

MINUTES
Book 34

Joint meeting of the
AMHERST COUNTY BOARD OF SUPERVISORS
And
AMHERST COUNTY SCHOOL BOARD

AGENDA

May 19, 2015
ADMINISTRATION BUILDING - 153 WASHINGTON STREET - SCHOOL BOARD ROOM
7:00 P.M.

- I. Call to Order
- II. Invocation and Pledge of Allegiance
- III. Approval of Agenda
- IV. Citizen Comments: Citizens shall speak once to an issue and confine their remarks to the question before the Board. Citizen should avoid repetition insofar as possible and limit their comments to three (3) minutes.
- V. Special Presentation
 - A. Presentation of Resolution 2015-0006-R to Steve Martin, naming portion of Virginia Blue Ridge Railway Trail, "The Popie and Steve Martin Corridor of the Virginia Blue Ridge Railway Trail".
 - B. Legislative updates from Delegate Ben Cline; Delegate T. Scott Garrett; and Senator Thomas A. Garrett, Jr.
- VI. Public Hearing
 - A. Amherst County's 2016-2021 Secondary Six-Year Road Plan and Construction Priority List.
 - B. Ordinance 2015-0004, adding Article VII, comprised of Divisions 1 and 2, containing Sections 14-140 through 14-159, (Division 1) and Sections 14-160 through 14-170 (Division 2) to Chapter 14 of the Amherst County Code, to modify the process for issuance of business licenses and imposition of business license taxes. The provisions governing business license taxes currently are contained in Chapter 7 of the Amherst

County Code. This ordinance moves the provisions into Chapter 14 of the Amherst County Code (Taxation), makes various amendments to capture changes in State law, and establishes new provisions for revocation of business licenses, including establishing the reasons for license revocation, providing for written notice of pending revocation, and establishing procedures for appeal of license revocation. Article II of Chapter 7 of the Amherst County Code is repealed.

- VII. Consent Agenda
 - A. Minutes – April 21, 2015
 - B. FY15 Appropriations – Receipt of Revenues (pass through)
- VIII. New Business
 - A. Building Appeals Board – appointment
 - B. Public Works – Exploration of Mill Creek Lake Park restrooms
 - C. Building, Safety and Inspections - Enforcement of County ordinances – appropriation of funds
 - D. Sheriff's Office – Body-Worn Camera Pilot Implementation Program/FY2015 Competitive Grant Announcement
- IX. Old Business
 - A. Purchasing - Goodwin Building HVAC upgrades
- X. County Administrator Report
 - A. Boards, Commissions and Committees – Quarterly report on upcoming vacancies
- XI. Departmental Reports
 - A. Robert E. Lee Soil & Water Conservation District – Board of Directors Meeting
 - B. Building, Safety and Inspections – Monthly report April 2015
 - C. Amherst County Museum and Historical Society – Report on Sesquicentennial Civil War Event
- XII. Citizen Comments
- XIII. Matters from Members of the Board of Supervisors
- XIV. Adjourn

MINUTES

At a regular meeting of the Board of Supervisors of Amherst County and held at the Administration building thereof on Tuesday, the 19th day of May, 2015, at 7:00 p.m. at which the following members were present:

BOARD OF SUPERVISORS:

<p>PRESENT: Mr. David W. Pugh, Chairman Mrs. Claudia D. Tucker, Vice-Chairman Mr. John A. Marks, Jr., Supervisor Mr. Donald W. Kidd, Supervisor</p>	<p>ABSENT: Mr. Robert M. Curd, Supervisor</p>
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STAFF PRESENT: Dean Rodgers, County Administrator, David Proffitt, Deputy County Administrator, Ellen Bowyer, County Attorney, and Regina Rice, Executive Administrative Assistant.

OTHERS PRESENT: Nathan Young, Building Code Official/Building Safety and Inspections
L. J. Ayers, III, Sheriff/Amherst County Sheriff's Office
Teresa Nuckols, Director/Public Works

I. Call to Order

Chairman Pugh called the meeting to order at 7:00 p.m. Chairman Pugh acknowledged the Amherst County School Board and stated they will be brought into the meeting under Special Presentations.

II. Invocation and Pledge of Allegiance

Supervisor Marks gave the Invocation and led the Pledge of Allegiance.

III. Approval of Agenda

By motion of Supervisor Tucker and with the following vote, the Board approved the May 19, 2015 agenda.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Marks and Mr. Kidd
NAY: None
ABSENT: Mr. Curd

IV. Citizen Comments: Citizens shall speak once to an issue and confine their remarks to the question before the Board. Citizen should avoid repetition insofar as possible and limit their comments to three (3) minutes.

Mr. Harvey Sellers, Sr., Amherst, Virginia, addressed the Board regarding the lease of the former Amherst Baptist Church to Second Stage. Mr. Sellers commented he believed the contract was hypocritical since the County owned the building for over five years, did not do any maintenance on it because of the plan to tear the building down. Mr. Sellers stated the Board needs to do their job as representatives of the people and for the people they represent.

Mr. Frank Campbell, Madison Heights, Virginia, residing in District 5, commented on the issue regarding the Mill Creek Lake Park restrooms. Mr. Campbell stated this now appears to be more costly. Mr. Campbell said he would not like to see another facility in the County parks locked to the public. Mr. Campbell asked the Board to make sure a public restroom is built and open for public use at all times.

Mr. Campbell addressed the Board with regard to Ordinance 2015-0004. He stated the Board in the past has seen itself as business friendly, however, he sees this ordinance as a burden on the business community if adopted. Mr. Campbell had several questions regarding Section 14-151A.5., Revocation of Business License; 14-151C – notice of revocation served on taxpayer at his business – and if intoxicated 14-151C – revocation one business day on taxpayer on the business property. He stated he was unclear regarding the 14-152-A penalty, and the language of revocation.

Chairman Pugh thanked all for their comments and the Citizen Comment session was closed.

V. Special Presentation

A. Presentation of Resolution 2015-0006-R to Steve Martin, naming portion of Virginia Blue Ridge Railway Trail, "The Popie and Steve Martin Corridor of the Virginia Blue Ridge Railway Trail".

