

## **CHAPTER 3**

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## Article I. In General<sup>1</sup>

### Sec. 3-1. Annual assessment; valuation of property.

The Town Council shall, annually, at their regular meeting in the month of January in each year, or as soon thereafter as practicable not later than a regular or called meeting in May, fix the tax rate on all real and personal property for the current calendar year properly subject to taxation within and by the Town and shall assess such taxes as may be required to provide for the needs and purposes of the Town. In determining the valuation of property in the Town, reference shall be had to the records of the Commissioner of Revenue of Pittsylvania County, Virginia.

1. For state law as to vote of town council when taxes are levied, see Code of Va. Sec. 15.1-826. For State Law as to duty of town council to make city and town levies, see Code of Va. Sec. 58-844. For State Law authorizing towns to make additional levies, see Code of Va. Sec. 58-854. For State Law authorizing towns to levy an additional tax to pay interest and to retire bonds, see Code of Va. Sec. 58-846. For State Law authorizing towns to provide for collection of taxes in installments, see Code of Va. Secs. 58-847 to 58-849. For State Law authorizing town collector to distrain for town levies, see Code of Va. Sec. 58-850. For State Law authorizing town council to impose different rates of levy on different classes of property, see Code of Va. Sec. 58-851.

Replacement Page. (Article VI Sec. 3-28 thru Sec. 3-36 added 2/5/08, effective 7/1/08. Article VII, Sec. 3-37 thru Sec. 3-48 added 6/7/18, effective 10/1/18).)

**Sec. 3-2. Tax tickets; bills for taxes.**

As soon as practicable after taxes are assessed as provided in Section 3-1, the Town Treasurer shall make or cause to be made for each taxpayer a tax ticket substantially in the form prescribed by the State Department of Taxation and shall send by mail to each taxpayer a bill for such taxes.

**Sec. 3-3. When taxes due and payable; penalty.**

Except as otherwise provided, all taxes shall be due and payable as soon as the tax bills referred to in Section 3-2 are sent. Any person failing to satisfy such tax bill on or before the fifth day of December following the mailing thereof shall incur a penalty of five percent of the total taxes due.

**Sec. 3-4. Interest.**

Interest at the rate of six percent per annum shall be collected upon the principal and penalty from June thirtieth of the year next after taxes were assessed under Section 3-1.

**Sec. 3-4.1. Treasurer to make out lists of uncollectible taxes and delinquents.**

(a) The treasurer, after ascertaining which of the taxes and levies assessed at any time in the town have not been collected, shall, within 60 days of the end of the fiscal year, make out lists as follows:

(1) A list of real estate on the land book of the county commissioner of the revenue improperly placed thereon or not ascertainable, with the amount of taxes charged thereon.

(2) A list of other real estate which is delinquent for the nonpayment of the taxes thereon. This list shall not include any taxes listed under subsection (a)(4) or (5) of this section.

(3) A list of such of the taxes assessed on tangible personal property, machinery and tools and merchants' capital, and other subjects of local taxation, other than real estate, as he or she was unable to collect which are delinquent. This list shall not include any taxes listed under subsection (a)(4) or (5) of this section.

(4) A list of the uncollected taxes amounting to less than \$20.00 each for which no bills were sent under Code of Virginia, § 58.1-3912.

(5) A list of uncollected balances of previously billed taxes amounting to less than \$20.00 each as to which the treasurer has determined that the costs of collecting such balances would exceed the amount recoverable, provided that the treasurer shall not include on such list any balance with respect to which he or she has reason to believe that the taxpayer has purposely paid less than the amount due and owing.

Notwithstanding any other provision of this chapter, no tax or levy which has been discharged or otherwise rendered legally uncollectible as to a taxpayer liable upon it in a proceeding under the United States Bankruptcy Code (Title 11 of the United States Code) shall be considered delinquent with respect to that taxpayer on and after the date such obligation is discharged or otherwise rendered legally uncollectible, and the treasurer shall not include any such discharged or uncollectible obligation in any list required to be prepared

pursuant to this section. Any such discharged or uncollectible obligation shall be stricken from the books of the treasurer as of the date the obligation is discharged or otherwise rendered uncollectible, and the treasurer thereafter shall have no further duty to collect such tax or levy.

(b) The lists mentioned in subsection (a) of this section shall conform to the facts as they existed on June 30 of the year they are submitted to the Town Council. Delinquent real estate taxes shall be listed in the name of the owner on the date of assessment.

#### **Sec. 3-4.2. Delinquent lists submitted to council; publication of lists.**

(a) A copy of each of the five lists mentioned in section 3-4.1 (a) shall be submitted by the treasurer to the Town Council. Such lists shall be submitted at the first meeting of the Town Council held after the treasurer has completed the lists.

(b) The treasurer may, or shall, at the direction of the council, certify to the county commissioner of the revenue a copy of the list of real estate on the commissioner's land book improperly placed thereon or not ascertainable. The commissioner of the revenue shall correct his or her land book accordingly. The treasurer shall be given credit for the entire amount of the taxes included in the list and may destroy the tax tickets made out by him or her for such taxes. The treasurer shall be given credit for all taxes shown on the list mentioned in section 3-4.1 (a)(4) and (5) and for obligations discharged in bankruptcy as described in section 3-4.1.

(c) The Town Council may cause the lists mentioned in section 3-4.1(a)(2) and (3), or such parts thereof as deemed advisable by the treasurer, to be published at least once in a newspaper in the town, but if there is no newspaper published in the town, then in some newspaper having general circulation therein or in handbills to be posted generally throughout the town, and at the front door of the courthouse thereof for a period of 30 days.

(d) The publication costs shall be paid for by funds allocated for that purpose by the Town Council, and shall be charged to the delinquent taxpayers listed. The sum payable by each delinquent taxpayer shall be determined by dividing the total publication costs incurred per 30-day period, by the number of delinquent taxpayers listed per 30-day period.

### **Article II. Exemption on Real Estate of Certain Elderly and Disabled Persons<sup>1</sup>**

#### **Sec. 3-5. Definitions.**

"*Dwelling*" shall mean the full time residence and domiciliary, including a manufactured or mobile home, of the person claiming the exemption.

