

**MINUTES**  
**Book 34**

AMHERST COUNTY BOARD OF SUPERVISORS

AGENDA

May 5, 2015

ADMINISTRATION BUILDING - 153 WASHINGTON STREET - SCHOOL BOARD ROOM  
1:00 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. Don Austin, Virginia Department of Transportation, FY16-FY21 Amherst County Secondary System Construction Plan and Budget
- VI. Consent Agenda
  - A. Minutes – April 7, 2015
  - B. Appropriations
    1. Accounting – FY2015 Appropriation request re Wiley Wilson/Goodwin Building HVAC upgrade
    2. FY15 Appropriation of Revenue (pass through)
- VII. New Business
  - A. 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 Article II of Chapter 7 of the Amherst County Code is repealed.

B. Public Safety - FY 2014/ 2015 Volunteer Capital Funding Request

C. Appointment of Building Code Official

VIII. Old Business

A. Second Stage lease - former Amherst Baptist Church

IX. County Administrator Report

A. Adoption of FY2015-2016 Operations & Maintenance Budget

B. Approprate the 2015-16 Budget

C. Adoption of setting tax rates for the FY2015-2016 Operations & Maintenance Budget

D. Adoption of FY2015-2016 Solid Waste Budget

E. Board of Zoning Appeals - interviews

X. Departmental Reports

A. Treasurer's Report - Monthly Reports, March 2015

XI. Citizen Comments

XII. Matters from Members of the Board of Supervisors

XIII. Closed Session

A. Virginia Code § 2.2-3711 (A)(7): Consult with the County Attorney regarding actual litigation involving Sweet Briar College.

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 5<sup>th</sup> day of May, 2015, at 1:00 p.m. at which the following members were present:

BOARD OF SUPERVISORS:

PRESENT: Mr. David W. Pugh, Chairman  
Mrs. Claudia D. Tucker, Vice-Chairman  
Mr. Robert M. Curd, Supervisor  
Mr. John A. Marks, Jr., Supervisor  
Mr. Donald W. Kidd, Supervisor

ABSENT: None

STAFF PRESENT: Dean Rodgers, County Administrator, David Proffitt, Deputy County Administrator/Purchasing Agent, Ellen Bowyer, County Attorney, and Regina Rice, Executive Administrative Assistant.

OTHERS PRESENT: Gary M. Roakes, Director of Public Safety.

### I. Call to Order

Chairman Pugh called the meeting to order at 1:01 p.m.

### II. Invocation and Pledge of Allegiance

Supervisor Marks led the Invocation and Pledge of Allegiance.

### **III. Approval of Agenda**

Mr. Rodgers addressed the Board and suggested that Item VII. C. be move to XIII. Closed Session.

By motion of Supervisor Tucker and with the following vote, the Board amended the Agenda and moved Item VII. C. to XIII. Closed Session.

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

### **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.

There were no citizen comments.

### **V. Special Presentation**

A. Don Austin, Virginia Department of Transportation, FY16-FY21 Amherst County Secondary System Construction Plan and Budget

Mr. Don Austin, Resident Maintenance Manager of the Virginia Department of Transportation addressed the Board regarding draft FY2016-FY2021 Secondary System Construction Plan and Budget. Mr. Austin explained any adjustments may be made before the public hearing on May 19, 2015. Mr. Austin reviewed several road projects on the proposed plan based on the priorities of last year and asked the Board if they had any questions.

Board members provided the following comments to Mr. Austin:

Supervisor Kidd mentioned Beck Creek Road and asked if this road could be put into the six-year plan. Mr. Austin responded he can expand the list adding this item to it. He advised he will research this issue and get back to the Board.

Supervisor Marks questioned the bridge replacement over Horsley Creek at Wagon Trail and the funding. Mr. Austin advised the funding for this project is not included in the County's unpaved road funds. Mr. Austin explained some funds are strictly extra bridge money that cannot be moved to other projects in the County.

Supervisor Tucker had a concern about Muddy Branch Road and requested looking at the vehicle count on this road and to add this to the list. Supervisor Tucker stated that Rt. 29 South before the bridge coming into Amherst on right hand side of Rt. 626, there is excessive runoff and ruts when it rains. Mr. Austin advised he will look into this issue.

Chairman Pugh mentioned Tinsley Lane off of Rt. 650 at East Perch Road and requested this road be placed on the list for future consideration. Mr. Austin stated he can add this road to the list and can shift the priority after the public hearing on May 19, 2015.

Supervisor Kidd raised an issue regarding Jackson Road off of Galts Mill Road. Beyond the end of the beyond State Maintenance sign, there is approximately 40-50 ft. of gravel, ruts, mud and Supervisor Kidd asked if state could surface treat that section. Mr. Austin advised he will look into this and re-measure this section; however, if this section is beyond the State Maintenance sign, VDOT cannot go onto private roads to do any work. Mr. Kidd advised this is St. Rt. 817.

Chairman Pugh raised the issue of sidewalks in Madison Heights and asked where the money came from to install it. Mr. Austin advised this was an individual request and the traffic engineering folks had some regional safety money available to spend before July of this year. That money was used for the sidewalk. (See Attachment 1)

Chairman Pugh thanked Mr. Austin for his presentation.

## **VI. Consent Agenda**

### **A. Minutes – April 7, 2015**

By motion of Supervisor Tucker and with the following vote, the Board approved the Minutes for April 7, 2015.

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

### **B. Appropriations**

#### **1. Accounting – FY2015 Appropriation request re Wiley Wilson/Goodwin Building HVAC upgrade**

Supervisor Marks commented on the proposal on the Goodwin Building and asked Mr. Proffitt if the \$19,340 is a part of the \$285,000. Mr. Proffitt confirmed it was and he has received bids for the HVAC, which are under the estimated amount of \$285,000. Mr. Proffitt stated he will bring this back to the Board at the next meeting.

#### **2. FY15 Appropriation of Revenue (pass through)**

Chairman Pugh made a motion and with the following vote, the Board approved FY2015 Appropriation request re Wiley Wilson/Goodwin Building HVAC upgrade and the FY15 Appropriation of Revenue (pass through).

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

## **VII. New Business**

A. 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.

Ms. Bowyer addressed the Board and explained the cover sheet in the Board's packet is not correct and she has provided the Board and public with the correct sheet.

Ms. Bowyer explained this ordinance makes various changes in provisions of business licenses taxes and fees and she has worked with the Commissioner of the Revenue.



Ms. Bowyer stated she has repealed an entire article and put in new text proposed to be added into the County code.