Chairman Pugh asked Supervisor Tucker to present the framed resolution to Steve Martin and his daughter. Supervisor Tucker read Resolution 2015-0006-R and presented it to them.

Chairman Pugh allowed Chairman Wood of the Amherst County School Board to convene their meeting. Chairman Wood made a motion, seconded by Board member Massie to open the Amherst County School Board meeting.

B. Legislative updates from Delegate Ben Cline; Delegate T. Scott Garrett; and Senator Thomas A. Garrett, Jr.

The record reflects that Delegate T. Scott Garrett was not present.

Delegate Ben Cline and Senator Tom Garrett took the opportunity to provide the Board of Supervisors and School Board with updates regarding their legislative efforts.

Delegate Cline stated he wants to insure Amherst's satellite location of Central Virginia Community College stays in the Town and high school students are enrolled.

Chairman Pugh opened the floor for any questions for the representatives.

Supervisor Marks asked about SB582 and how this will affect the four dams in Amherst County and if the state will be able to help localities with these upgrades.

Supervisor Tucker addressed the delegates concerning what the state is doing regarding broadband in rural localities like Amherst. Delegate Cline stated there appears to be more action on the federal level than state and believes it is a market-based issue. Senator Garrett said that the cost in Virginia is lower and that creates a better opportunity; however, the private sector will want to fill this need.

Mr. Rodgers presented a question regarding Central Virginia Training Center (CVTC) and if there is anything the County can do to help influence the state's decision concerning this facility.

Senator Garrett suggested inviting Governor McAuliffe to Amherst County to discuss keeping this facility open or to find another use.

Delegate Cline understands this is one of the largest employers for Amherst County and the state should keep this facility open.

Senator Garrett stated there is a lot of land and structures located at CVTC, and suggested inviting the Governor come to Amherst. Delegate Cline also supported that suggestion.

Delegate Cline encouraged the Board to have conversations regarding the land and suggested using a part of this land as a business park.

Chairman Pugh commented that the Amherst County Service Authority has looked at the water and sewer lines at CVTC for a future park; however, there would be over \$14 million dollars upgrading the infrastructure which would present an enormous problem paying for these upgrades. Delegate Cline suggested there should be opportunities deciding what part of the 300 acres the County would be interested in, whether it is the part with or without facilities.

Chairman Pugh mentioned the tobacco grant money and asked why can we not pull from that resource to get on an even playing field to get some of that money?

Delegate Cline and Senator Garrett both stated the funding will no longer be continued and the program is almost complete and is structured unfairly.

Chairman Pugh turned the meeting over to Chairman Wood. The School Board discussed several issues regarding the Central Virginia Community College site and enrollment, appreciated the 3% raises, mentioned pre-k issues and the increase of the special needs population, Smart Start programs and special education costs.

Chairman Pugh thanked both Delegate Cline and Senator Garrett for their attendance. Alan Wood, Chairman, Amherst County School Board, adjourned the School Board meeting.

VI. Public Hearing

A. Amherst County's 2016-2021 Secondary Six-Year Road Plan and Construction Priority List.

Mr. Don Austin, Resident Maintenance Manager of the Virginia Department of Transportation addressed the Board regarding the Amherst County's 2016-2021 Secondary Six-Year Road Plan and Construction Priority List. Mr. Austin advised the Board three roads were added to the Rural Rustic list.

Mr. Austin advised work has begun on Gidsville Road and work on Mundy's Mill Road will start this year.

Chairman Pugh opened the Public Hearing.

There were no proponents or opponents to the Amherst County's 2016-2021 Secondary Six-Year Road Plan and Construction Priority.

Chairman Pugh closed the Public Hearing.

By motion of Supervisor Kidd and with the following vote, the Board directed the County Attorney to draft a resolution adopting Amherst County's 2016-2021 Secondary Six-Year Road Plan and Construction Priority List and have available for action at the June 2, 2015 meeting.

AYE:	Mr. Pugh, Mrs. Tucker, Mr. Marks and Mr. Kidd
NAY:	None
ABSENT:	Mr. Curd

B. Ordinance 2015-0004, adding Article VII, comprised of Divisions 1 and 2, containing Sections 14-140 through 14-159, (Division 1) and Sections 14-160 through 14-170 (Division 2) to Chapter 14 of the Amherst County Code, to modify the process for issuance of business licenses and imposition of business license taxes. The provisions governing business license taxes currently are contained in Chapter 7 of the Amherst County Code. This ordinance moves the provisions into Chapter 14 of the Amherst County Code (Taxation), makes various amendments to capture changes in State law, and establishes new provisions for revocation of business licenses, including establishing the reasons for license revocation, providing for written notice of pending revocation, and establishing procedures for appeal of license revocation. Article II of Chapter 7 of the Amherst County Code is repealed.

Ms. Bowyer explained to the Board Ordinance 2015-0004 moves the provisions into Chapter 14 of the Amherst County Code (Taxation), makes various amendments to capture changes in State law, and establishes new provisions for revocation of business licenses, including establishing the reasons for license revocation, providing for written notice of pending revocation, and establishing procedures for appeal of license revocation. Article II of Chapter 7 of the Amherst County Code is repealed.

Ms. Bowyer stated the ordinance has been amended since the first reading on May 5, 2015, to correct the amount of the license fee to \$10.00, not \$50.00, and to give the County the right to revoke licenses.

Ms. Bowyer stated she will explore the questions presented by Mr. Campbell in the previous citizen comment section of this meeting.

Chairman Pugh opened the Public Hearing and asked if anyone wishing to speak to come forward. No one came forward to speak.

There were no proponents or opponents to Ordinance 2015-0004.

By motion of Supervisor Tucker and with the following vote, the Board adopted Ordinance 2015-0004 as amended. (See Attachment 1)

AYE: Mr. Pugh, Mrs. Tucker, Mr. Marks and Mr. Kidd
 NAY: None
 ABSENT: Mr. Curd

VII. Consent Agenda

- A. Minutes – April 21, 2015
- B. FY15 Appropriations – Receipt of Revenues (pass through)

By motion of Supervisor Marks and with the following vote, the Board approved the Consent Agenda.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Marks and Mr. Kidd
 NAY: None
 ABSENT: Mr. Curd

VIII. New Business

- A. Building Appeals Board – appointment

Mr. Rodgers advised Donald Tyree was appointed to the Building Appeals Board in 2011 for a term of four years. Mr. Tyree's term expired on April 30, 2015 and he has expressed his desire to be reappointed.