"*Elderly*" shall mean a person not less than sixty-five (65) years of age as of December 31 of the year prior to the year for which exemption is requested.

1. Va. Code Ref. Sec. 58-760.1



*"Fair Market Value"* shall mean, when applied to real estate, based upon the appraised value, and not the assessed value, as shown on the records of the Commissioner of Revenue. When applied to personal property, fair market value shall mean the actual value as appraised by the Commissioner of Revenue.

*"Income"* shall mean total gross income from all sources, without regard to whether a tax return is actually filed. Income shall not include life insurance benefits or receipts from borrowing or other debt.

*"Manufactured or Mobile Home"* means a structure subject to federal regulation, which is transportable in one or more sections; is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode; or is three-hundred and twenty (32) or more square feet when erected on site; is built on a permanent chassis; and is designed to be used as a single family dwelling, with or without a permanent foundation.

*"Permanently and Totally Disabled"* shall mean unable to engage in any substantially gainful activity by means of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

*"Real Estate"* shall mean real property and dwelling structures, and shall include manufactured or mobile homes which are presently being used as a dwelling, and are connected to the required utilities including plumbing, heating, air conditioning, and electrical utilities.

*"Relative"* shall mean any relation by blood or marriage.

*"Taxable Year"* shall mean the calendar year, from January 1 until December 31, for which exemption is claimed.

### **Sec. 3-6. General Provisions.**

*Exemption.* Real estate owned and occupied as the sole dwelling of a person or persons who are not less than sixty-five (65) years of age or who are determined to be permanently and totally disabled are exempted from so much of the Town Real Estate Taxes as provided for in Section 3-1 hereof, subject however to the following restrictions and conditions, in addition to those set out elsewhere in this section:

A. The combined annual income shall be based on adding together the income received during the preceding calendar year, without regard to whether a tax return is actually filed, by (i) owners of the dwelling who use it as their principal residence, (i) owners' relatives who live in the dwelling, except for those relatives living in the dwelling and providing bona fide caregiving services to the owner whether such relatives are compensated or not, and (iii) nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide caregivers of the owner, whether compensated or not, shall not exceed eighteen thousand (\$18,000.00) dollars per year; provided that the first four thousand (\$4,000.00) dollars of annual income of each relative/nonrelative, other than the spouse of the owner, shall not be included in such totals; and

Replacement Page. (Article II, Sec. 3-5 thru Sec. 3-11 repealed and new Article II, Sec. 3-5 thru Sec. 3-10 added 6/7/18).

B. That the net combined financial worth, including equitable interests, of the owners and of the spouse of any owner, excluding the value of the dwelling and the land upon which it sits, not exceeding one acre, does not exceed sixty thousand (\$60,000.00) dollars as of the 31<sup>st</sup> day of December of the immediately preceding calendar year, and through the taxable year to which such exemption is to apply.

**Sec. 3-7. Filing of Applications; Miscellaneous Provisions.**

A. *Filing.* The person or persons claiming such exemptions shall file annually, after the 1<sup>st</sup> day of January but not later than the fifteenth day of February, with the Commissioner of Revenue of Pittsylvania County, Virginia, or such other agent or officer as may be designated by the commission, on forms supplied by the County, an Affidavit setting forth the names of related persons occupying the real estate for which the exemption is claimed, their total combined net worth, including equitable interests and the combined income from all sources of all persons specified. The application deadline may be extended on the approval of the Commissioner of Revenue, if the applicant is applying for the exemption for the first time or in cases of hardship and if proper application is made along with a sworn affidavit that failure to apply by the fifteenth day of February was due to reasons beyond the applicant's control. The Commissioner of Revenue shall require that the applicant, spouse, and any and all relatives living in the dwelling supply proof of age in the form of Birth Certificates or Passports or Driver's License; and proof of income in the form of copies of their W-2s, 1099-DIV, 1099-INT, 1099-MISC, 1099-R, SSA-1099 Social Security Statements, and such other documents as may be required by the Commissioner of Revenue to determine income and total combined net worth.

B. *Certification of Disability.* If the person claiming the exemption is under sixty-five (65) years of age, the Affidavit filed under this section shall have attached thereto a Certification by the Social Security Administration, the Veterans Administration or the Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two (2) medical doctors licensed to practice medicine in the Commonwealth of Virginia, to the effect that such person is permanently and totally disabled. The affidavit of at least one such doctor shall be based upon a physical examination of such person by such doctor. The affidavit of one such doctor may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability, as defined herein.

C. *Residence in hospital, nursing home.* The fact that persons who are otherwise qualified for tax exemption are residing in hospitals, nursing homes, convalescent homes, or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption or deferral is sought does not continue to be the sole dwelling of such person during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

Supplement Page. (Article II, Sec. 3-5 thru Sec. 3-11 repealed and new Article II, Sec. 3-5 thru Sec. 3-10 added 6/7/18).



D. *Changes – Ownership, income or financial worth.* Any change in respect of total combined income, net combined financial worth, ownership of the dwelling exempted, or other factors, which occur during the taxable year for which the affidavit is filed, and which has the effect of a reduction or termination of any exemption, shall nullify or reduce any exemption for the then current taxable year, and the taxable year immediately following.

E. *Certification to the Treasurer.* The Commissioner of Revenue shall certify to the Treasurer of Pittsylvania County, Virginia, annually those persons who qualify under this article for an exemption and the amount thereof. The Treasurer shall deduct the amount of exemption from the applicant's real estate tax for that year.

#### Sec. 3-8. Exemption.

A. The exemption shall be as follows:

Total Income from All Sources	Tax Exemption
\$ 0 to \$10,000	90%
\$10,001 to \$11,000	80%
\$11,001 to \$12,000	70%
\$12,001 to \$13,000	60%
\$13,001 to \$14,000	50%
\$14,001 to \$15,000	40%
\$15,001 to \$16,000	30%
\$16,001 to \$18,000	20%

B. The total annual exemptions shall not exceed three hundred (\$300.00) dollars.

C. The tax exemption herein permitted may be granted for any year following the year of the taxpayer occupying such dwelling and owning title or partial title thereto reaches the age of sixty-five (65) years or is determined to be permanently and totally disabled.