Ms. Bowyer explained she rewrote the County code's existing practices and making sure we are in compliance with state law. She stated that Division 2 is old County code and with Division 1, she took all of the state law requirements to make sure the County is 100% compliant with state law.

Ms. Bowyer briefly outlined the steps regarding a revocation of a license.

Chairman Pugh asked Ms. Bowyer who decides that a business is in violation and she stated the Commissioner of the Revenue makes that initial finding and that she gathers data from county staff to evaluate. The business will receive a 30 day notice to cure the violation before revocation occurs.

By motion of Supervisor Marks and with the following vote, the Board approved consideration of Ordinance 2015-0004 at a public hearing on May 19, 2015. (See Attachment 2)

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

#### B. Public Safety - FY 2014/ 2015 Volunteer Capital Funding Request

Mr. Roakes addressed the Board and Amherst Life Saving's request for its 2014/2015 capital funds for equipment purchased. The total expense was \$74,012.21 and a grant was received from VA Office of EMS in the amount of \$39,063.55. The request is for reimbursement of \$37,011.43, which is one half of the \$74,022.86, not including the stair chair. This request came through the Emergency Services Council, was approved and now is before the Board of Supervisors.

Chairman Pugh stated this is a legitimate request to pull money out of capital asset fund and Mr. Roakes advised that is correct and Amherst Life Saving had also purchased additional equipment as well.

Supervisor Marks asked if this equipment will be placed on vehicles that the career staff uses and Mr. Roakes replied that is correct and that all equipment is used by career staff.

Supervisor Tucker questioned if there is a difference in the quality of the equipment the career staff or volunteers use. Mr. Roakes advised the equipment is the same and they are working to replace older heart monitors so the equipment would be the same through the County.

Supervisor Marks questioned the money accumulated by these organizations and he did not understand why they come to the County when they have money in the bank but want taxpayers to pay for this. Supervisor Marks was under the impression that this money would be used to buy capital equipment.

Mr. Roakes advised some of the funds come from Board of Supervisors and some funds come from wills and donations; however, not all funds are solely from the County of Amherst.

Mr. Roakes advised the largest amount of funding is from the County. He explained that Amherst Life Savings has purchased three ambulances with money from their account; however, this account has money in it that has built up for years.

Chairman Pugh made a motion that the Board approve the disbursement of \$37,011.43 from the volunteer capital assets fund to Amherst Life Saving Crew for its purchase of two (2) ZOLL X series heart monitors and a Stryker Power Pro ambulance cot.

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

C. Appointment of Building Code Official

VII. Item C. moved to the closed session.

**VIII. Old Business**

A. Second Stage lease - former Amherst Baptist Church

Mr. Rodgers stated to the Board that all changes the Board requested to the lease have been made and he is providing the lease to the Board for their authority to sign.

Chairman Pugh commented that this is a great opportunity for the County and Second Stage to use this building and is a win/win situation for both.

Supervisor Tucker seconded what Chairman Pugh said and thanked all the people who had worked so hard turning this vision into a reality and also thanked the Board members for sticking with this.

Supervisor Tucker made a motion to approve the lease as negotiated and direct the Chairman to execute the document. (See Attachment 3)

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

NAY: None

ABSENT: None

Mr. Rodgers advised the Board he has proposed a press release and has scheduled Chairman Pugh to sign the lease with Second Stage at the Farmers Market on Thursday, May 6, 2015 at 5:00 p.m.

Chairman Pugh thanked Second Stage for negotiating with the County for repurposing the building.

**IX. County Administrator Report**

A. Adoption of FY2015-2016 Operations & Maintenance Budget

Mr. Rodgers stated that the Board is asked to officially adopt and then appropriate the FY16 Operations & Maintenance Budget for the County.

By motion of Chairman Pugh, and with the following vote, the Board approved the 2015-16 County budget with expenditures in the amount of \$88,131,217.00 with \$48,955,358.00 of that as the School budget of which \$ 32,011,251.00 as the regular operating budget, \$70,212.00 as school construction, which expenditures are supported with state, federal, and local funds, and an appropriation of County funds of \$16,873,895.00.

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

NAY: None

ABSENT: None

B. Appropriate the 2015-16 Budget

Mr. Rodgers stated that the Board is officially appropriating budget funds for the 2015-16 operating year effective July 1, 2015 on a quarterly basis by line, or lump sum by category.

By motion of Supervisor Kidd, and with the following vote, the Board voted to appropriate the 2015-16 budget as of July 1, 2015 which includes \$1,544,039.00 of Carryover Funds from the FY14/15 budget on a quarterly basis and by line for all departments except for the School Board and Social Services. The School Board budget shall be on a lump sum basis and the Social Services budget shall be on a lump sum basis by category.

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

#### C. Adoption of setting tax rates for the FY2015-2016 Operations & Maintenance Budget

Mr. Rodgers stated that the Board is establishing tax rates for the 2015-2016 fiscal year as of July 1<sup>st</sup> in accordance with requirements set forth by the Code of Virginia.

By motion of Supervisor Marks, and with the following vote, the Board voted to adopt a real estate tax rate of \$0.56 per \$100 assessed value and all other taxes as follows:

Consumer Utility	
Electric	
Residential	20% times the minimum monthly charge + \$.015508 per kWh consumed not to exceed \$3.00 monthly
Commercial	20% times the minimum monthly charge + \$.014214 per kWh consumed not to exceed \$20.00 monthly
Natural Gas	
Residential	20% times the minimum monthly charge + \$.01867 per CCF consumed not to exceed \$3.00 monthly
Commercial	20% times the minimum monthly charge + \$.015566 per CCF consumed not to exceed \$20.00 monthly
Personal Property Taxes	\$3.45 per \$100 assessed value
Machinery & Tools	\$2.00 per \$100 assessed value
Merchants Capital	\$3.95 per \$100 assessed value
Meal Tax	4%
Lodging tax	5%
Motor Vehicle License Fee:	
Auto	\$25.00
Motorcycle	\$11.00
Trailers	\$ 8.00
National Guard License Fee	\$12.50
Consumer Communication Tax:	5% of monthly charge

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

#### D. Adoption of FY2015-2016 Solid Waste Budget

Mr. Rodgers stated that the Board is appropriating the 2015-2016 budget for Solid Waste.

By motion of Supervisor Curd, and with the following vote, the Board voted to adopt the 2015-16 Amherst Solid Waste budget in the amount of \$1,790,771.00 and to appropriate the 2015-16 Solid Waste budget as of July 1, 2015 on a quarterly by line basis.

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

Chairman Pugh thanked all staff who have been a part of this budget process and appreciated all the work involved in preparing the budget.