By motion of Supervisor Marks and with the following vote, the Board reappointed Donald Tyree to the Building Appeals Board, District 5 for a four year term.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Marks and Mr. Kidd
 NAY: None
 ABSENT: Mr. Curd

- B. Public Works – Exploration of Mill Creek Lake Park restrooms

Teresa Nuckols, Public Works Director, presented to the Board information regarding the pros and cons of constructing a new restroom facility versus conventional restrooms at Mill Creek Lake Park.

Ms. Nuckols stated that Hurt & Proffitt completed an evaluation that included building new facilities complete with power, running water and flush toilets. The estimated cost would be \$132,000.

Currently, portable toilets are located at the park, cleaned weekly, and with an annual rent of \$1500.

Chairman Pugh recommended placing this on the list of proposed projects for FY17 CIP and to continue to rent portable toilets at an annual cost of \$1500.

Supervisor Tucker stated she would follow Chairman Pugh's recommendation.

By motion of Chairman Pugh and with the following vote, the Board voted to include this project into the list of proposed projects for FY17 Capital Improvements Plan and to continue to rent portable toilets until the project is funded.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Marks and Mr. Kidd

NAY: None

ABSENT: Mr. Curd

C. Building, Safety and Inspections – Enforcement of County ordinances – appropriation of funds

Mr. Rodgers stated the County has a \$15,000 budget to demolish unsafe structures and to remove nuisances such as weeds and trash from private property. These funds for the 2014/15 fiscal year are almost exhausted and are not enough to cover the outstanding violations that exist between the Building Department and the Sheriff's Department.

Chairman Pugh questioned how long it would take for collection of money from the owner to recoup demolition costs. Mr. Rodgers explained there is no collection until the owner sells the property.

Nate Young, Building Code Official advised he is working with the County Attorney to make the cost less expensive for the owner to comply with the order as well as putting a lien on the property.

There was a discussion by the Board regarding what other localities are doing. Mr. Rodgers explained the City of Danville appropriates money to tear down properties; Lynchburg recoups about 80% and has four inspectors that spend a lot of time in court. Mr. Rodgers said \$15,000 should be budgeted for next year.

Chairman Pugh suggested coming up with a plan to recoup some of this money.

Ms. Bowyer stated she spoke with Treasurer about having his office to collect some of these fees and the question is whether the County wants to work through the Treasurer's office.

Supervisor Tucker mentioned there needs to be funds available to catch up with the backlog and suggested high visibility properties should be dealt with first.

Supervisor Kidd commented some properties are on a lot so small with septic that the lot is not suitable to build a house and that the property is not worth what it would cost to tear the property down. Mr. Young explained that demolition would increase property value on each side of this derelict property.

Supervisor Marks spoke regarding the property at 4635 S. Amherst Highway which has been torn down. He questioned why there is a need of \$8,000. Mr. Young explained the manner in which the house was torn down presented a dangerous condition and this is the cost for finishing the clean up.

Supervisor Tucker stated the problem is that the County has an eyesore on a main highway and it must be taken care of.

Sheriff Ayers advised the Board notice was served on May 11th and have not heard from the property owner.

By motion of Supervisor Tucker, and with the following vote, that the Board amend the FY15 budget by increasing the code enforcement account (number 34010-5805) by \$33,620.43 with current fiscal year funds, if available. If funds are not available at fiscal year-end, staff is directed to present a request to appropriate the funding from the unobligated general fund at that time.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Marks and Mr. Kidd

NAY: None

ABSENT: Mr. Curd

D. Sheriff's Office – Body-Worn Camera Pilot Implementation Program/FY2015 Competitive Grant Announcement

Sheriff L. J Ayers, III addressed the Board and stated the federal government is offering assistance to local agencies in the form of a Body-Worn Camera Pilot Implementation Program Grant. The grant requires a 50/50 match by the locality. The Sheriff's Office and Lynchburg Police will apply as a regional entity to increase the probability of an award. The County will be obliged to contribute approximately \$22,500 toward its share of the match in FY16

Supervisor Marks asked how many cameras would be needed and Sheriff Ayers said Captain Grieser estimated there will be 35 in this program.

Supervisor Marks questioned if there is additional support equipment needed and Sheriff Ayers said the body-worn cameras will connect with the current cameras in the vehicles.

Supervisor Kidd asked if money would come out of the fine revenue account and Sheriff Ayers advised that it would.

Chairman Pugh asked about military surplus. Sheriff Ayers advised his department does get military surplus but does not know what that will be.

By motion of Supervisor Marks and with the following vote, the Board directed the County Administrator to contact the Lynchburg City Manager to express the commitment of Amherst County to apply for the Body-Worn Camera Pilot Implementation Program Grant as a regional entity.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Marks and Mr. Kidd

NAY: None

ABSENT: Mr. Curd

IX. Old Business

A. Purchasing - Goodwin Building HVAC upgrades

Mr. Proffitt advised on January 6, 2015 the Board authorized staff to obtain bids for the Goodwin Building HVAC, windows, lighting and vestibule construction. A contract for window replacement and vestibule construction has been awarded in the amount of \$36,850. Engineering services are not to exceed \$24,175.

Mr. Proffitt stated bids for the Goodwin Building HVAC and Electrical Upgrades were opened on April 29, 2015 and two bids were received from Moore's Electrical & Mechanical for \$249,000 and Southern Air, Inc. for \$263,000. Mr. Proffitt stated Wiley Wilson has examined the bids and recommended bid award to Moore's Electrical & Mechanical.

Chairman Pugh asked if the amount for Moore's figure included the lighting and HVAC renovation and Mr. Proffitt stated that it did. Mr. Proffitt indicated it will be \$249,000 but stated there could be potential issues that may arise.