D. If the ownership of the property for which application for exemption is made is not held solely by the applicant, or jointly with the applicant's wife, then the amount of the tax exemption percentage as provided for herein shall be in proportion to the applicant's ownership interest.

#### Sec. 3-9. Exemption for property of surviving spouses of certain persons killed in the line of duty.

A. *Definitions.* As used in this section:

1. "*Average Assessed Value*" means the average assessed value for all dwellings located within the town that are situated on property zoned as single-family residential.

2. "*Covered person*" means any person set forth in the definition of "deceased person" in Code of Virginia § 9.1-400 whose beneficiary, as defined in Code of Virginia, § 9.1-400, is entitled to receive benefits under Code of Virginia, § 9.1-402, as determined by the Comptroller of Virginia prior to July 1, 2017, or as determined by the Virginia Retirement System on and after July 1, 2017.

Supplement Page. (Article II, Sec. 3-5 thru Sec. 3-11 repealed and new Article II, Sec. 3-5 thru Sec. 3-10 added 6/7/18).

B. *Exemption authorized; timing; refunds.* For tax years beginning on or after January 1, 2017, the real property described in this section of the surviving spouse of any covered person who occupies the real property as his principal place of residence is exempt from taxation. If the covered person's death occurred on or prior to January 1, 2017, and the surviving spouse has a principal residence on January 1, 2017, eligible for the exemption under this section, then the exemption for the surviving spouse shall begin on January 1, 2017. If the covered person's death occurs after January 1, 2017, and the surviving spouse has a principal residence eligible for the exemption under this section on the date that such covered person dies, then the exemption for the surviving spouse shall begin on the date that such covered person dies. If the surviving spouse acquires the property after January 1, 2017, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to Code of Virginia, § 58.1-3360. No interest shall be paid on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by this section.

C. *Scope of exemption.* Those dwellings with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year shall qualify for a total exemption from real property taxes under this section. If the value of a dwelling is in excess of the average assessed value for such year, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single-family homes, condominiums, town homes, manufactured homes as defined in Code of Virginia, § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that (i) meet the requirements of this subsection and (ii) are occupied by such persons as their principal place of residence shall qualify for the real property tax exemption. If the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

D. *Occupation as principal place of residence required; effect of remarriage or moving.* The surviving spouse shall qualify for the exemption so long as the surviving spouse does not remarry and continues to occupy the real property as his principal place of residence. The exemption applies without restriction on the spouse's moving to a different principal place of residence.

E. *Exemption for land upon which dwelling is situated; application of exemption to improvements other than a dwelling.* The exemption applies to (i) the qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection C, and (ii) with the exception of land not owned by the surviving

spouse, the land, not exceeding ten acres, upon which it is situated. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such land as is exempt from taxation under this section, shall also be exempt from taxation so long as the principal use of the improvement is (a) to house or cover motor vehicles or household goods and personal effects as classified in subdivision (A)(14) of the code of Virginia, § 58.1-3503 and as listed in Code of Virginia, § 58.1-3504 and (b) for other than a business purpose.

F. *Application to life estate, revocable inter vivos trust, irrevocable trust, leasehold, or term of years.* For purposes of this section, real property of any surviving spouse of a covered person includes real property held (i) by a surviving spouse as a tenant for life, (ii) in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys continuing right of use or support. Such real property does not include any interest held under a leasehold or term of years.

G. *Effect of joint ownership.*

1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways identified in clauses (i) through (iii) of subsection F. and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is one and the denominator of which equals the total number of people having an ownership interest that permits them to occupy the property.

2. In the event that the principal residence is jointly owned by two or more individuals, including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways identified in clauses (i) through (iii) of subsection F., then the exemption shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is the percentage of ownership interest in the dwelling held by the surviving spouse and the denominator of which is 100.

H. *Application for exemption; notification upon remarriage or change in principal place of residence.* The surviving spouse claiming the exemption under this section shall file with the Town Treasurer on forms supplied by the Town an affidavit or written statement (i) setting forth the surviving spouse's name, (ii) indicating any other joint owners of the real property, (iii) certifying that the real property is occupied as the surviving spouse's principal place of residence, and (iv) including evidence of the determination of the

Supplement Page. (Article II, Sec. 3-5 thru Sec. 3-11 repealed and new Article II, Sec. 3-5 thru Sec. 3-10 added 6/7/18).

Comptroller of Virginia or the Virginia Retirement System that the deceased is a covered person. The surviving spouse shall also provide documentation that he is the surviving spouse of a covered person and of the date that the covered person died. The surviving spouse shall be required to refile the information required by this subsection only if the surviving spouse's principal place of residence changes. The surviving spouse shall promptly notify the director of finance of any remarriage.

I. *Effect of absence from residence.* The fact that surviving spouses who are otherwise qualified for tax exemption pursuant to this section are residing in hospitals, nursing homes, convalescent homes, or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence, so long as such real estate is not used by or leased to others for consideration.

**Sec. 3-10. Penalty.**

Any person who knowingly gives false information to support a claim for an exemption under this article, or any person who willfully fails to notify the Commissioner of Revenue or other designated officer of changes in conditions which would result in a reduction or termination of the exemption, shall be guilty of a Class 1 misdemeanor.

Replacement Page. (Article II, Sec. 3-5 thru Sec. 3-11 repealed and new Article II, Sec. 3-5 thru Sec. 3-10 added 6/7/18).

### **Article III. Bank Franchise Tax<sup>1</sup>**

#### **Sec. 3-12. Definitions.**

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

A. "Bank" shall be as defined in Section 58-485.01 of the Code of Virginia.

B. "Net Capital" shall mean a bank's net capital computed pursuant to Section 58-485.07 of the Code of Virginia.

#### **Sec. 3-13. Imposition of Bank Franchise Tax.**

A. Pursuant to the provisions of Chapter 10.01 of Title 58 of the Code of Virginia, there is hereby imposed upon each bank located within the boundaries of the Town of Hurt a tax on net capital equalling 80 percentum of the state rate of franchise tax set forth in Section 58-485.06 of the Code of Virginia.

