall be deemed to be a broker dealing in options and futures and taxed under Sec. 2-5 B. 3. of the Ordinance.

2.33. Tax on distributing houses--wholesale merchant's license.

For every distributing house or place in this town, other than the house or place of manufacture, operated by any person, firm or corporation engaged in the business of a merchant, for the purpose of distributing goods, wares and merchandise among his or its retail stores, a separate license shall be required and the goods, wares and merchandise distributed through such distributing house or place shall be regarded as purchases for the purpose of measuring the license tax. The tax shall be the same as the license tax imposed hereby on a wholesale merchant.

2.34. Sale of goods belonging to another--Commission merchant's license.

Goods, wares and merchandise not belonging to a merchant which are offered for sale by the merchant or by another person at the merchant's duly licensed place of business shall require such merchant to take out the license of a commission merchant.

2.35. Who are peddlers.

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, shall be deemed to be a peddler.

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 goods, wares and merchandise, shall be deemed peddlers under this article. 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, wares and merchandise shall also be deemed peddlers as above, but this article shall not apply to those who sell or offer for sale in person or by their employees ice, wood, charcoal, meats, milk,

butter, eggs, poultry, fish, oysters, game, vegetables, fruits or other family supplies of a perishable nature or farm products grown or produced by them and not purchased by them for sale or to sales by civic or charitable organizations. But a dairyman who uses upon the streets one or more vehicles may sell and deliver from his vehicles, milk, butter, cream and eggs without procuring a peddler's license.

2.36. Peddlers: privileges and restrictions of licenses.

Any person licensed as a peddler may sell any personal property a merchant may sell or he may exchange the same for other articles.

A peddler's license shall not be transferable, and any person so licensed shall endorse his name on the license.

2.37. Peddlers: name and address on vehicles.

Every vehicle used in peddling as aforesaid shall have conspicuously displayed thereon the name of the peddler using the same, together with his address.

2.38. Peddlers: license taxes and regulations.

The Town Council may by ordinance or ordinances designate the streets or other public places on or in which all licensed peddlers may sell or offer for sale their goods, wares or merchandise, notwithstanding previous issue of a license under this code.

2.39. Peddlers to dealers or retailers.

The Ordinance imposes an annual license tax on every person, firm and corporation who or which shall peddle goods, wares or merchandise by selling and delivering the same at the same time to licensed dealers or retailers at other than a definite place of business operated by the seller.

The Ordinance shall not be construed to apply to:

1. A licensed wholesale dealer who sells and, at the time of such sale, delivers merchandise to retail merchants;
2. A distributor or vendor of motor fuels and petroleum products;
3. A distributor or vendor of seafood who catches seafood and sells only the seafood caught by him;
4. A farmer or producer of agricultural products who sells only the farm or agricultural products produced or grown by him;
5. A farmers' cooperative association;
6. A manufacturer who is subject to Virginia tax on intangible personal property who peddles at wholesale, only the goods, wares or merchandise manufactured by him at a plant, whose intangible personal property is taxed by the Commonwealth of Virginia.

2.40. Evidence of exemption.

Every person, firm or corporation claiming an exemption on the grounds that it is a business listed in Section 2.39 above shall upon request of any police, or the

Treasurer, furnish evidence of his claim other than his mere statement that he is exempt from the provisions of this article, and failure to furnish such evidence shall be sufficient ground for charging the person operating the vehicle with a violation of the Ordinance.

Every person, firm or corporation claiming exemption from the provisions of the Ordinance on the ground that it is delivering goods, wares or merchandise previously sold to the customer shall, upon request of any police, or the Treasurer, furnish evidence of its claims other than its mere statement. The evidence may be an invoice or signed order describing the goods, wares or merchandise involved and the amount and price thereof. Failure to furnish such evidence shall be sufficient ground for charging the person operating the vehicle with a violation of the Ordinance.

2.41. Peddlers to dealers or retailers; license, etc., on vehicle.

Every vehicle used by any licensee hereunder shall have conspicuously displayed thereon the name of the person, firm or corporation using the same, with the post office address of the licensee, and the license hereby required shall be conspicuously displayed on each vehicle while used in such business.

2.42. Solicitors.

Every person representing as agent, a person, firm or corporation who has no licensed place of business within the Commonwealth, selling or soliciting orders from users or consumers for any of the following types of businesses or trades, who is not exempt under State or Federal law, shall be considered a solicitor and shall be licensed as set forth below:

A. *Solicitors for service businesses.* Solicitors for the service businesses set forth below shall be licensed as repair, personal and business services:

- Cleaning, pressing, dyeing and laundry of clothes,
- Labor agents soliciting labor to work outside the Town,
- Linen, towel, uniform, rag and diaper service,
- Any other business engaged in the providing of services.

B. *Solicitors for sales businesses.* Solicitors for the sales businesses set forth below shall be licensed as retail merchants:

- Clothing, other than uniforms,
- Fertilizer and guano,
- Gasoline, oil and kerosene,
- Fruit trees, shrubbery and other growing things,
- Groceries,
- Hardware,
- Notions, toys and miscellaneous articles,
- Pianos, organs or other musical instruments,
- Tombstones or monuments,
- Any other business engaging in the retail sale of goods or merchandise.