By motion of Supervisor Kidd and with the following vote, the Board authorizes staff to proceed with bid award to Moore's Electrical & Mechanical for Goodwin Building HVAC and Electrical Upgrades for the bid amount of \$249,000 and appropriate from the unobligated general fund up to \$285,000 to cover the bid amount and contingencies that may arise.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Marks and Mr. Kidd
 NAY: None
 ABSENT: Mr. Curd

X. County Administrator Report

A. Boards, Commissions and Committees – Quarterly report on upcoming vacancies

Mr. Rodgers stated that he will provide the Board with an update on a quarterly basis on upcoming vacancies. The chairman of each Board will be notified, staff will schedule interviews and the incumbent will remain in place until his or her seat is replaced.

The river trip has been cancelled.

Mr. Rodgers will email the Board with possible retreat dates. Dr. Walker has available time on August 10 and 13.

XI. Departmental Reports

A. Robert E. Lee Soil & Water Conservation District – Board of Directors Meeting

B. Building, Safety and Inspections – Monthly report April 2015

C. Amherst County Museum and Historical Society – Report on Sesquicentennial Civil War Event

For information only.

XII. Citizen Comments

Mr. Harvey Sellers of Amherst, Virginia addressed the Board regarding County ordinances and the Town water service charging trash fees. He stated he wanted to discontinue this service and attended a Town Council meeting speaking out about equal protection under the law and freedom of choice.

Mr. Sellers stated the Town of Amherst challenged him saying it is mandatory that if he has water service he must have trash service and he believes there are people in the town that are not treated equally and to consider any ordinance you make that it be considered equally.

Chairman Pugh closed the citizen comment section.

XIII. Matters from Members of the Board of Supervisors

Mr. Kidd discussed the upcoming strategic planning session and contacting Dr. Walker. He agreed with Mr. Rodgers statement that staff needs some sort of direction regarding what the Board wants to do in the coming year and provide a sense of direction.

Mr. Rodgers stated we need a common vision and a picture of where the Board wants to be and to pick two or three items to focus on will be more effective.

Chairman Pugh agreed to set this for August and to work on a list.

Mr. Rodgers explained he will produce a list and send to Dr. Walker and advised any item can be added to the list.

Supervisor Marks commented on the Action Tracker regarding the RFP for the expansion of DSS Building. Mr. Proffitt advised the RFP has gone out and advised the due date for a response is late June.

Supervisor Marks advised the grass at Phelps Road School needs to be cut and Teresa Nuckols responded that her department will take care of this. Chairman Pugh commented that owners should be given an opportunity to cut grass first before the County takes action.

Chairman Pugh discussed cancelling the July 7th Board meeting and wanted a consensus from board

By motion of Chairman Pugh and with the following vote, the Board cancelled the July 7th meeting of the Amherst County Board of Supervisors and Amherst County Service Authority meetings.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Marks and Mr. Kidd
 NAY: None
 ABSENT: Mr. Curd

Supervisor Tucker did not raise any matter to discuss.

XIV. Adjourn

On motion by Supervisor Tucker and with the following vote, the Board moved to adjourn.

AYE: Mr. Pugh, Mrs. Tucker, Mr. Marks and Mr. Kidd
 NAY: None
 ABSENT: Mr. Curd



David W. Pugh, Jr., Chairman
 Amherst County Board of Supervisors



Dean C. Rodgers, Clerk



Amherst County Board of Supervisors
County Ordinance No. 2015-0004

AN ORDINANCE, NO. 2015-0004

Adding Article VII, comprised of Divisions 1 and 2, containing Sections 14-140 through 14-159, (Division 1) and Sections 14-160 through 14-170 (Division 2) to Chapter 14 of the Amherst County Code, to modify the process for issuance of business licenses and imposition of business license taxes. The provisions governing business license taxes currently are contained in Chapter 7 of the Amherst County Code. This ordinance moves the provisions into Chapter 14 of the Amherst County Code (Taxation), makes various amendments to capture changes in State law, and establishes new provisions for revocation of business licenses, including establishing the reasons for license revocation, providing for written notice of pending revocation, and establishing procedures for appeal of license revocation. Article II of Chapter 7 of the Amherst County Code is repealed.

Approved as to form and legality by the County Attorney

FIRST READING: Board of Supervisors, May 5, 2015

PUBLIC HEARING: Board of Supervisors, May 19, 2015

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Article VII, comprised of Divisions 1 and 2, containing §§ 14-140 through 14-159 (Division 1) and §§ 14-160 through 14-170 (Division 2), is hereby added to Chapter 14 of the Code of the County of Amherst, as follows:

DIVISION 1. ADMINISTRATION

Sec. 14-140. Definitions

"Acted responsibly" means that: (i) 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 (ii) 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.

"Amount in dispute," when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

"Appealable event" means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the local assessing official's (i) examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a local license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

An appealable event shall include a taxpayer's appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the locality, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the locality.

"Commissioner" means the Amherst County Commissioner of the Revenue.

"County" means Amherst County.

"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.

"Frivolous" means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.

"Gross receipts" means the gross receipts from any business, trade, profession, occupation, vocation, calling or activity, including cash, credits, fees, commissions, brokerage charges and rentals, and property of any kind, nature or description from either sales made or services rendered without any deduction therefrom on account of cost of the property sold, the cost of material, labor or services or other costs, interest or discounts paid or any expense whatsoever, and such terms shall include in case of merchants the amount of the sale price of supplies and goods furnished to or used by the licensee or his or her family or other person for which no charge is made; provided, however, that the term "gross receipts" with respect to manufacturers, wholesale merchants and retail merchants manufacturing or dealing in articles upon which there is levied a direct excise tax or motor fuel tax by the United States or the state shall not include such excise tax or motor fuel tax by the United States or the state.

"Jeopardized by delay" means a finding, based upon specific facts, that a taxpayer designs to (i) depart quickly from the locality; (ii) remove his property therefrom; (iii) conceal himself or his property therein; or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

"Person" means individual, firm, copartnership, corporation, company, association or joint stock association. Such term shall include any trustee, receiver, assignee or personal representative thereof carrying on or continuing a business, profession, trade or occupation, but shall not include a court appointed trustee, receiver or personal representative, in the liquidation of assets for immediate

distribution or a sergeant or sheriff or any deputy, selling under authority of process of writ of a court of justice. Such term shall not include a volunteer fire department, a volunteer rescue squad or a nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational, and athletic facilities and facilities for the welfare of the residents of the area.