B. In the event that any bank located within the boundaries of the Town of Hurt is not the principal office but is a branch extension or affiliate of the principal office located outside the corporate limits hereof, the tax upon such branch shall be apportioned as provided by Section 58-485.012 of the Code of Virginia.

#### **Sec. 3-14. Filing of Return and Payment of Tax.**

A. On or after the first day of January of each year, but not later than March 1 of any such year, all banks whose principal offices are located within the Town of Hurt shall prepare and file with the Commissioner of the Revenue, or appropriate assessing officer, of Pittsylvania County, a return as provided by Section 58-485.013 of the Code of Virginia in duplicate which shall set forth the tax on net capital computed pursuant to Chapter 10.01 of Title 58 of the Code of Virginia. The Commissioner of the Revenue, or appropriate assessing officer of Pittsylvania County, shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the State Department of Taxation.

B. In the event that the principal office of a bank is located outside the corporate boundaries of the Town of Hurt and such bank has branch offices located within the town, in addition to the filing requirements set forth in Section (a) hereof, any bank conducting such branch business shall file with the Commissioner of the Revenue, or appropriate assessing officer, of Pittsylvania County a copy of the real estate deduction schedule, apportionment and other items which are required by Sections 58-485.012, 58-485.013 and 58-485.014 of the Code of Virginia.

C. Each bank, on or before the first day of June of each year, shall pay to the Clerk of the Town of Hurt all taxes imposed pursuant to this ordinance.

1. Va. Code Ref. Sec. 58-485.01 et seq.

**Sec. 3-15. Effective Date of Ordinance.**

The provisions of this ordinance shall be effective for the year beginning January 1, 1980.

**Sec. 3-16. Penalty upon bank for failure to comply with ordinance.**

Any bank which shall fail or neglect to comply with any provision of this ordinance shall be fined not less than one hundred nor more than five hundred dollars, which fine shall be recovered upon motion, after five days' notice in the Circuit Court of Pittsylvania County. The motion shall be in the name of the Commonwealth and shall be presented by the Commonwealth's Attorney for Pittsylvania County.

**Article IV. Consumer Utility Tax**

**Sec. 3-17. Definitions.**

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

*Business or commercial user.* The owner or tenant of property used for business or commercial purposes including the owners of master metered apartment buildings who pay for such utility service for such property. "Business or commercial service" shall mean utility service to such user.

*Industrial user.* The owner or tenant of property used for industrial purposes. "Industrial service" shall mean utility service furnished to such user.

*Local Telephone Service.* The term "local telephone service" shall mean any service taxable as local telephone service under the provisions of the Internal Revenue Code of 1954, and amended, relating to federal communications taxes, as such provisions were in force and effect on December thirty-one, nineteen hundred seventy-one, except that no tax shall be imposed on services or equipment furnished by telephone companies subject to public utility regulation during any period in which such services or equipment are in competition with services or equipment furnished by or available from persons other than telephone companies subject to public utility regulation.

*Person.* Individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

*Purchaser.* Every person who purchases a utility service.

**Replacement Page.** (Sec. 3-17 amended 10/25/00, effective 1/1/01).

*Residential user.* The owner or tenant of private residential property or tenant of an apartment or mobile home who pays for utility service in or for such property. "Residential service" shall mean utility service to such user.

*Seller.* Every person, whether a public service corporation or not, who sells or furnishes a utility service.

*Utility services.* Local telephone service furnished within the corporate limits of the town.

**Sec. 3-18. Tax levied; amount.**

There is hereby imposed and levied by the town, upon each and every purchaser of local telephone service, a tax in the amount of fifteen percent (15%) of the charge (exclusive of any federal tax thereon) made by the seller against the purchaser with respect to such service, which tax in every case shall be collected by the seller from the purchaser and shall be paid by the purchaser unto the seller for the use of the town at the time the purchase price of such charge shall become due and payable under the agreement between the purchaser and the seller. In case a bill is submitted by the seller for purchases made by the user during periods of greater than one month, then the amount of such bill subject to taxation hereunder shall be the amount in which a bill for the subject utility would be taxed in a single month multiplied by the number of months for which such bill is submitted.

The tax imposed and levied by this article on purchasers with respect to local exchange telephone service shall apply to all charges made for local exchange telephone service, except local calls or messages which are paid for by inserting coins into coin operated telephones.

**Sec. 3-19. Collection of tax--Duty of seller; reports by seller.**

It shall be the duty of every seller, in acting as the tax collecting medium or agency for the town, to collect from the purchaser for the use of the town the tax hereby imposed and levied at the time of collecting the purchase price charged therefor, and the taxes collected during each calendar month shall be reported by each seller to the town treasurer, and each seller shall remit the amount of tax shown by such report to have been collected, less a collection fee of 2.75 percent of the amount collected, to the town treasurer on or before the last day of the second calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax. The required reports shall be in the form prescribed by the town treasurer.

**Replacement Page.** (Sec. 3-17 and Sec. 3-18 amended 10/25/00, effective 1/1/01).

**Sec. 3-20. Same--Duty of treasurer; disposition of revenue.**

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

**Sec. 3-21. Duty of seller to keep records; authority of town agents to inspect and transcribe records.**

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

**Sec. 3-22. Exemptions.**

The United States of America, the Commonwealth of Virginia, and the political subdivision, boards, commissions and authorities thereof, are hereby exempt from the payment of the tax imposed and levied by this article with respect to the purchase of utility services used by such governmental agencies.

**Sec. 3-23. Repealed and reserved.**

**Sec. 3-24. Penalty.**

Any purchaser failing, refusing or neglecting to pay the tax hereby imposed or levied and any seller violating the provisions hereof, any officer, agent or employee of any seller violating the provisions hereof, shall upon conviction, be subject to a fine of not less than five dollars nor more than one hundred dollars. Each failure, refusal, neglect or violation and each days' continuance thereof, shall constitute a separate offense.