#### E. Board of Zoning Appeals – interviews

Mr. Rodgers provided Board members with five questions to ask applicants Steven Thomas and Brian Hammack regarding the Board of Zoning Appeals vacancy. Each applicant was interviewed separately.

Chairman Pugh invited Mr. Steven Thomas to come forward to begin his interview.

Supervisor Kidd asked Mr. Thomas to state his address and community involvements in Amherst County.

Mr. Thomas stated he lives in Amherst, Virginia, has been involved in coaching Dixie Youth and Amherst Recreation basketball and is a deacon and member of Clifford Baptist Church.

Supervisor Marks asked Mr. Thomas to please tell the Board about his education background and qualifications to serve on the Board of Zoning Appeals.

Mr. Thomas stated he is a graduate of Virginia Tech and specialized in soil science with over 39 years of experience. He was a full time consultant in 2009 and then returned to Virginia Tech in 2011 and assisted the health departments in Virginia looking at problem drainfield sites in 35 counties. Mr. Thomas stated he served on various boards dealing with multiple issues and believed his experience with the Amherst County Planning and Building offices would be an advantage to the Board of Zoning Appeals.

Supervisor Curd asked Mr. Thomas if he has any personal or professional involvement with the other BZA Board members, and if yes, to please elaborate. Mr. Thomas stated he did not.

Supervisor Tucker asked Mr. Thomas to please share his understanding of the role of the Board of Zoning Appeals, its current focus, and any changes he would like to see. Mr. Thomas stated he does not see any changes as he has not been involved with the BZA; however, he believes confidentiality to clients and constituents is necessary and that transparency is needed to provide information to a citizen or client.

Chairman Pugh asked Mr. Thomas why he wants to serve. Mr. Thomas stated he has lived in Amherst County for 32 years, his children have grown up in the County and he would like to give back to the County.

Chairman Pugh thanked Mr. Thomas.

Chairman Pugh invited Mr. Brian Hammack to come forward to begin his interview.

Supervisor Kidd asked Mr. Hammack to state his address and community involvements in Amherst County. Mr. Hammock stated he is a resident of Monroe, Virginia, has been an active member of the Pedlar Fire and Rescue for several years; however, physically he is no longer able to volunteer and wanted to be a contributor to the County.

Supervisor Marks asked Mr. Hammack Thomas to please tell the Board about his education background and qualifications to serve on the Board of Zoning Appeals. Mr. Hammack stated he has been in land development, land surveying for the private sector and with VDOT for over 30 years.

Supervisor Curd asked Mr. Hammack if he has any personal or professional involvement with the other BZA Board members, and if yes, to please elaborate. Mr. Hammack stated he did not.

Supervisor Tucker asked Mr. Hammack to please share his understanding of the role of the Board of Zoning Appeals, its current focus, and any changes he would like to see.

Mr. Hammack foresees what the needs are going to be for the County and ramifications of rezoning or issues, and to anticipate the common welfare of the citizens of what would be a future asset in the next twenty years or negative to the County.

Chairman Pugh asked Mr. Thomas why he wants to serve. Mr. Hammack stated he is physically unable to do rescue calls and would like to become an asset to the County by helping people.

Chairman Pugh thanked Mr. Hammack for his time.

Supervisor Kidd made a motion that the Board make final recommendation to the Amherst County Circuit Court that Steven Thomas be considered to fill the at-large seat vacated on the Board of Zoning Appeals Board for a term of five (5) years.

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

## **X. Departmental Reports**

### **A. Treasurer's Report - Monthly Reports, March 2015**

For information only.

## **XI. Citizen Comments**

Ms. Cindy Henderson of Madison Heights, Virginia, introduced herself as Vice-President of Second Stage and thanked the Board for approving the lease. Ms. Henderson expressed how very excited Second Stage is to move forward with this project. Ms. Henderson provided Board members reading material from the Preservation Leadership Forum regarding preservation of old buildings.

Chairman Pugh thanked Ms. Henderson.

There were no other speakers and Chairman Pugh closed the citizen comment section.

## **XII. Matters from Members of the Board of Supervisors**

Supervisor Kidd suggested scheduling a retreat to outline what the Board would need to do in the next year and to ask the Board's consideration at the next meeting to set a date. Supervisor Kidd mentioned the economic impact concerning the closure of Sweet Briar College and the impending closure of Central Virginia Training Center and a need to collaborate with Planning, Public Safety and the Sheriff's Office and discuss what our plans should be.

Chairman Pugh said he thought the Board can do this in house without having to hire a consultant.

Supervisor Kidd advised Dr. Walker is available from the VA Tech Extension Agency at no charge to the County and she has facilitated these meetings in the past.

Chairman Pugh commented that the Board may not want to go that direction citing the action tracker and how the County is moving forward on projects.

Mr. Rodgers suggested that he talk with Dr. Walker to help the Board focus on a sense of direction on only one or two projects.

Supervisor Tucker agreed but expressed concern that "government is talking to government" and she would like to have the citizenry involved.

Supervisor Kidd agreed and stated there is a need to discuss what are the top three or four items the Board would like to see happen.

Chairman Pugh stated he believed that this is a good idea.

Supervisor Marks did not raise any matter to discuss.

Supervisor Tucker did not raise any matter to discuss.

## **XIII. Closed Session**

Supervisor Kidd moved that the Amherst County Board of Supervisors convene in closed session pursuant to § 2.2-3711 (A)(7) of the Code of Virginia, to consult with the County Attorney regarding actual litigation involving Sweet Briar College; and the personnel exemption at § 2.2-3711 (A)(1) of the Code of Virginia, to discuss the appointment of the Building Code Official.

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

NAY: None  
ABSENT: None

Supervisor Kidd motioned to come out of closed session and was approved with the following vote:

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

#### **CERTIFICATION OF CLOSED MEETING**

Supervisor Kidd moved that the Amherst County Board of Supervisors certify by a recorded vote that, to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed session were heard, discussed, or considered in the closed session.

Mr. Pugh	AYE
Mrs. Tucker	AYE
Mr. Curd	AYE
Mr. Marks	AYE
Mr. Kidd	AYE

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

On motion by Chairman Pugh and with the following vote, the Board voted to appoint Nate Young as the Building Code Official.