“Wholesale merchant” means any person who sells to others for resale or sells at wholesale to institutional, commercial or industrial users.

Sec. 14-141. Requirement for License

A. This article imposes a license fee and license taxes upon the privilege of doing business or exercising a trade, profession, occupation, vocation, calling or activity in the County, including all phases of the business, trade, profession, occupation, vocation, calling or activity conducted in the County.

B. Every person shall apply for a license for each business or profession when engaging in a business or exercising a trade, profession, occupation, vocation, calling or activity in the County if (i) the person has a definite place of business in the County; (ii) there is no definite place of business anywhere and the person resides in the County; or (iii) there is no definite place of business in the County but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to § 58.1-3715, or public service corporation

C. A separate license shall be required for each definite place of business and for each 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: (a) each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the County; (b) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (c) the taxpayer agrees to supply such information as the Commissioner of the Revenue may require concerning the nature of the several businesses and their gross receipts.

D. Every license issued under this article shall be deemed to confer a personal privilege to transact, carry on or conduct the business, profession, trade or occupation which may be the subject of the license, and shall not be exercised except by the persons licensed.

E. Every business licensed under this article shall ensure that the permit issued in evidence of licensure is kept in a convenient and conspicuous place, and whenever required to do so shall exhibit the same to any authorized enforcement officer.

F. The Commissioner may refuse to issue a business license for any of the reasons identified as a basis for revocation of a license under § 14-151.

Sec. 14-142. Levy of License Taxes

A. For each year, beginning with January 1 of each year and ending December 31 following, the County shall levy annual license taxes on persons conducting or engaged in any business, trade or occupation in the County set forth in this article.

B. Except as specifically provided in this article no license tax shall be imposed on any person whose gross receipts from a business profession or occupation subject to licensure are less than fifty thousand dollars (\$50,000.00). Any business with gross receipts of more than fifty thousand dollars (\$50,000.00) is subject to the taxes in accordance with Division 2 of this article.

Sec. 14-143. Due dates and penalties.

A. Licenses taxes shall be assessed as of May 1 of each tax year.

B. Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensure in the County on or before January 1 of the license year, or no later than May 1 of the license year if he had been issued a license for the preceding year. The Commissioner shall establish the application form, and may modify that form as necessary.

C. An applicant shall provide a driver's license or other valid picture identification showing his correct name and trade name, his correct residence address, the nature of the business, profession, trade or occupation to be pursued, the place where it is to be pursued, a copy of the certificate of zoning compliance or letter permit secured, if applicable, and a record of gross receipts, verified by oath, for the past year, as well as such other information as the Commissioner may require.

D. The applicant shall pay the license fee of \$10.00 at the time of application.

E. The applicant shall pay the license tax upon 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 the due date for filing license applications identified in subsection A, *supra*. An applicant beginning a business, profession, trade or occupation shall estimate the amount of the gross receipts he will receive between the date of beginning business and the end of the license year, and the license tax for the current year shall be computed on such estimate. The Commissioner shall credit any overpayment of the tax based on actual gross receipts to the license tax payable the following year.

F. The Commissioner may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then 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, with a penalty of 10 percent of the portion paid after the due date.

G. A penalty of 10 percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date.

1. The Commissioner shall impose only the late filing penalty if both the application and payment are late except that she may assess penalties on both failures or she may revoke the license pursuant to §14-151 of this article, if she determines that the taxpayer has a history of noncompliance.

2. In the case of an assessment of additional tax made by the Commissioner, 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.

3. If any assessment of additional tax is not paid within fifteen (15) days, the Treasurer may impose a 10 percent late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them. 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.

4. Interest shall be charged on any late payment of tax from the due date until the date paid without regard to fault or other reason for the late payment.

H. Whenever an assessment of additional or omitted tax by the Commissioner is found to be erroneous, all interest and any penalties 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 BPOL tax 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 10 percent per annum.

I. 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, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

J. For purposes of this section, the Commissioner has the authority to certify to the Treasurer the occurrence of erroneous assessments. Upon receipt of such certification, the Treasurer shall make the necessary refund.

K. The County shall not take action to collect any tax levied or penalties imposed pursuant to this article after the expiration of five (5) years from the date upon which any penalty should have been added to such tax or any levy so assessed.

Sec. 14-144. Situs of gross receipts.

A. Whenever the tax imposed under this article is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a privilege subject to licensure at a definite place of business within the County. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of § 58.1-3715;

(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 to the definite place of business at which the rental of such property is managed; and

(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 to the definite place of business from which the services are directed or controlled.

B. 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, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the County 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. The Commissioner of the Revenue may enter into agreements with any other political subdivisions in the Commonwealth concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the Commissioner shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the Commissioner or taxpayer may seek an advisory opinion from the Department of Taxation pursuant to § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

Sec. 14-145. Limitations and extensions.

A. If both the Commissioner of Revenue and the taxpayer have consented in writing to the assessment of a license tax after May 1, or after the day the taxpayer applies for the license, 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. If the Commissioner ascertains that any person has not been assessed with a license tax levied under this article for any license tax year of the three (3) license tax years last past, and the absence of such assessment was not due to the fraudulent intent to evade taxes on the part of such person, it shall be the duty of the commissioner of the revenue to assess such person with the proper license tax for the year or years omitted, adding thereto the penalty set forth in subsection G of § 14-143 of this article.

C. The Commissioner 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 license years.

D. The period for collecting any local license tax shall not expire prior to the later of (i) five years following December 31 of the year for which such taxes were assessed, (ii) two years after the date of assessment if the period for assessment has been extended pursuant to subsection A, (iii) two years after the final determination of an appeal for which collection has been stayed during the pendency of an administrative appeal under §14-145 of this article, or (iv) two years after the final decision in a court application pursuant to Virginia Code § 58.1-3984, seeking to correct an erroneous assessment of local taxes, or a similar law, for which collection has been stayed.

Sec. 14-146. Administrative appeals to Commissioner of the Revenue.

A. Filing and contents of administrative appeal.

Any person assessed with a local license tax as a result of an appealable event as defined in this section may file an administrative appeal of the assessment within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, with the commissioner of the revenue or other local assessing official. The appeal must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the amount in dispute, the 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 Commissioner may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the appeal. The assessment placed at issue in the appeal shall be deemed prima facie correct. The Commissioner shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of his decision.