**Sec. 3-25. Severability.**

It is hereby declared to be the intention of the Council of the Town of Hurt that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the valid judgement or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

**Replacement Page.** (Sec. 3-23 repealed and reserved 10/25/00, effective 1/1/01).



**Sec. 3-26. Repealed and reserved.**

**Article IV-A. Electric and Natural Gas Consumers Tax**

**Sec. 3-26.1. Electric and Natural Gas Consumers Tax.**

**A. Definitions.**

“Consumer” means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services in this jurisdiction.

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

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

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

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

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

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

“Service provider” means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

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

**B. Electric Utility Consumer Tax**

1. In accordance with Virginia Code §58.1-3814, effective January 1, 2001, there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as 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.** (Sec. 3-26 repealed & reserved 10/25/00, effective 1/1/01.

Sec. 3-26.1 added 10/25/00, effective 1/1/01. Sec 3-26.1 amended effective December 3, 2019).

2. Exemptions: The following consumers of electricity are exempt from the tax imposed by this section B.

a. The United States of America, the Commonwealth of Virginia, and the political subdivisions, boards, commissions and authorities thereof are exempt from the tax imposed by this ordinance. Also exempt are "public service agencies", meaning a functional division of any public agency which provides fire-fighting, police, medical or other emergency services or a private entity which provides such services on a voluntary basis. All churches and other organizations listed in §§ 58.1-3606, 58.1-3607 and 58.1-3608 of the Code of Virginia are also exempt from the tax imposed by this ordinance.

b. All entities holding an exemption issued by the Pittsylvania County Commissioner of Revenue at the effective date of this ordinance shall likewise be exempt. From and after the effective date of this ordinance applications for exemption shall be filed with the Town Treasurer and those which are granted shall be forwarded to the Sellers.

3. Billing, collection and remittance of tax. The service provider shall bill the electricity consumer tax to all users who are subject to the tax and to whom it delivers electricity and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Virginia Code §58.1-3814, paragraphs F. and G., and Virginia Code §58.1-2901. If any consumer receives and pays for electricity but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this jurisdiction.

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

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

**Supplement Page.** (Sec. 3-26.1 added 10/25/00, effective 1/1/01).

**Replacement Page.** (Sec. 3-26.1 amended effective December 3, 2019.)

**C. Local Natural Gas Utility Consumer Tax**

1. In accordance with Virginia Code §58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by "class of consumers" as such term is defined in Virginia Code §58.1-3814 J., 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.

2. Exemptions. The following consumers of natural gas shall be exempt from the tax imposed by this section C:

a. The United States of America, the Commonwealth of Virginia, and the political subdivisions, boards, commissions and authorities thereof are exempt from the tax imposed by this ordinance. Also exempt are "public service agencies", meaning a functional division of any public agency which provides fire-fighting, police, medical or other emergency services or a private entity which provides such services on a voluntary basis. All churches and other organizations listed in §§ 58.1-3606, 58.1-3607 and 58.1-3608 of the Code of Virginia are also exempt from the tax imposed by this ordinance.

b. All entities holding an exemption issued by the Pittsylvania County Commissioner of Revenue at the effective date of this ordinance shall likewise be exempt. From and after the effective date of this ordinance applications for exemption shall be filed with the Town Treasurer and those which are granted shall be forwarded to the Sellers.

3. Billing, collection and remittance of tax. The service provider shall bill the natural gas consumer tax to all users who are subject to the tax and to whom it delivers natural gas and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Virginia Code §58.1-3814, paragraphs H. and I., and Virginia Code §58.1-2901. If any consumer receives and pays for natural gas billed but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this jurisdiction.

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

**Supplement Page.** (Sec. 3-26.1 added 10/25/00, effective 1/1/01).

**Replacement Page.** (Sec. 3-26.1 amended effective December 3, 2019.)

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

D. Penalties. Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax imposed and levied under this ordinance, and any officers, agent or employee of any service provider violating the provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not less than \$5.00 nor more than \$100.00. Each such failure, refusal, neglect or violation shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this ordinance.

**Supplement Page.** (Sec. 3-26.1 added 10/25/00, effective 1/1/01).

**Replacement Page.** (Sec. 3-26.1 amended effective December 3, 2019.)

## **Article V – Personal Property Tax Relief**

### **Sec. 3-27. Personal Property Tax Relief.**

There is hereby adopted the Personal Property Tax Relief Ordinance of the Town of Hurt, Virginia, in accordance with Virginia Code Section 58.1-3523 et. seq. ("PPTRA"), as modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005), and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly (the 2005 revisions to the 2004-06 Appropriations Act, hereinafter cited as the "2005 Appropriations Act"); and

#### **Section 1. Purpose; Definitions; Relation to other Ordinances.**

(a) The purpose of this Ordinance is to provide for the implementation of the changes to PPTRA effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

(b) Terms used in this Ordinance that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Virginia Code Section 58.1-3523, as amended.

(c) To the extent that the provisions of this Ordinance conflict with any prior Ordinance or provision of the Code of the Town of Hurt, Virginia, this Ordinance shall control.

#### **Section 2. Method of Computing and Reflecting Tax Relief.**

(a) For tax years commencing in 2006, the Town adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for PPTRA and the reporting of such specific dollar relief on the tax bill.

(b) The Board shall, as part of the annual budget adopted pursuant to Chapter 25 of Title 15.2 of the Code of Virginia set the rate of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to the Town by the Commonwealth.

(c) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which the relief is allocated.

#### **Section 3. Allocation of Relief among Taxpayers.**

(a) Allocation of PPTRA relief shall be provided in accordance with the general provisions of this Section, as implemented by the specific provisions of the Town's annual budget relating to PPTRA relief.

(b) The Town Council does hereby encourage and request that the Treasurer, in reliance upon the authority provided in Virginia Code Section 58.1-3912(A) and 58.1-3921, to choose not to issue bills for balances due of \$5.00 or less and to write off those balances.