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

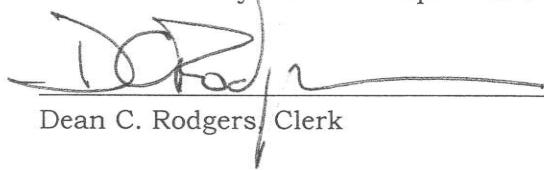
#### **XIV. Adjourn**

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

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



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



Dean C. Rodgers, Clerk



Secondary System  
Amherst County  
Construction Program  
Estimated Allocations

Fund	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	Total
CTB Formula - Unpaved State	\$178,770	\$218,240	\$249,466	\$268,859	\$258,395	\$0	\$1,173,730
Formula Secondary State	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Secondary Unpaved Roads	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TeleFee	\$100,523	\$100,523	\$100,523	\$100,523	\$100,523	\$100,523	\$603,138
Residue Parcels	\$0	\$0	\$0	\$0	\$0	\$0	\$0
STP Converted from IM	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal STP - Bond Match	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Formula STP	\$0	\$0	\$0	\$0	\$0	\$0	\$0
MG Formula	\$0	\$0	\$0	\$0	\$0	\$0	\$0
BR Formula	\$0	\$0	\$0	\$0	\$0	\$0	\$0
State Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal STP	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$279,293	\$318,763	\$349,989	\$369,382	\$358,918	\$100,523	\$1,776,868

Board Approval Date:

Residency Administrator

Date

County Administrator

Date

## SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

Board Approval Date:

2015-16 through 2020-21

Route	Road Name	Estimated Cost	Previous Funding	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to complete	Traffic Count Scope of Work FHWA # Comments
					2015-16	2016-17	2017-18	2018-19	2019-20	2020-21		
PMMS ID Accomplishment Type of Funds Type of Project Priority #	Project # Description FROM TO Length	Ad Date	SSYP Funding Other Funding Total									
RI.0643 51353 RAAP CONTRACT BROS. STP SECONDARY - ONE HEARING DESIGN 0001.00	WAGON TRAIL ROAD 0643005171 RTE 643 - BRIDGE & APPROACHES OVER HORSLEY CREEK 0.018 MILE SOUTH OF HORSLEY CREEK 0.018 MILE NORTH OF HORSLEY CREEK 0.0	PE \$394,713 RW \$34,947 CON \$1,221,354 Total \$1,651,014 9/9/2014	\$1,665,106 \$68,409 \$1,733,515	(\$82,501)	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0		340 Bridge Replacement w/o Added Capacity 16011 REGULAR CONSTRUCTION CONSTRUCTION UNDERWAY
RI.0625 106401 STATE FORCES/HIRED EQUIPMENT	GIDSVILLE ROAD 0625005P01 RTE 625 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) RTE 627 RTE 621 2.1	PE \$0 RW \$0 CON \$367,500 Total \$367,500 7/7/2015	\$372,500 \$0 \$372,500	(\$5,000)	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0		123 Resurfacing 16005 UNPAVED CONSTRUCTION
No Plan 0002.00												
RI.0654 106284 STATE FORCES/HIRED EQUIPMENT	MUNDY'S MILL ROAD 0654005P01 RTE 654 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) RTE 613 DEAD END 0.4	PE \$0 RW \$0 CON \$122,000 Total \$122,000 8/3/2015	\$53,864 \$0 \$53,864	\$68,136 \$0 \$68,136	\$68,136 \$0 \$68,136	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0		140 Resurfacing 16005 UNPAVED CONSTRUCTION
No Plan 0003.00												
RI.0609 106285 STATE FORCES/HIRED EQUIPMENT	STOVE HILL ROAD 0609005P01 RTE 609 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) RTE 610 DEAD END 0.8	PE \$0 RW \$0 CON \$212,500 Total \$212,500	\$10,000 \$0 \$10,000	\$202,500 \$0 \$202,500	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0		170 Resurfacing 16005 UNPAVED CONSTRUCTION
No Plan 0004.00												
RI.0628 106286 STATE FORCES/HIRED EQUIPMENT	STROBE MOUNTAIN ROAD 0628005P01 RTE 628 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) RTE 663 DEAD END 0.9	PE \$10,000 RW \$0 CON \$215,000 Total \$225,000	\$10,000 \$0 \$10,000	\$8,567 \$0 \$8,567	\$206,343 \$0 \$206,343	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0		198 Resurfacing 16005 UNPAVED CONSTRUCTION
No Plan 0005.00												

## SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

Board Approval Date:

2015-16 through 2020-21

Route	Road Name	Estimated Cost	Previous Funding	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to complete	Traffic Count
PPMS ID	Project #		Funding									Scope of Work
Accomplishment	Description		SSYP Funding									FHWA #
Type of Funds	FROM		Other Funding									Comments
Type of Project	TO		Total									
Priority #	Length	Ad Date			2015-16	2016-17	2017-18	2018-19	2019-20	2020-21		
RL0824	BANTON LANE	PE \$0	\$10,000									120
106269	0824005P01	RW \$0	\$0		\$0	\$100,000	\$0	\$0	\$0	\$0		Resurfacing
STATE	RTE 824 - RURAL RUSTIC	CON \$110,000	\$0		\$0	\$0	\$0	\$0	\$0	\$0		16005
FORCES/HIRED	(SURFACE TREAT NON-HARDSURFACE)	Total \$110,000	\$10,000	\$100,000	\$0	\$100,000	\$0	\$0	\$0	\$0	\$0	UNPAVED CONSTRUCTION
EQUIPMENT												
No Plan	RTE 60											
0006.00	DEAD END											
0.4												
RL0759	BRAXTON RIDGE ROAD	PE \$10,000										107
-15112	0759005P01	RW \$0	\$0		\$0	\$12,420	\$197,680	\$0	\$0	\$0		Resurfacing
STATE	RTE 759 - RURAL RUSTIC	CON \$200,000	\$0		\$0	\$0	\$0	\$0	\$0	\$0		16005
FORCES/HIRED	(SURFACE TREAT NON-HARDSURFACE)	Total \$210,000	\$0	\$210,000	\$0	\$12,420	\$197,680	\$0	\$0	\$0	\$0	UNPAVED CONSTRUCTION
EQUIPMENT												
No Plan	RTE 712											
0007.00	DEAD END											
0.8												
RL0712	PENDLETON DRIVE	PE \$10,000										67
106287	0712005P01	RW \$0	\$0		\$0	\$0	\$152,409	\$35,091	\$0	\$0		Resurfacing
STATE	RTE 712 - RURAL RUSTIC	CON \$177,500	\$0		\$0	\$0	\$0	\$0	\$0	\$0		16005
FORCES/HIRED	(SURFACE TREAT NON-HARDSURFACE)	Total \$187,500	\$0	\$187,500	\$0	\$0	\$152,409	\$35,091	\$0	\$0	\$0	UNPAVED CONSTRUCTION
EQUIPMENT												
No Plan	RTE 799											
0008.00	DEAD END											
0.7												
RL0686	STINNETT ROAD	PE \$10,000										122
-15122	0686005P01	RW \$0	\$0		\$0	\$0	\$0	\$177,500	\$0	\$0		Resurfacing
STATE	RTE 686 - RURAL RUSTIC	CON \$167,500	\$0		\$0	\$0	\$0	\$0	\$0	\$0		16005
FORCES/HIRED	(SURFACE TREAT NON-HARDSURFACE)	Total \$177,500	\$0	\$177,500	\$0	\$0	\$0	\$177,500	\$0	\$0	\$0	UNPAVED CONSTRUCTION
EQUIPMENT												
No Plan	RTE 60											
0009.00	DEAD END											
0.7												
RL0663	SMOKEY HOLLOW ROAD	PE \$10,000										108
-15123	0663005P01	RW \$0	\$0		\$0	\$0	\$0	\$156,791	\$280,709	\$0		Resurfacing
STATE	RTE 663 - RURAL RUSTIC	CON \$407,500	\$0		\$0	\$0	\$0	\$0	\$0	\$0		16005
FORCES/HIRED	(SURFACE TREAT NON-HARDSURFACE)	Total \$417,500	\$0	\$417,500	\$0	\$0	\$0	\$156,791	\$280,709	\$0	\$0	UNPAVED CONSTRUCTION
EQUIPMENT												
No Plan	RTE 828											
0010.00	RTE 628											
1.6												

# SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

Board Approval Date:

2015-16 through 2020-21

Route	Road Name	Estimated Cost	Previous Funding	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to complete	Traffic Count
PPMS ID	Project #		Funding									Scope of Work
Accomplishment	Description											FHWA #
Type of Funds	FROM											Comments
Priority #	Length	Ad Date	Other Funding Total		2015-16	2016-17	2017-18	2018-19	2019-20	2020-21		
RL0602	PARK LANE	PE \$10,000										
-15125	0602005P01	RW \$0			\$0	\$0	\$0	\$0	\$35,000	\$0		170
STATE	RTE 602 - RURAL RUSTIC	CON \$25,000	\$0		\$0	\$0	\$0	\$0	\$0	\$0		Resurfacing
FORCESHIRED	SURFACE TREAT NON-	Total \$35,000	\$0	\$35,000	\$0	\$0	\$0	\$0	\$35,000	\$0	\$0	16005
EQUIPMENT	HARDSURFACE)											UNPAVED CONSTRUCTION
No Plan	RTE 60											
0011.00	0,100 MILE EAST OF RTE 60											
0,1												
RL0632	FRANKLIN CREEK ROAD	PE \$10,000										
-15126	0632005P01	RW \$0			\$0	\$0	\$0	\$0	\$63,209	\$100,523		70
STATE	RTE 632 - RURAL RUSTIC	CON \$290,000	\$0		\$0	\$0	\$0	\$0	\$0	\$0		Resurfacing
FORCESHIRED	SURFACE TREAT NON-	Total \$300,000	\$0	\$300,000	\$0	\$0	\$0	\$0	\$63,209	\$100,523	\$136,268	16005
EQUIPMENT	HARDSURFACE)											UNPAVED CONSTRUCTION
No Plan	1,640 MILES NORTH OF RTE 722											
0012.00	DEAD END											
1,2												
RL4005	1204005	PE \$0										
99999	COUNTYWIDE ENGINEERING	RW \$0	\$318,929		\$0	\$0	\$0	\$0	\$0	\$0	\$0	0
S	& SURVEY	CON \$0	\$41,692		\$0	\$0	\$0	\$0	\$0	\$0	\$0	Preliminary Engineering
0013.00	VARIOUS LOCATIONS IN COUNTY	Total \$0	\$360,621	(\$360,621)	\$0	\$0	\$0	\$0	\$0	\$0	(\$360,621)	16015
												MINOR SURVEY & PRELIMINARY
												ENGINEERING FOR BUDGET
												ITEMS AND INCIDENTAL TYPE
												WORK
RL4008	1204008	PE \$0										
100309	COUNTYWIDE RIGHT OF WAY	RW \$0	\$15,000		\$0	\$0	\$0	\$0	\$0	\$0	\$0	0
S	ENGR.	CON \$0	\$0		\$0	\$0	\$0	\$0	\$0	\$0	\$0	Right of Way
0014.00	VARIOUS LOCATIONS IN COUNTY	Total \$0	\$15,000	(\$15,000)	\$0	\$0	\$0	\$0	\$0	\$0	(\$15,000)	16016
												USE WHEN IMPRACTICAL TO
												OPEN A PROJECT: ATTORNEY
												FEEES and ACQUISITION COST.
RL4007	1204007	PE \$0										
99781	COUNTYWIDE TRAFFIC	RW \$0	\$144,828		\$0	\$0	\$0	\$0	\$0	\$0	\$0	0
S	SERVICES	CON \$0	\$0		\$0	\$0	\$0	\$0	\$0	\$0	\$0	Safety
0015.00	VARIOUS LOCATIONS IN COUNTY	Total \$0	\$144,828	(\$144,828)	\$0	\$0	\$0	\$0	\$0	\$0	(\$144,828)	16021
												TRAFFIC SERVICES INCLUDE
												SECONDARY SPEED ZONES,
												SPEED STUDIES, OTHER NEW
												SECONDARY SIGNS

# AMHERST COUNTY RURAL RUSTIC PRIORITY LIST - FY16 - FY21

DRAFT - April 15, 2015

PRIORITY	ROUTE	NAME	FROM	TO	LENGTH	TC - VPD	PROJECTED FUNDING *
-	625	GIDSVILLE ROAD	ROUTE 627	ROUTE 621	2.1 MI.	123	FUNDED - Construction summer 2015
1	654	MUNDY'S MILL ROAD	ROUTE 613	DEAD END	0.41 MI.	140	FY15/16
2	609	STOVE HILL ROAD	ROUTE 610	DEAD END	0.81 MI.	170	FY16/17
3	628	STROBE MOUNTAIN ROAD	ROUTE 663	DEAD END	0.86 MI.	198	FY16/17
4	824	BANTON LANE	ROUTE 60	DEAD END	0.57 MI.	120	FY17/18
5	759	BRAXTON RIDGE ROAD	ROUTE 712	DEAD END	0.80 MI.	100	FY17/18
6	712	PENDLETON DRIVE	ROUTE 759	DEAD END	0.67 MI.	70	FY18/19
7	686	STINNETT ROAD	ROUTE 60	DEAD END	0.67 MI.	170	FY18/19
8	663	SMOKEY HOLLOW ROAD	ROUTE 828	ROUTE 628	1.63 MI.	108	FY19/20
9	602	PARK LANE	ROUTE 60	0.10 MI. E. ROUTE 60	0.10 MI.	110	FY20/21
10	632	FRANKLIN CREEK ROAD	1.64 MI. N. ROUTE 722	DEAD END	1.16 MI.	70	FY20/21
11	751	HARTLESS ROAD	ROUTE 151	DEAD END	1.23 MI.	70	FY21/22
12	689	EAST MONITOR ROAD	ROUTE 617	1.20 MI. S. RTE 617	1.20 MI.	50	Unfunded

Estimated cost per mile \$250,000

\*Based FY16/FY21 SSYP Draft projected allocation



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.