The taxpayer may at any time also file an administrative appeal of the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the locality. However, the appeal of the classification of the business shall not apply to any license year for which the Tax Commissioner has previously issued a final determination relating to any license fee or license tax imposed upon the taxpayer's business for the year. In addition, any appeal of the classification of a business shall in no way affect or change any limitations period prescribed by law for appealing an assessment.

B. Notice of right of appeal and procedures.

Every assessment made by a commissioner of the revenue or other assessing official pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to file an administrative appeal and the specific procedures to be followed in the jurisdiction, the name and address to which the appeal should be directed, an explanation of the required content of the appeal, and the deadline for filing the appeal.

For purposes of facilitating an administrative appeal of the classification applicable to a taxpayer's business, each locality imposing a tax or fee under this chapter shall maintain on its website the specific procedures to be followed in the jurisdiction with regard to such appeal and the name and address to which the appeal should be directed.

C. Suspension of collection activity during appeal.

Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute relating to any assessment by the commissioner of the revenue or other assessing official shall be suspended until a final determination is issued by the commissioner of the revenue or other assessing official, unless the treasurer or other official responsible for the collection of such tax (i) determines that collection would be jeopardized by delay as defined in this section; (ii) is advised by the commissioner of the revenue or other assessing official that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the commissioner of the revenue or other assessing official that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with the provisions of subdivision 2 e of this subsection, but no further penalty shall be imposed while collection action is suspended.

D. Procedure in event of nondecision.

Any taxpayer whose administrative appeal to the commissioner of the revenue or other assessing official pursuant to the provisions of subdivision 5 of this subsection has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the commissioner of the revenue or other assessing official, elect to treat the appeal as denied and appeal the assessment or classification of the taxpayer's business to the Tax Commissioner in accordance with the provisions of subdivision 6 of this subsection. The Tax Commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of a final determination on the part of the commissioner of the revenue or other assessing official was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the commissioner or other assessing official to make his determination.

Sec. 14-147. Administrative appeal to the Tax Commissioner.

Any person assessed with a local license tax as a result of a determination or that has received a determination with regard to the person's appeal of the license classification or subclassification applicable to the person's business, upon an administrative appeal to the commissioner of the revenue or other assessing official pursuant to subdivision 5 of this subsection, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment or determination to the Tax Commissioner within 90 days of the date of the determination by the commissioner of the revenue or other assessing official, pursuant to the provisions of subdivision 6 of subsection A of Virginia Code § 58.1-3703.1.

Sec. 144-148. Judicial review of determination of Tax Commissioner.

Following the issuance of a final determination of the Tax Commissioner pursuant to subdivision 6 a of this subsection, the taxpayer or commissioner of the revenue or other assessing official may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to § 58.1-3984, in accordance with the provisions of subdivision 7 of subsection A of Virginia Code § 58.1-3703.1.

Sec. 14-149. Rulings.

A. Any taxpayer or authorized representative of a taxpayer may request from the Commissioner a written ruling regarding the application of a local license tax to a specific situation. Any person requesting such a ruling must provide all facts relevant to the situation placed at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. In addition, the taxpayer or authorized representative may request a written ruling with regard to the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the locality.

B. 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 (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based or (ii) 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. 14-150. Record-keeping and audits.

A. Every person liable for a license tax under this article which is based on gross receipts or gross expenditures shall keep all records and accounts necessary to compute and to verify such gross receipts or gross expenditures.

B. All such records and general books of account shall be open to inspection and examination by the Commissioner or her authorized representative, and shall be maintained for a period of three (3) years. Each licensee whose license is measured by gross receipts or gross expenditures shall submit to the Commissioner, not later than January 31 of each year, a report of his gross receipts or gross expenditures for the preceding year.

C. In those cases in which the conduct of the business, profession, trade or occupation involves operations subject to more than one (1) rate or computed on more than one (1) base, the licensee shall maintain separate accounts for each such operation and shall be separately licensed for such operation; except that the licensee may elect to maintain a single account for all operations taxed on gross receipts, in which case the entire business taxed on gross receipts shall be computed at the highest rate applicable to any part of the business taxed on gross receipts.

Sec. 14-151. Revocation of Business License.

A. The County issues business licenses for the privilege of doing business or exercising a trade, profession, occupation, vocation, calling, or activity in the County. The Commissioner may withdraw the privilege of doing business or exercising a trade, profession, occupation, vocation, calling, or activity by revoking a business license if the licensee:

1. Has misrepresented a material fact in applying to the Commissioner for a business license or fails to comply with the requirements of this article;

2. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States, or knowingly employs in the business conducted under such license, as agent, servant, or employee, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude;

3. Is not the legitimate owner of the business conducted under the license, or other persons have ownership interests in the business which have not been disclosed;

4. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license, or is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

5. Has been intoxicated or under the influence of some self-administered drug or other intoxicant while upon the licensed premises;

6. Has maintained the licensed premises in an unsafe or unsanitary condition such that they do not conform to the County's or the Commonwealth's requirements with respect to sanitation, health, construction or equipment;

7. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled paraphernalia as those terms are defined in Articles 1 and 1.1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Articles 1 and 1.1 of Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.). The provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business which facilitates the commission of any of the offenses set forth herein;

8. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations, and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety; or

9. Is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

B. Prior to revoking a business license, the Commissioner shall give written notice to the taxpayer, detailing the basis for the intended revocation, and giving the taxpayer 30 calendar days to take remedial action to resolve the problem. Upon the taxpayer's failure to take effective action, or upon the occurrence of any failing or other issue under subsection A of this section, the Commissioner may without further notice revoke the license.

C. Revocation shall be effective one business day after the date that the Commissioner's written notice of revocation is served by the Sheriff's Office on the taxpayer at his place of business.