**Supplement Page. (Article V, Sec. 3-27 added 5/9/06)**

(c) Relief with respect to qualifying vehicles with assessed values of more than \$1,000.00 shall be provided at a rate, annually fixed by the Town budget and applied to the first \$20,000.00 in value of each such qualifying vehicle, that is estimated fully to use all available state PPTRA relief. The rate shall be established annually as part of the adopted budget for the Town of Hurt, Virginia.

**Section 4. Transitional Provisions.**

(a) Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the Town Treasurer is authorized to issue a supplemental personal property tax bill, in the amount of 100% of the tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to the qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on September 1, 2006, or such date as state funds for reimbursement for the state share of such bill have become unavailable, whichever earlier occurs.

(b) Penalty and interest with respect to bill issued pursuant to subsection (a) of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided for in the Town of Hurt's General Personal Property Tax Ordinance, from the original due date of the tax.

## ARTICLE VI. MEALS TAX

### Sec. 3-28. Definitions.

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

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

*Collector* means the treasurer or designee.

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

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

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

*Seller* means any person, firm or corporation receiving any payment for food with respect to which a tax is levied under this article.

*Treasurer* means the treasurer and any duly designated deputies, assistants, inspectors or other employees.

### Sec. 3-29. Levy of tax (Meals Tax).

(a) There is imposed and levied by the town on each person a tax at the percentage rate 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. The said percentage rate shown on the Master List is hereby levied on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not. Any fractional cent shall be rounded to the next higher cent.

(b) The tax imposed by this article applies to all sales of meals and food by a food establishment which place of business is located within the town, without regard to the locality of delivery or possible use by the purchaser.

Replacement Page. (Article VI Sec. 3-28 thru Sec. 3-36 added 2/5/08, effective 7/1/08. Sec. 3-29 amended 7/22/14. Sec 3-29 amended effective December 3, 2019.)

**Sec. 3-30. Collection of tax by seller.**

(a) Every seller shall collect and remit the amount of the tax imposed by this article from the person on whom the tax is levied or from the person paying for such food at the time payment for such food is made; provided, however, that as set forth in Code of Virginia, § 63.1-164, no blind person operating a vending stand or other business enterprise under the jurisdiction of the state department for the visually handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

(b) All amounts collected as taxes by the seller under this article shall be deemed to be held in trust by the seller collecting such taxes, until remitted to the town as provided in this article. If the amounts collected as taxes are not paid as and when due, they shall thereafter become a debt of the seller due to the town.

**Sec. 3-31. Exemptions; limits on application.**

(a) The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:

(1) Factory-prepackaged candy, gum, nuts and other items of essentially the same nature, except when sold as part of a meal.

(2) Factory-prepackaged doughnuts, ice cream, crackers, nabs, chips, cookies and items of essentially the same nature, except when sold as part of a meal.

(3) Food sold in bulk. For the purposes of this subsection, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on-premises consumption (e.g., a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for consumption off the premises of the food establishment.

(4) Alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption, except when sold as part of a meal.

(5) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

(6) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. §2012, as amended except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied under this article, the following items whether or not purchased for immediate consumption are excluded from the definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages. This subsection shall not affect provisions set forth in subsections (c)(3), (4) and (5) of this section.

(b) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.



(c) The tax imposed under this article shall not be levied on the following purchases of food and beverages:

(1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.

(2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.

(3) Food and beverages for use or consumption and which are paid for directly by the commonwealth, any political subdivision of the commonwealth or the United States.

(4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof.

(5) Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.

(6) Food and beverages sold on an occasional basis, not exceeding three times per calendar year, by a nonprofit education, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent or religious purposes.

(7) Food and beverages sold through vending machines.

(8) Meals sold or purchased under nonprofit nutrition programs for the elderly qualifying under 42 U.S.C. Section 3030(e) thru (g), as amended, as administered by the Office of Aging of the Commonwealth of Virginia, shall not be considered as sales of food under this article.

### **Sec. 3-32. Gratuities and service charges.**

No such taxes on meals shall apply to (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the sales price.

### **Sec. 3-33. Report of taxes collected; remittance; preservation of records.**

(a) It shall be the duty of every seller required by this article to pay to the town the taxes imposed by this article to register with the treasurer providing such information as the treasurer may prescribe.

(b) Every seller required by this article to pay to the town the taxes imposed by this article shall file a report with the treasurer within 20 days after the last day of each calendar month on forms prescribed by the treasurer, signed by such person, reporting all

purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. Each such report shall be accompanied by a remittance of the amount of the taxes due thereon for the preceding month.

(c) Such records shall be kept and preserved for a period of five years. The treasurer shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof. In such administration and enforcement, the treasurer shall also have the powers set forth in section 3-36.

(d) For the purpose of compensating such persons required by this article to pay the taxes for accounting for and remitting the tax levied under this article, such person shall be allowed a commission of two percent of the amount of tax due and accounted for in the form of a deduction of that amount in submitting his or her monthly report and remittance, provided that the amount paid was not delinquent at the time of payment.

**Sec. 3-34. Interest and penalties for failure to file a report or make remittances.**

(a) When any seller shall fail to make any report or remit the tax required by this article, there shall be imposed, in addition to any other penalties provided in this section, a specific penalty to be added to the tax in the amount of ten percent; provided, however, that in no case shall the penalty be less than \$10.00, and such minimum penalties shall apply whether or not any tax is due for the period for which the report was required.

(b) Interest shall accrue at the rate of ten percent per annum which shall be computed on the taxes and penalty commencing 30 days from the date the report or remittance is due.

**Sec. 3-35. Obligations upon going out of business.**

Whenever any person required to collect and pay to the town a tax under this article shall cease to operate or otherwise dispose of his or her business, any tax payable to the town shall become immediately due and payable through such date, and the person shall make a report and remittance thereof within ten days of such date.

**Sec. 3-36. Civil warrant for collection of delinquent tax.**

The treasurer is authorized, when any tax becomes delinquent under this article, to cause a civil warrant to be issued for the collection of the tax, penalty and interest as soon as the tax becomes delinquent against the seller or person liable for payment of the tax.

