

**ORDINANCE NO. 21-8( )**

AN ORDINANCE TO AMEND CHAPTER 8, LICENSES, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 8, Licenses, is hereby amended and reordained as follows:

**By Amending:**

Sec. 8-800 Alcoholic beverages.

**Chapter 8. Licenses**

**Article 1. Business Licenses**

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**Division 2. License Requirement, Situs of Gross Receipts,  
Appeals, and Recordkeeping**

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**Sec. 8-201 - When license application and license tax are due; penalties.**

Each person subject to a license tax shall apply for a license and pay the license tax as follows:

- A. *When license application is due.* 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 March 1 of the license year if he had been issued a license for the preceding year. The application shall be on forms prescribed by the Director of Finance.
- B. *When license tax is due.* The tax shall be paid with the license application in the case of any license tax 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 June 15 of the license year; provided that each motor vehicle dealer who separately states the amount of the license tax applicable to each sale of a motor vehicle and adds the tax to the sales price of the motor vehicle shall pay the tax on or before the twentieth day of the month following the close of each calendar quarter.
- C. *Extensions.* The Director of Finance 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 ten percent of the portion paid after the due date.
- D. *Penalty for failure to timely file an application or pay the license tax.* The Director of Finance will impose a penalty for failure to timely file an application or pay the license tax as follows:

1. *When late penalty imposed.* A penalty of ten percent of the tax may be imposed by the Director of Finance upon the failure of any person to file an application or the failure to pay the tax by the appropriate due date. The Director of Finance shall impose only the late filing penalty if both the application and license tax payment are late; provided that the Director may impose both penalties if the Director determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the Director of Finance, 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, the Director shall not impose a late payment penalty with the additional tax. If any assessment of tax by the Director of Finance is not paid within 30 days, the Director may impose a ten percent late payment penalty.
  2. *When late penalty not imposed.* If the failure to file or pay was not the fault of the taxpayer, the Director of Finance shall not impose a late penalty, 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.
    - a. *Acted responsibly defined.* "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.
    - b. *Events beyond the taxpayer's control defined.* "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 Director who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.
- E. *Interest on late payments.* The Director of Finance shall charge interest on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the Director 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 tax collected pursuant to this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under Virginia Code § [58.1-3916](#).
1. *When interest does not accrue.* No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year.
  2. *When interest not refunded or charged.* No interest shall be refunded 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.

(§ 8-201; [Ord. 19-8\(1\)](#), 4-17-19)

**State Law reference**— Va. Code § [58.1-3703.1](#).

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## Article 2. Other Licenses

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### Sec. 8-800 - Alcoholic beverages.

Pursuant to and subject to Virginia Code § [4.1-205](#), a County license tax is hereby imposed on persons licensed by the Virginia Alcoholic Beverage Control Board to manufacture, bottle, or sell alcoholic beverages in the County, except for temporary licenses authorized by Virginia Code § [4.1-211](#).

A. *Tax rates.* The following annual tax rates shall apply:

1. *Distiller's license.* For each distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750.00; if more than 36,000 gallons manufactured during such year, \$1,000.00; and no license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits or both during the license year.
2. *Winery license.* For each winery license, \$50.00.
3. *Brewery license.* For each brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250.00, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000.00.
4. *Beer bottler's license.* For each beer bottler's license, \$500.00.
5. *Wholesale beer license.* For each wholesale beer license, \$75.00.
6. *Wholesale wine license.* For each wholesale wine license, \$50.00.
7. *Retail wine and beer license.* For each retail on-premises wine and beer license for a hotel, restaurant, or club, and for each retail off-premises wine and beer license, \$37.50.
8. *Retail beer license.* For each retail on-premises beer license for a hotel, restaurant or club, and for each retail off-premises beer license, \$25.00.
9. *Fruit distiller's license.* For each fruit distiller's license, \$500.00.

- 10. *Mixed beverage restaurant license.* For each mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons, the tax is:
  - a. \$200.00 for areas seating 50 to 100.
  - b. \$350.00 for areas seating 100 to 150 persons.
  - c. \$500.00 for areas seating more than 150 persons.
  - d. \$350.00 for private, nonprofit clubs operating a restaurant located on the premises of those clubs.

B. When license application and license tax are due; penalties. Alcoholic beverage license taxes are subject to section 8-201.

CB. *State license required for County license to issue.* No County license shall be issued pursuant to this chapter to any person who does not hold or secure simultaneously the proper State license.

DC. *Beer defined.* For purposes of this section, the term "beer" is defined as it is in Virginia Code § [4.1-100](#).

(3-15-73, § 25; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-27; Code 1988, § 11-27; § 8-600, Ord. 98-A(1), 8-5-98; [Ord. 14-8\(1\)](#), 9-3-14; [Ord. 15-8\(1\)](#), 7-1-15; [Ord. 16-8\(1\)](#), 7-13-16; § 8-800, [Ord. 19-8\(1\)](#), 4-17-19)

**State Law reference—** Va. Code §§ [4.1-205](#), [4.1-233](#).

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of \_\_\_\_ to \_\_\_\_, as recorded below, at a regular meeting held on \_\_\_\_\_.

\_\_\_\_\_  
Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Gallaway	_____	_____
Ms. LaPisto-Kirtley	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Ms. Price	_____	_____