D. A taxpayer aggrieved by the Commissioner's decision to revoke a license may request that the Amherst County Board of Supervisors review the decision, by written application filed with the Amherst County Attorney no later than 30 days from the date of service of process of the Commissioner's written notice of revocation. The appeal shall be heard at the next regularly scheduled meeting of the Board of Supervisors which occurs no earlier than 15 days after the date of the Amherst County Attorney's receipt of the taxpayer's written application. In reviewing the Commissioner's decision, the Board of Supervisors shall consider evidence and opinions presented by the taxpayer and Commissioner. After considering the evidence and opinions, the Board of Supervisors may affirm, reverse or modify the action by written decision. The Board of Supervisor's decision shall be final, subject only to review by the Circuit Court of Amherst County, provided such appeal is filed within 30 days from the date of the written decision of the Board of Supervisors.

E. A taxpayer may apply for reinstatement of a business license at any time after revocation. However, the Commissioner may refuse to reissue a license due to the applicant's failure to remedy the conditions which led to revocation, or for any of the reasons identified in subsection A of this section.

Section 14-152. Penalty; enforcement

A. It shall be unlawful and constitute a misdemeanor of any person to conduct a business or to engage in a profession, trade or occupation before procuring a license as required under the provisions of this division. It shall also be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this article. Any person who is convicted for failing to procure a license as required, or convicted of a violation for any of the provisions of this article shall, except where some other penalty is specifically provided, be punished by revocation of his business license, or by a fine not to exceed three hundred dollars (\$300.00), or both. Each day any person shall continue to violate the provisions of this article after the due date of any license tax prescribed in this article shall constitute a separate offense.

B. In the enforcement of this article, the Commissioner, in addition to the powers specifically granted in this article, shall have all and the same enforcement authority with respect to county licenses that state law confers upon commissioners of the revenue generally with respect to state licenses. As one of the means of ascertaining the amount of any license tax due under the provisions of this article, or of ascertaining any other pertinent information, the commissioner of the revenue may propound interrogatories to each applicant and may use such other evidence as he/she may procure. Such interrogatories shall be answered under oath, and it shall be unlawful for any applicant for a county license to refuse to answer any such interrogatories.

C. The Commissioner and her duly qualified deputy or deputies shall have the power to summon any person by legal service through the Sheriff's Office to appear before her office at a time to be specified in such summons and to answer, under oath, questions touching such taxpayer's license tax liability. Failure to answer such summons without good cause or failing or refusing to answer under oath questions touching their tax liability may be prosecuted as a Class One misdemeanor.

Secs. 14-153 – 14-159. – Reserved.

DIVISION 2. CLASSIFICATION OF BUSINESSES

14-160. Contractors

A. Every person conducting or engaging in the business of contracting and persons constructing on their own account for sale shall pay an annual license tax of thirteen cents (\$0.13) per one hundred dollars (\$100.00) of gross receipts.

B. A "contractor," for purposes of this classification, shall be any person who accepts or offers to accept:

(1) Orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead or other metal or any building material;

(2) Contracts to do any paving, curbing or other work on sidewalks, streets, alleys or highways, on public or private property, using asphalt, brick, stone, cement, concrete, wood or any composition;

(3) An order for or contract to excavate earth, rock or other material for foundation or any other purpose, or for cutting, trimming or maintaining rights-of-way;

(4) An order or contract to construct any sewer of stone, brick, terra-cotta or other material;

(5) Orders or contracts for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing or maintaining of electric wiring; or the erecting, installing, repairing or maintaining of lines for the transmission or distribution of electric light and power or other utility services;

(6) An order or contract to remodel, repair, wreck or demolish a building;

(7) An order or contract to bore or dig a well;

(8) An order or contract to install, maintain or repair air conditioning apparatus or equipment.

C. 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, sidewalk or curb and gutter construction;

Roofing and tinning;

Sewer drilling, and well digging;

Sign painting;

Structural metal work;

Tile, glass, flooring and floor covering installation;

Wrecking, moving or excavating.

D. A person is not a contractor if he is engaged in the business of selling and installing air conditioning units that are placed in windows or other openings with frames and require no ducts. The permanent installation of a unit in the wall of the building is contracting.

E. Any person engaged in the business of selling and erecting or erecting tombstones is not a contractor, but is engaged in either retail or wholesale sales.

F. Any person engaged in the business of wrecking or demolishing a building and who then sells the materials obtained is engaged in retail or wholesale sales as to the sale of the materials.

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

H. Every contractor, whether a general contractor or a subcontractor, is a contractor for purposes of local license taxation. The imposition of a license tax on the gross receipts of a general contractor and

also a subcontractor is not double taxation. Each is engaged in business in his own right and licensable accordingly.

I. 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 person is a contractor.

J. Any person who sells floor coverings and furnishes and installs the floor covering under a contract with a general contractor, whether the covering be carpet, linoleum, or other covering, is a contractor. If floor coverings are sold at retail and installed as part of or incidental to the sale, then the transaction is not contracting but a retail sale.

K. If the installation of an appliance requires the running of electrical, water or gas lines or service outlets, or the performance of any other function previously defined as contracting, then the installation is contracting.

L. The mere hauling of sand, gravel and dirt is not contracting but is a business service.

M. Whether a person is a contractor or employed as a laborer depends on the facts in each case. The elements to be considered in making the distinction include, but are not limited to, the method of compensation, who supplies the materials and primarily who has the right of control.

N. Persons constructing for their own account for sale shall be included in the contracting category for the purpose of calculating the business license tax and this category shall include speculative builders.

14-161. Financial services

A. Every person conducting or engaging in the business of financial services shall pay an annual license fee of fifty cents (\$0.50) per one hundred dollars (\$100.00) of gross receipts.

B. Any person rendering a service for compensation in the form of a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange is providing a financial service, unless such service is specifically provided for under another section.

C. Those engaged in rendering financial services include, but are not limited to, the following:

Buying installment receivables;

Chattel mortgage financing;

Consumer financing;

Credit card services;

Credit unions;

Factors;

Financing accounts receivable;

Industrial loan companies;

Installment financing;

Inventory financing;

Loan or mortgage brokers;

Loan or mortgage companies;

Safety deposit box companies.

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

14-162. Real estate services.

A. Every person conducting or engaging in the business of real estate services shall pay an annual license fee of fifty cents (\$0.50) per one hundred dollars (\$100.00) of gross receipts.

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

C. 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.

14-163. Professional Services.