## ARTICLE VII. CIGARETTE TAX

- Sec. 3-37. Definitions.
- Sec. 3-38. Tax Levied; amount.
- Sec. 3-39. Preparation, sale, etc., of stamps; duties of Treasurer generally.
- Sec. 3-40. Inspection of records, premises, etc.
- Sec. 3-41. Seizure and disposition of untaxed cigarettes, etc.
- Sec. 3-42. ✓ Presumption based upon stamps or markings.
- Sec. 3-43. Obligation of dealers and agents regarding stamps.
- Sec. 3-44. Presumption based on quantity.
- Sec. 3-45. Disposition of revenue.
- Sec. 3-46. Illegal acts.
- Sec. 3-47. Violations and Penalty
- Sec. 3-48. Each violation a separate offense.

### Sec. 3-37. Definitions.

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

(a) *Agent* means every dealer and other person who shall be authorized by the Treasurer to purchase and affix stamps to packages of cigarettes under the provisions of this article.

(b) *Dealer* means every manufacturer, distributor, jobber, wholesale dealer or other person who supplies a seller with cigarettes.

(c) *Package* means every package, box can or other container of any cigarettes to which the internal revenue stamp of the United States government is required to be affixed by and under federal statutes and regulations and in which retail sales of such cigarettes are normally made or intended to be made.

(d) *Sale* means every act or transaction, irrespective of the method or means employed, including the use of vending machines and other mechanical devices, whereby title to any cigarettes shall be transferred from the seller, as defined in this section, to any other person within the Town.

(e) *Seller* means every person engaged in the business of selling cigarettes at retail within the Town, in whose place of business title to any such cigarettes is transferred to any other person and not for the purpose of resale.

Supplement Page. (Article VII, Sec. 3-37 thru Sec. 3-48 added 6/7/18, effective 10/1/18).

(f) *Stamp* means the small gummed piece of paper or decal to be sold by the Treasurer and to be affixed by the agent to every package of cigarettes; it shall also denote any insignia or symbol printed by a meter machine upon any such package under authorization of the Treasurer.

(g) *Treasurer* means the Town Treasurer and every person duly authorized by him/her to serve as his/her representative.

**Sec. 3-38. Tax Levied; amount.**

There is hereby levied and imposed by the Town, in addition to any other taxes which may be or have been imposed, a tax to be paid and collected as provided in this article on each and every sale of cigarettes made in the Town. The tax is to be paid by the seller, dealer or other agent by affixing a stamp, or causing a stamp to be affixed to every package of cigarettes, in the kind and manner required in this article and at the applicable rates as follows: The rate or amount of tax levied or imposed on cigarettes shall be 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. 3-39. Preparation, sale, etc., of stamps; duties of Treasurer generally.**

(a) The Treasurer shall acquire, keep and sell necessary stamps to dealers and other agents, the stamps to be of such denominations and quantities as may be necessary for the payment of the tax imposed in this article.

(b) In the sale of such stamps to a dealer or other agent, the Treasurer shall allow a discount of two cents (\$0.02) per stamp of the face value thereof to cover the cost which will be incurred by such dealer or agent in affixing the stamps to packages of cigarettes.

(c) The Treasurer may, from time to time and as often as he/she deems advisable, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design. The Treasurer is empowered to make and carry into effect such reasonable rules and regulations relating to the preparation, furnishing, sale and redemption of stamps as he/she may deem necessary. In redeeming stamps or making refunds for destroyed stamps, he/she shall not in any case refund more than ninety (90) percent of the face value of such redeemed or destroyed stamps. He/she is further authorized and empowered to prescribe the method to be employed, the conditions to be observed, and any other necessary requirements not contrary to this article in the use of meter machines for printing upon packages of cigarettes an insignia to represent the payment of the tax and in lieu of stamps.

(d) The Treasurer may require every dealer, agent or seller to cancel stamps upon all packages of cigarettes in his/her possession.

(e) In addition to powers granted in subsections (a) through (c) of this section, the Treasurer is further authorized and empowered to:

(1) Prescribe, adopt, promulgate and enforce rules and regulations relating to the method and means to be used in the implementation of this ordinance;

**Supplement Page.** (Article VII, Sec. 3-37 thru Sec. 3-48 added 6/7/18, effective 10/1/18).

**Replacement Page.** (Sec. 3-38 amended effective December 3, 2019.)

(2) Delegate his/her powers to agents or others, including the police officers of the Town;

(3) Act in any other matters pertaining to the administration and enforcement of the provisions of this article.

**Section 3-40. Inspection of records, premises, etc.**

The Treasurer, or his/her duly authorized agent, is empowered to examine books, records, invoices and papers related to purchases, sales, etc., of cigarettes, and to examine all cigarettes in and upon any premises where cigarettes are placed, sold, stored, offered for sale or displayed for sale by a seller.

**Section 3-41. Seizure and disposition of untaxed cigarettes, etc.**

(a) If the Treasurer or his/her agent discovers any cigarettes subject to the tax imposed under this article, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine in compliance with the provisions of this article, then the Treasurer or duly authorized agents or officers, any of them, may seize and take possession forthwith of such cigarettes, which shall thereupon be deemed to be forfeited to the Town. Such cigarettes may, within a reasonable time thereafter, and after written notice is posted at the front door of the Town Hall at least five days before the date given therein for sale, shall sell such cigarettes in the place designated in such notice.

(b) Any property, other than motor vehicles, used in the furtherance of any illegal evasion of the tax may be seized, confiscated and disposed of as provided in subsection (a) of this section. No credit from any sale or other disposition shall be allowed toward any tax or penalties owed.

(c) The seizure and sale of any property shall not be deemed to relieve any person of any other penalties provided in this article.

**Sec. 3-42. Presumption based upon stamps or markings.**

If any package of cigarettes is found in the possession of a seller without proper stamps or authorized printed markings thereon, and the seller is unable to submit evidence establishing that he/she received such packages, containers or items within the immediately preceding forty-eight (48) hours, and that he/she has not offered the same for sale, then it shall be presumed that such packages, containers, or items are being kept in violation of the provisions of this article, and the seller shall be subject to the tax and a penalty in the amount of fifty (50) percent thereof, even though such seller is also an agent.