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Approved as to form and legality by the County Attorney

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**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) are subject to the taxes in accordance 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 \$50.00 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. 14-148. 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 19<sup>th</sup> day of May, 2015

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

**ATTEST:**

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Dean C. Rodgers, Clerk  
Amherst County Board of Supervisors

**Ayes** \_\_\_\_

**Nays** \_\_\_\_

**Abstentions** \_\_\_\_

**LEASE AGREEMENT**

**THIS LEASE AGREEMENT**, hereinafter referred to as the "Lease", is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the BOARD OF SUPERVISORS OF AMHERST COUNTY, VIRGINIA, hereinafter referred to as the "Lessor", and Second Stage of Amherst, hereinafter referred to as "Lessee", both of which collectively may be hereinafter referred to as the "Parties".

**WITNESSETH THAT:**

**WHEREAS**, the Lessor holds a deed to real property located at the corner of Washington Street and Second Street, designated as Tax Map Parcel 96A4-A-125, on which is sited a church and parsonage; and,

**WHEREAS**, the Lessor purchased the property to provide office space for Amherst County ("County") administration staff and Constitutional officers, but has determined the premises have no useful value beyond its land as a site for future County expansion; and,

**WHEREAS**, the Lessor therefore is prepared to demolish the former church structure but is willing to put it to County use if it can do so without expense; and

**WHEREAS**, Lessee is organized as a 501C(3) organization exclusively for charitable, educational and scientific purposes, including, for such purposes, the preservation of the old Amherst Baptist Church Building on Second Street, Amherst, Virginia and to develop uses for the building to benefit the arts, culture and entrepreneurs of Amherst County, Virginia; and the making of distributions to organizations under 501(c)(3) of the Internal Revenue Code (or corresponding section of any future Federal tax code).

**WHEREAS**, Lessee has been provided information regarding the condition of the building, including but not limited to asbestos and lead based paint, and the anticipated expense to renovate it and has, nevertheless, requested that the Board lease the former church portion of the property to it to be renovated and to be used in staging cultural events and other community building events; and

**WHEREAS**, Lessor believes that Lessee can make use of the building to the advantage of the County's citizens, and that placing the building into productive use will aid in its sustainment until the County is prepared to utilize it; and

**WHEREAS**, Lessee understands its failure to renovate or make valuable, safe use of the premises or make reasonable progress toward that end will result in termination of the lease; and

**WHEREAS**, Lessor is willing to lease to the Lessee the use of the former church structure and the land lying in front of the church so long as the use does not impede the County's ability to control the structure or replace it with another or no structure upon the land.

**NOW, THEREFORE**, in consideration of the promises, and the mutual covenants and conditions set forth herein, the Parties do hereby agree as follows:

**Term**

1. Lessor hereby leases to Lessee for the sum of \$10.00 (ten dollars) annually the structure formerly denominated Amherst Baptist Church ("Church"), as well as the parking lot in front of it (collectively,

"Premises") and the lawn on the south side to an area up to 25 feet from the parsonage building. The parking area to the rear of the Church is not included but may be used by Lessee after regular business and public meeting hours of the Lessor. The area under lease is depicted in the plat diagram (attached hereto as Exhibit A and thereby incorporated herein).

2. The initial term of the Lease shall be five years and commence on (insert signing date).
3. Thereafter it shall continue on annual automatically renewing terms, except that it may be terminated as provided in paragraphs four or five.
4. Lessee shall give Lessor notice by November of each year if it wishes to extend the lease for an additional year.
5. Lessor or Lessee may terminate this Lease at any time by giving written notice 120 days prior to the proposed termination date. However, Lessor shall endeavor to provide at least one year's notice and shall respect Lessee's scheduled commitments of the building including subleases, and scheduled performances and events. During said year, all obligations under this Lease shall continue in effect.
6. In addition to the notice provision at Paragraph 4 above, Lessor may terminate this Lease by giving written notice 90 days prior to the proposed termination date for any of the following events:
  - a. Lessee fails to complete the improvements identified in paragraphs 12 through 15 of this Lease on or before insert corresponding date, 2018.
  - b. Lessee fails to complete \$10,000 worth of credited renovation work in any given year.
  - c. Lessee fails to redeem any mechanic's lien that may be placed upon the property within one year or a notified lease termination date, whichever is sooner.
  - d. Lessee engages in any activity which causes an encumbrance to be placed upon the property that limits, in any way, Lessor's full control, use or disposition of the property.
  - e. Lessee fails to give Lessor notice as required by any provision of this agreement.

#### Use

7. Lessee may make any use of the Premises consistent with the staging of cultural or community building events and a community market. Any proposed usage, and associated signage and marketing, shall be submitted to the Lessor in advance of implementation, and Lessor's approval shall be required for implementation.
8. Lessor shall have use of the sanctuary for its regular meetings as soon as possible. Lessor shall have use of the sanctuary for special meetings if the sanctuary is not otherwise committed. Lessor may make use of all or a portion of the Premises not being used by Lessee upon (ninety) 90 calendar days notice to Lessee; however, Lessor shall attempt to provide at least one year's notice and respect scheduled commitments of the building. When Lessor's use extends beyond two days for any single activity, Lessor shall contribute a proportional payment toward Lessee's utility costs based on the number of days and square footage used by Lessor's activity. Lessor will leave premises clean and in good repair. Lessee is not expected to provide any equipment beyond that which is already present at the time of the event.
9. Lessee may sublease all or a portion of the Premises if the Lessor consents to the sublease. Lessor will not unreasonably withhold consent from any sublease consistent with Lessee's organizational purpose. Lessee shall comply with all requirements of the Commissioner of the Revenue for taxation of rental income by Lessee.
10. Lessee may use the parking to the rear of the Church only in the evenings after 5:00 PM and on weekends and holidays recognized by Lessor. Lessee shall make its patrons aware that parking to the rear of the

Church and other County Administration Building parking areas are not available during County business or public meeting hours.