A. Every person conducting or engaging in the business of professional services shall pay an annual license fee of fifty cents (\$0.50) per one hundred dollars (\$100.00) of gross receipts.

B. A person is engaged in providing a professional service if engaged in rendering any service specifically enumerated below or engaged in any occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study is used by its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to users for others as a vocation.

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

Architects;

Attorneys-at-law;

Certified public accountants;

Dentists;

Engineers;

Land surveyors;

Pharmacists;

Practitioners of the healing arts (as defined in Code of Virginia, § 54.1-2900);

Surgeons;

Veterinarians.

14-164. Repair, personal, business and other services—Tax; general definitions.

A. Every person conducting or engaging in the business of repair, personal or business service or any other business or occupation not specifically listed or excepted in this division or classified as retail, shall pay an annual license tax of thirty-one cents (\$0.31) per one hundred dollars (\$100.00) of gross receipts.

B. The repairing, renovating, cleaning or servicing of some article or item of personal property for compensation is a repair service, unless the service is specifically provided for under another section of this division.

C. Any service rendered for compensation either upon or for persons, animals or personal effects is a personal service, unless the service is specifically provided for under another section hereof.

D. Any service rendered for compensation to any business, trade, occupation or governmental agency is a business service, unless the service is specifically provided for under another section hereof.

E. Examples. Those rendering a repair, personal or business service or other service include, but are not limited to, the following:

Advertising agencies;

Ambulance services;

Amusements and recreation services (all types);

Animal hospitals, grooming services, kennels or stables;

Asphalt or other road-building materials;

Auctioneers and common criers;

Automobile driving schools;

Barber shops, beauty parlors, and hairdressing establishments;

Bid or building reporting service;

Billiard or pool establishments or parlors;

Blacksmith or wheelwright;

Bondsman;

Booking agents or concert managers;

Bottle exchanges;

Bowling alleys;

Brokers and commission merchants other than real estate or financial brokers;

Business research and consulting services;

Carnivals (The term "carnival" means an aggregation of shows, amusements, concessions, eating places and riding devices or any of them, operated together on one (1) lot or street or on contiguous lots or streets, moving from place to place, whether or not the same are owned and actually operated by separate persons. The term includes but is not limited to sideshows, dog and pony shows, trained animal shows, circuses and menageries.);

Chartered clubs;

Child care attendants or schools;

Collection agents or agencies;

Commercial photography, art and graphics;

Commercial sports;

Dance house, studios and schools;

Data processing, computer and systems development services;

Detective agency and protective services;

Developing or enlarging photographs;

Drafting services;

Engraving;

Erecting, installing, removing or storing awnings;

Fortunetellers (The term "fortunetellers" includes a clairvoyant, a practitioner of palmistry, a phrenologist, a faithhealer, a star analyst, a handwriting analyst who attempts to predict the future, or any other person who attempts to predict the future. No license tax on fortunetellers imposed pursuant to this article shall exceed one thousand dollars (\$1,000.00) per year.

Freight traffic bureaus;

Fumigating or disinfecting;

Funeral services and crematories;

Golf courses, driving ranges and miniature golf courses;

Hauling of sand, gravel or dirt;

Hotels, motels, tourist courts, boarding and rooming houses and trailer parks and campsites;

House cleaning services;

Impounding lots;

Information bureau;

Instructors, tutors, schools and studios of music, ceramics, art, sewing, sports and the like;

Interior decorating;

Janitorial services;

Laundry, cleaning and garment services including laundries, dry cleaners, linen supply, diaper service, coin-operated laundries and carpet and upholstery cleaning;

Mailing, messenger and correspondent services;

Marinas and boat landings;

Massage parlors;

Movie theaters and drive-in theaters;

Nickel plating, chromizing and electroplating;

Nurses and physician registries;

Nursing and personal care facilities including nursing homes, convalescent homes, homes for the retarded, old age homes and rest homes;

Packing, crating, shipping, hauling or moving goods or chattels for others;

Parcel delivery service;

Parking lots, public garages and valet parking;

Pawnbrokers;

Personnel services, labor agents and employment bureaus;

Photographers and photographic services;

Piano tuning;

Picture framing and gilding;

Porter services;

Press clipping services;

Private hospitals;

Promotional agents or agencies;

Public relations services;

Realty multiple listing services;

Renting or leasing any items of tangible personal property;

Reproduction services;

Secretarial services;

Septic tank cleaning;

Shoe repair, shoe shine and hat repair shops;

Sign painting;

Storage—all types;

Swimming pool maintenance and management;

Tabulation services;

Taxidermist;

Telephone answering services;

Theaters;

Theatrical performers, bands and orchestras;

Towing services;

Transportation services including buses and taxis;

Travel bureaus;

Tree surgeons, trimmers and removal services;

Turkish, Roman or other like baths or parlors;

Wake-up services;

Washing, cleaning or polishing automobiles.

F. Commission merchants. Any person buying or selling any kind of goods, wares or merchandise for another on commission is a commission merchant and is engaged in a business service.

G. Photographers. Photographers who have no regularly established place of business in Virginia may be subject to local license taxation so long as the tax is not in excess of thirty dollars (\$30.00), as authorized by the Code of Virginia, § 58.1-3727.

H. Amusements. An amusement is a type of entertainment or show for which compensation is received and that is not specifically provided for under another section.

I. Telephone, telegraph companies. For telephone and telegraph companies, one-half of one (1) percent of the prior year's gross receipts, excluding the charges for long distance telephone calls.

J. Utilities. For water or heat, light and power companies, one-half of one (1) percent of the prior year's gross receipts.

Secs. 14-165– 14-170. – Reserved.

§ 2. That Article II of Chapter 7, consisting of sections 7-21 through 7-73 of the Amherst County Code be and is hereby repealed.

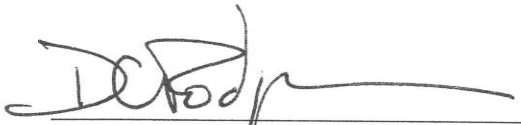
§ 3. That this ordinance shall be in force and effect upon adoption.

Adopted this 19th day of May, 2015



David W. Pugh, Jr., Chairman
Amherst County Board of Supervisors

ATTEST:



Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

Ayes 4

Nays 0

Abstentions 0