**Sec. 3-43. Obligation of dealers and agents regarding stamps.**

(a) Every dealer in cigarettes and every agent appointed under this section shall purchase necessary stamps from the Town Treasurer to pay the tax imposed under this article and shall affix or cause to be affixed a stamp of the monetary value provided by this article to each package of cigarettes prior to deliver or furnishing such cigarettes to any seller who is not also an agent.

(b) Nothing contained in this section shall be deemed to preclude any dealer from employing an agent, so long as such agent is duly authorized by the Treasurer, to purchase and affix such stamps on his/her behalf or to have a stamp meter machine used in lieu of stamps to effectuate the provisions of this article.

(c) Stamps or printed markings of a meter machine shall be placed upon each package of cigarettes in such a manner as to be readily visible to the purchaser.

(d) It shall be the responsibility of every seller to determine that each package of cigarettes offered for sale has a proper stamp affixed thereto in compliance with the provisions of this article.

(e) If inspection by the Treasurer or his/her agents discloses unstamped or improperly stamped packages of cigarettes, the seller, when such cigarettes were obtained from a dealer, shall immediately notify such dealer and upon such notification such dealer shall forthwith either affix to the unstamped or improperly stamped package, container or item with proper amount of stamps or he shall replace such package, container or item with others to which stamps have been properly affixed. If a seller, who is not also an agent, acquires or has in his/her possession unstamped or improperly stamped cigarettes, the seller shall forthwith notify the Treasurer of such fact. The Treasurer shall thereupon affix or cause to be affixed the proper stamps to such cigarettes. The cost of such stamps at face value shall be advanced by such seller.

(f) Every dealer and seller shall maintain and keep for a period of at least two (2) years such records of cigarettes received and sold by him/her as may be required by the Treasurer; such records shall be made available for examination in the Town by the Treasurer upon demand, and the means, facilities and opportunities for making any such examination shall be made available at all reasonable times.

#### **Sec. 3-44. Presumptions based on quantity.**

Cigarettes found in quantities of more than six (6) cartons within the Town shall be conclusively presumed for sale therein and may be seized and confiscated if:

(1) They are in transit, and are not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and of the consignee or purchaser, and the brands and quantity of cigarettes so transported, or they are in transit and accompanied by a bill of lading or other document which is false or fraudulent, in whole in part;

(2) They are in transit and are accompanied by a bill of lading or other document indicating:

a. A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such cigarettes on which the taxes imposed by such other jurisdiction have not been paid, unless the tax of the state or district of destination has been paid and the products bear the tax stamps of that state or district; or

Supplement Page. (Article VII, Sec. 3-37 thru Sec. 3-48 added 6/7/18, effective 10/1/18).

b. A consignee or purchaser in the commonwealth but outside the Town who does not possess a state sales and use tax certificate, a state retail cigarettes license and, where applicable, both a business license and retail cigarettes license issued by the local jurisdiction of destination; or

(3) They are not in transit and the tax has not been paid, nor have approved arrangements for payment been made, provided that this subsection shall not apply to cigarettes in the possession of distributors or public warehouses which have filed notice and appropriate proof with the Town that those cigarettes are temporarily within the Town and will be sent to consignees or purchasers outside the jurisdiction in the normal course of business.

#### **Sec. 3-45. Disposition of revenue.**

Revenue derived from the tax imposed in this article shall be deposited by the Treasurer to the credit of the general fund of the Town for utilization for such legal purposes as the Council of the Town may from time to time determine.

#### **Sec. 3-46. Illegal acts.**

It shall be unlawful and a violation of this article for any dealer or other person liable for the tax to:

(1) Perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article or of any part thereof, or to fail or refuse to perform any of the duties imposed under him/her under the provisions of this article or to fail or refuse to obey any lawful order which may be issued under this article;

(2) Falsely or fraudulently make, or cause to be made, any invoices or reports, or to falsely or fraudulently forge, alter or counterfeit any stamp, or to procure or cause to be made, forged, altered or counterfeited any such stamp or knowingly and willfully to alter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or stamps;

(3) Sell, offer for sale or authorize or approve the sale of any cigarettes upon which the Town stamp has not been affixed;

(4) Possess, store, use, authorize or approve the possession, storage or use of any cigarettes in quantities of more than sixty (60) cigarettes upon which the Town stamp has not been affixed;

(5) Transport, authorize or approve the transportation of any cigarettes in quantities of more than sixty (60) packages into or within the Town upon which the Town stamp has not been affixed, if they are:

a. Not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and the consignee or purchaser and the brands and quantity of cigarettes transported;

b. Accompanied by a bill of lading or other document which is false or fraudulent in whole or part; or

c. Accompanied by a bill of lading or other document indicating:

1. A consignee or purchaser in another state or District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such tobacco products on which the taxes imposed by such other jurisdiction have not been paid unless the tax on the jurisdiction of destination has been paid and such cigarettes bear the tax stamps of the jurisdiction; or

2. A consignee or purchaser in the state but outside the taxing jurisdiction who does not possess a state sales and use tax certification, a state retail tobacco license and, where applicable, a business license and a retail tobacco license issued by the local jurisdiction of destination;

(6) Reuse or refill with cigarettes any package from which cigarettes have been removed, for which the tax imposed has been theretofore paid; or

(7) Remove from any package any stamp with intent to use or cause the package to be used after such package has already been used or to buy, sell or offer for sale or give away any used, removed, altered or restored stamps to any person, or to reuse any stamp which had therefore been used for evidence of the payment of any tax prescribed by this article or to sell, or offer to sell, any stamp provided for in this article.

#### **Sec. 3-47. Violations and Penalty.**

Any persons violating any of the provisions of this article shall be guilty of a Class 1 misdemeanor. Any fine and/or imprisonment pursuant to conviction of a Class 1 misdemeanor shall not relieve any such person from the payment of any tax, penalty or interest imposed by this article.

#### **Sec. 3-48. Each violation a separate offense.**

The sale of any quantity or the use, possession, storage or transportation of more than sixty (60) packages of cigarettes upon which the Town stamp has not been affixed shall be and constitutes a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.