

ORDINANCE NO. 17-8(2)

AN ORDINANCE TO AMEND CHAPTER 8, LICENSES, ARTICLE I, IN GENERAL, ARTICLE V, CORRECTION OF TAX ASSESSMENTS, AND ARTICLE VI, SCHEDULE OF TAXES, DIVISION 4, PERSONAL, PROFESSIONAL, BUSINESS OR REPAIR SERVICE BUSINESS, OCCUPATIONS AND PROFESSIONS, 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, Article I, In General, Article V, Correction of Tax Assessments, and Article VI, Schedule of Taxes, Division 4, Personal, Professional, Business or Repair Service Business, Occupations and Professions, are hereby amended as follows:

By Amending:

Sec. 8-101 Applicability
Sec. 8-505 Refund of license tax if business terminated
Sec. 8-617 Retailers or retail merchants

CHAPTER 8. LICENSES

ARTICLE I. IN GENERAL

Sec. 8-101 Applicability.

This chapter shall apply to each business identified herein as follows:

A. *Persons subject to licensure.* Each person engaging in a business in this county whose gross receipts are greater than ~~five thousand dollars (\$5,000.00)~~ twenty-five thousand dollars (\$25,000) shall apply for and obtain a license for each such business if:

1. In the case of professional services, the person either (i) maintains a definite place of business in this county; or (ii) maintains an abode in this county but does not maintain a definite place of business in the Commonwealth of Virginia; for purposes of this chapter the abode shall be deemed a definite place of business; or

2. In the case of any other business, the person has a definite place of business or maintains an office in this county; or

3. The person is engaged as a peddler or itinerant merchant, carnival or circus, contractor, or a public service corporation as provided in this chapter.

B. *Persons subject to license tax.* Each person engaging in a business in this county who is required to obtain a license for such business whose gross receipts in a license year from a business subject to licensure are equal to or greater than one hundred thousand dollars (\$100,000.00) in the county shall be subject to a license tax as provided in this chapter.

(3-15-73, § 2; 4-21-76; Ord. 96-11(1), 11-13-96, §§ 11-4, 11-4.1; Code 1988, §§ 11-4, 11-4.1; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code §§ 58.1-3703, 58.1-3706.

The amendment to § 8-101 by this ordinance shall be effective for taxable years beginning on and after January 1, 2018.

ARTICLE V. CORRECTION OF TAX ASSESSMENTS

Sec. 8-505 Refund of license tax if business terminated.

A license tax imposed on a person which is based on gross receipts or gross expenditures shall be entitled to a refund if the person goes out of business before the end of the current license year, subject to all of the following:

A. The license tax for the current license year shall be based on gross receipts or gross expenditures obtained throughout the preceding calendar or fiscal year.

B. The reason for going out of business shall not be connected in any manner with the violation of any state law or local ordinance or of the violation of any rules and regulations made pursuant thereto.

C. The amount of the refund for a license tax based on gross receipts shall be prorated on a monthly basis, so as to ensure that the licensed privilege is taxed only for that fraction of the year during which it is exercised within the county.

1. The county may elect to remit any refunds for the overpayment of a license tax based on gross receipts in the ensuing license year subject to section 8-506.

2. A person shall not be entitled to interest on the refund of a license tax pursuant to this paragraph, provided that the refund is made not more than thirty (30) days from: (i) the date of the payment that created the refund; or (ii) the date of the person's application for a refund, whichever is later. Interest on the refund shall be paid at the rate of ten percent (10%) per year.

3. If a person seeking a refund is indebted to the county or any department or office thereof, or is indebted to any state constitutional office of the county for a local levy, the refund, or so much thereof as is necessary, shall first be applied to such indebtedness.

D. In the event that a person, firm, or corporation ceases to engage in a business, trade, profession, or calling in one year for which a license is based on gross receipts, but the person, firm, or corporation indicates to the county that it intends to settle outstanding, existing business accounts in the year following the year in which it ceased to do business, such person, firm, or corporation shall be authorized to pay a license tax based on an estimate of gross receipts for such year, instead of a license tax based on the previous year's gross receipts.

1. Such tax shall be subject to adjustment to the correct tax at such time as all accounts are closed. If the estimate is found to be unreasonable under the circumstances, a penalty of ten percent (10%) of the additional license tax assessed shall be assessed.

2. If a person, firm, or corporation that is subject to an estimated license tax under this subsection is found to continue to operate the business, for which it gave notice of the cessation of operations, during the year for which it is subject to the estimated license tax, the person, firm, or corporation shall be required to pay the full amount of the license tax due based on the previous year's gross receipts plus a penalty of ten percent (10%) of this amount, provided that the ten percent (10 %) penalty for an unreasonable estimate of gross receipts shall not be assessed.

~~D.E.~~ In no event shall the county be required to refund any part of a license fee or flat tax.
(3-15-73, § 17; 4-21-76; 4-13-88; Ord. 96-11(1), 11-13-96, § 11-16; Code 1988, § 11-16; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code §§ 58.1-3703.1, 58.1-3710.

The amendment to § 8-505 by this ordinance shall be effective immediately.

ARTICLE VI. SCHEDULE OF TAXES

**DIVISION 4. PERSONAL, PROFESSIONAL, BUSINESS OR REPAIR
SERVICE BUSINESS, OCCUPATIONS AND PROFESSIONS**

Sec. 8-617 Retailers or retail merchants.

Each person engaged as retailer or retail merchant shall be subject to the license tax, and other provisions, set forth herein:

A. Each person engaged as a retailer or retail merchant shall be subject to a license tax of twenty cents (\$0.20) for each one hundred dollars (\$100.00) of gross receipts, other than as provided in subsection (B) herein.

B. Each person engaged as a retailer or retail merchant shall be subject to a license tax of ten cents (\$0.10) for each one hundred dollars (\$100.00) of gross receipts for direct retail sales. For purposes of this section, a "direct retail sale" is defined as a retail sale made to a remote buyer ordering by telephone, internet, or mail, in which the item(s) sold is/are shipped by common carrier or by the U.S. Postal Service.

C. Retailers or retail merchants include, but are not limited to, the following:

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Restaurants, eating places, nightclubs.

Secondhand stores, other than junk.

Scientific, medical supplies.

Shoes.

Soda fountain.

Sporting goods.

~~Travel bureau or tour agent.~~

Used cars.

Variety stores.

Workmen's clothing.

All other retail stores and retail merchants' occupations, businesses or trades not included herein and not otherwise taxed by this chapter.

(3-15-73, § 55; 4-21-76; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-68; Code 1988; § 11-68; Ord. 98-A(1), 8-5-98; Ord. 06-8(1), adopted 5-3-06, effective 1-1-07; Ord. 07-8(1), adopted 10-3-07, effective 1-1-08)

State law reference--Va. Code §§ 58.1-3703, 58.1-3706.

The amendment to § 8-617 by this ordinance shall be effective immediately.

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 August 2, 2017.

Clerk, Board of County Supervisors

	Aye	Nay
Mr. Dill	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____
Mr. Sheffield	_____	_____