11. Lessee shall be responsible for responding to requests by the public to use the Premises for activities unrelated to Lessee's functions.

#### **Improvements**

12. Lessee shall invest the equivalent of at least \$10,000 annually toward improvement of the Church beyond maintenance. The credited value of the improvements will include purchased materials, in-kind donations and labor. Any improvements totaling over \$10,000 in one year will be credited toward future years' annual improvements. An annual improvement plan (attached hereto as Exhibit B and thereby incorporated herein) shall be submitted to the County Administrator in January of each year. The County Administrator may not direct which improvements must be made but will determine whether the planned improvements will be credited toward the annual \$10,000 total.
13. Lessee shall undertake no improvements to the Premises until it has funding in hand or otherwise immediately available and committed to pay for the costs of said improvements, including any contingency or reserve.
14. The initial improvements shall be accomplished in the order as follows:
  - a. Lessee shall first replace or repair the roof and make the Church secure from further water damage;
  - b. Lessee shall restore the sanctuary in the Church to a condition fit to hold public meetings of the Board of Supervisors; and
  - c. Before any area is placed into use by the public, Lessee shall remediate any conditions rendering the Premises in violation of State, Federal, or local law.
15. Lessee has reviewed the report prepared by MRG Consulting, LLC, dated October 31, 2014 (attached hereto as Exhibit C and thereby incorporated herein), and is aware of its findings. Lessee agrees that it will ensure that any identified hazards, including the belfry and boiler room in the Church, are either remediated or rendered inaccessible within one hundred and eighty (180) calendar days of execution of this Agreement.

#### **Funding**

16. Lessee may seek and accept funding from any source so long as its acceptance or use is not predicated on a commitment of County funds unless those funds are provided to the County in advance. Lessee will not undertake any action, commitment, status, registration, or application, nor will it make any representations to anyone that will collateralize, impede, encumber or otherwise restrict the County's use or control of the Premises.
17. Lessor shall not be expected to expend, and Lessee shall not request or engage in any actions intended or having the effect of pressing the County for the expenditure of, any County monies on the Premises. In the event persons not affiliated with Lessee petition or otherwise press Lessor regarding expenditure of County monies on the Premises, Lessee's participation in such effort shall be deemed a breach of this Lease.

#### **Insurance and Indemnification**

18. Lessor shall maintain on the Premises any property insurance existing at the time of execution of this Lease.
19. Lessee shall maintain a general liability insurance policy in the amount of one million dollars (\$1 million). The insurance policies shall include or be endorsed to include the following provision: The County of Amherst, Virginia, its officers/officials, employees, agents and volunteers shall be endorsed as "insureds" under the terms and conditions of the policies for liabilities which may arise out of the Lessee's or its Contractor's operations or activities in these projects. Lessee shall provide Lessor a certificate of insurance with applicable endorsements effecting coverages, signed by a person authorized by the insurance company to bind coverage on its behalf. The policy obtained by Lessee shall require the insurer to provide 30 days written notice to the County Purchasing Agent before any cancellation, reduction, or non-renewal of insurance coverage. The insurance required of the Lessee shall be primary and any insurance or self-insurance maintained by Lessor shall be in excess of Lessee's insurance and shall not contribute thereto. Failure of the Lessee to comply with any reporting provisions of the insurance policies required hereunder shall not affect coverage provided to the Lessor. All rights of subrogation against the Lessor shall be waived.
20. Lessee shall indemnify and hold harmless Amherst County and its officers, agents, volunteers, and employees against any and all liability, losses, damages, claims, causes of action, suits of any nature, costs, and expenses, including reasonable attorney's fees, resulting from or arising out of Lessee's or its agent's or contractor's activities or omissions on or near any of the County's property or easements, or arising out of or resulting from Lessee's taking any action under this Lease, including, without limitation, fines and penalties, violations of federal, state, or local laws, or regulations promulgated thereunder, or any personal injury, wrongful death, or property damage claims of any type.

#### **Default and Cure**

21. If a Party fails in any manner to fully perform and carry out each and all of the terms, covenants and conditions of this Lease in strict conformance thereto, the Party shall be in default and written notice of such default shall be given to the Party by the non-defaulting Party. If the defaulting Party fails to cure such default, to the satisfaction of the non-defaulting Party, within thirty (30) days of the date of such notice, or such other time as may be specified by the non-defaulting Party in such notice, the non-defaulting Party may at its option, terminate the Lease.

#### **Miscellaneous**

22. This Lease constitutes the entire agreement between the Lessor and the Lessee and supersedes any prior understanding or oral agreements between them respecting the subject matter hereof.
23. By virtue of entering into this Lease, Lessee submits itself to a court of competent jurisdiction in the County of Amherst, Virginia, and further agrees that this Agreement is controlled by the laws of the Commonwealth of Virginia and that all claims, disputes, and other matters shall only be decided by such a court according to the laws of the Commonwealth of Virginia.
24. Lessee shall be fully responsible to Lessor for all acts and omissions of all succeeding tiers of subcontractors and agents performing any action on the Premises.
25. Lessee shall comply with all applicable federal, state, and local laws, codes and regulations currently in force or subsequently adopted, including terms and provisions of Amherst County Code and the Town of Amherst Code, and with all I.R.S. regulations concerning 501(c)(3) organizations, as well as those of the State Corporation Commission.
26. This Lease shall be binding on the heirs, assigns, and successors in interest of the Parties.

27. This Lease may not be modified, except in writing signed by the Parties.
28. In the event that any provision of this Lease is adjudged or decreed to be invalid, such ruling shall not invalidate the entire Lease but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding, and in full force and effect.
29. If Lessee makes any alterations or improvements which require Mechanic's Lien coverage, Lessee shall inform Lessor of the identity of the Mechanic's Lien agent prior to commencing the alteration or improvement.

**[SIGNATURES ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, THE PARTIES HEREBY BIND THEMSELVES TO THIS  
LEASE AS OF THE DAY AND YEAR FIRST ABOVE WRITTEN.

**LESSOR:** Board of Supervisors of Amherst County, Virginia

By: \_\_\_\_\_  
Chairman, Amherst County Board of Supervisors

STATE OF VIRGINIA,  
COUNTY OF AMHERST, to-wit:

I, \_\_\_\_\_, a notary public in and for the state and county as aforesaid, do  
hereby certify that Chairman, Amherst County Board of Supervisors, did sign his name to the foregoing  
Lease Agreement before me the \_\_\_\_ day of \_\_\_\_\_, 2015.

Notary Public: \_\_\_\_\_

Notary Registration Number: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**LESSEE:** Second Stage of Amherst

By: \_\_\_\_\_  
[Insert Name, Title ]

STATE OF VIRGINIA,  
COUNTY OF \_\_\_\_\_, to-wit:

I, \_\_\_\_\_, a notary public in and for the state and county as aforesaid, do  
hereby certify that \_\_\_\_\_ did sign his name to the foregoing Lease  
Agreement before me the \_\_\_\_ day of \_\_\_\_\_, 2015.

Notary Public: \_\_\_\_\_

Notary Registration Number: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

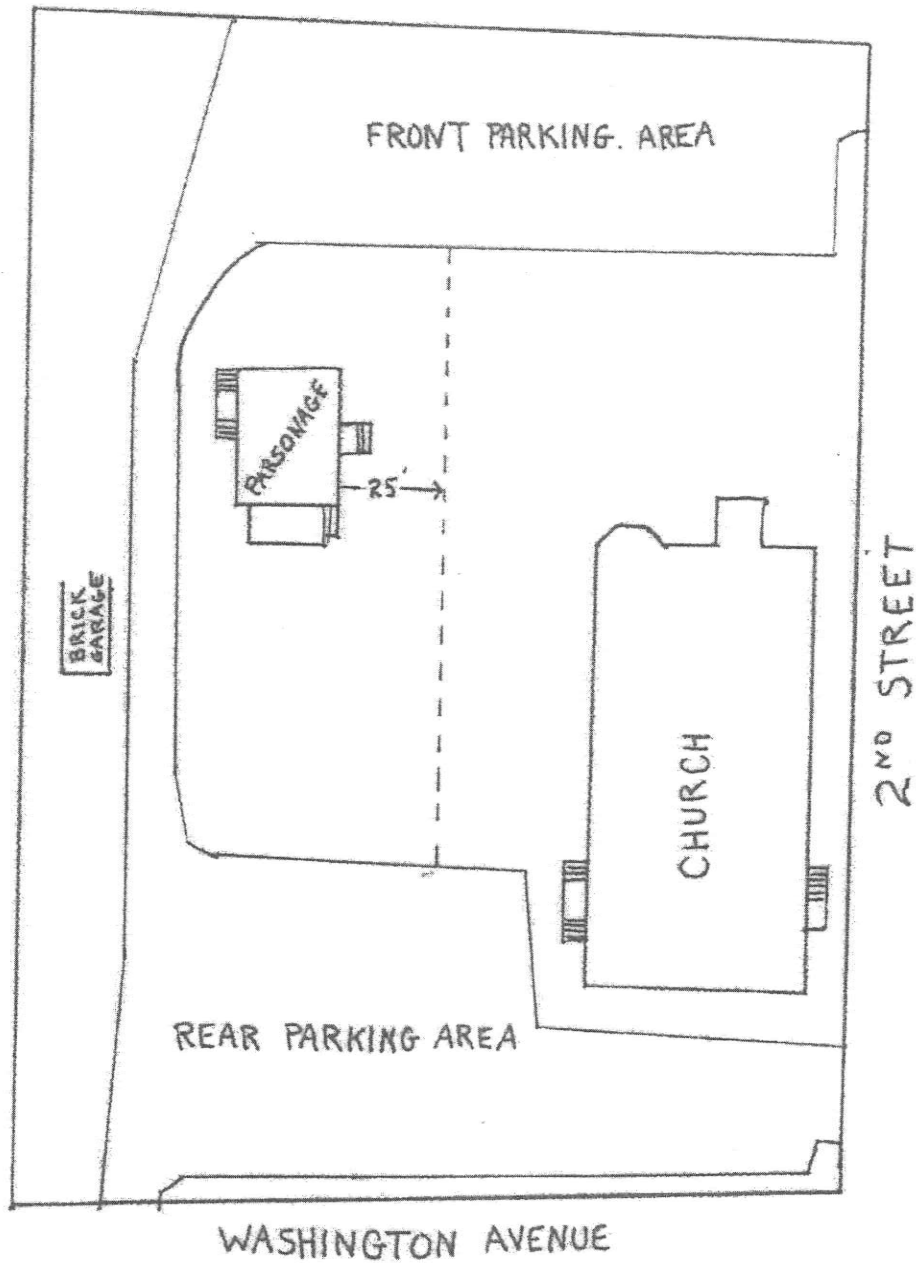
**Approved as to form:**

\_\_\_\_\_  
Ellen Bowyer  
Amherst County Attorney

\_\_\_\_\_  
Date



# EXHIBIT "A"



**Annual Improvement Plan  
May 1, 2015 – April 30, 2016  
Exhibit B**

This list of prioritized improvements is to be attached to Section 12 of the lease agreement between the Board of Supervisors of Amherst County, VA (Lessor) and Second Stage|Amherst, Inc. (Lessee) governing use of the former Amherst Baptist Church building located at Washington and Second Sts. in the Town of Amherst, VA. Although completion of the entire list may not be possible in the initial year, every reasonable effort will be made to complete as many items as possible.

**I. Roof**

- a. Immediate remediation: install roof drains in the membrane surface of the 1950's addition to drain ponding water
- b. Long term remediation: cover existing roof with new roof structure  
COST: \$30,000 (long term remediation)  
DEADLINE: 12/15/16

**II. Exit lights**

- a. Repair or replace all the exit and emergency lights  
COST: \$850  
DEADLINE: 6/30/15

**III. ADA restrooms**

- a. Two ADA compliant restrooms will be built in the former church offices  
COST: \$9800  
DEADLINE: 6/30/15

**IV. Ceiling in auditorium**

- a. Flaking paint will be removed and the metal ceiling surface repainted or sealed  
COST: \$3800  
DEADLINE: 6/30/15

**V. Access to boiler room and belfry will be sealed prior to public use**

- COST: \$200  
DEADLINE: 6/30/15

**VI. Cornice and gutters**

- a. The elaborate cornice on either side of the main entrance will be rebuilt
- b. Gutters will be repaired or replaced as needed  
COST: \$1800  
DEADLINE: 9/1/15

EXHIBIT "C"

**AMHERST COUNTY**  
**153 WASHINGTON STREET**  
**AMHERST, VIRGINIA**

**EVALUATION OF FORMER BAPTIST**  
**CHURCH STRUCTURE**

**OCTOBER 15, 2014**

Prepared by:  
MRG Consulting, LLC  
155 Quail ridge Drive  
Altavista, Virginia 24517

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