

ORDINANCE NO. 16-8(1)

AN ORDINANCE TO AMEND AND REORDAIN 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, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending:

- Sec. 8-402 License fee.
- Sec. 8-406 Penalty on delinquent license tax or license fee.
- Sec. 8-502 Assessment when license tax not assessed or under-assessed; fraudulent intent.
- Sec. 8-600 Alcoholic beverages.
- Sec. 8-603 Contractors, developers, electricians, plumbers, steamfitters and speculative builders.

By Repealing:

- Sec. 8-403 Proration of license tax based on a flat rate for beginning businesses.

By Adding:

- Sec. 8-620 Federal research and development contractors.

CHAPTER 8. LICENSES

ARTICLE IV. LICENSE TAX AND LICENSE FEE

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Sec. 8-402 License fee.

Each person required to obtain a license, who is not required to pay a license tax based on gross receipts or gross expenditures, shall pay a fee of fifty dollars (\$50.00). The license fee shall be paid ~~not later than June 15 of the license year~~ with the license application.

(Ord. 96-11(1), 11-13-96, § 11-4.2; Code 1988, § 11-4.2.; Ord. 98-A(1), 8-5-98)

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

~~Sec. 8-403 Proration of license tax based on a flat rate for beginning businesses.~~

~~Except as expressly provided in this article, each license tax for a beginning business which is based on a flat rate shall be prorated during the license year, as provided herein:~~

~~A.—— If the license is issued between April 1 and June 30 of the license year, the amount of the tax shall be three fourths of the annual tax on such license.~~

~~B.—— If the license is issued between July 1 and September 30 of the license year, the amount of the tax shall be one half of the annual tax on such license.~~

~~C.—— If the license is issued between October 1 and December 31 of the license year, the amount of the tax shall be one fourth of the annual tax on such licenses.~~

~~(3-15-73, § 11; Ord. 96-11(1), 11-13-96, § 11-17; Code 1988, § 11-17; Ord. 98-A(1), 8-5-98)~~

~~State law reference—Va. Code § 58.1-3710.~~

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Sec. 8-406 Penalty on delinquent license tax or license fee.

A penalty of ten percent (10%) of the tax shall be imposed upon the failure ~~of the person to~~ file an application or the failure to pay the license tax or the license fee by the appropriate due date, subject to the following:

A. If additional taxes are determined to be due as provided in section 8-501, but the director of finance determines that the license 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 person, a late payment penalty shall not be imposed on the additional tax, except as provided in paragraph (B).

B. If any taxes assessed by the director of finance as provided in section 8-500 or 8-501 are not paid within thirty (30) days, the director of finance shall impose the penalty.

C. A penalty shall not be imposed, or if imposed, shall be abated by the director of finance if the failure to file or pay was not the fault of the person. In order to demonstrate lack of fault, the person must show that he acted responsibly and that the failure was due to events beyond his control.

1. The term "acted responsibly" means that: (i) the person 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 person 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.

2. The term "events beyond the person'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 person's reasonable reliance in good faith upon erroneous written information from the director of finance, who was aware of the relevant facts relating to the person's business when he provided the erroneous information.

D. If an assessment of additional or omitted tax by the director of finance is found to be erroneous, the penalty imposed and collected on the amount of the assessment found to be erroneous shall be refunded to the person, together with interest on the refund from the date of payment or the due date, whichever is later.

(3-15-73, § 7; 4-21-76; 3-10-82; 4-13-88; 4-20-88; Ord. 3-20-91; Ord. 94-11(9), 8-3- 94; Ord. 96-11(1), 11-13-96, § 11-12; Code 1988, § 11-12; Ord. 98-A(1),8-5-98)

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

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ARTICLE V. CORRECTION OF TAX ASSESSMENTS

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Sec. 8-502 Assessment when license tax not assessed or under-assessed; fraudulent intent.

If the director of finance determines that a person has fraudulently, or with intent to evade the payment of proper license taxes, failed or refused to obtain a proper license as required by this chapter, for any one or more of the six (6) license years last past, or for the then current license year, and the liability therefor is ascertained, the omitted or additional license tax and the penalty and

interest provided by this chapter shall be assessed for each and every year of the six (6) license years last past and for the current license year, for which he was assessable, ~~together with an additional penalty thereon of fifty percent (50%) of such unpaid license tax.~~ The failure to obtain such license as is required by the provisions of this chapter shall be taken as prima facie evidence of an intent to evade such taxes.

(3-15-73, §§ 16, 18, 19; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-15; Code 1988, § 11-15; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3903.

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ARTICLE VI. SCHEDULE OF TAXES

DIVISION 1. GENERALLY

Sec. 8-600 Alcoholic beverages.

Each person engaged in the following alcoholic beverage businesses shall be subject to the applicable license tax, and other provisions, set forth herein:

A. The following annual tax rates shall apply:

1. For each distiller, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, seven hundred fifty dollars (\$750.00); if more than 36,000 gallons manufactured during such year, one thousand dollars (\$1,000.00); and no license shall be required for any person who manufactures not more than five thousand (5,000) gallons of alcohol or spirits or both during the license year.

2. For each winery, fifty dollars (\$50.00).

3. For each brewery, if not more than 500 barrels of beer manufactured during the year in which the license is granted, two-hundred fifty dollars (\$250.00), and if more than 500 barrels of beer manufactured during the year in which the license is granted, one thousand dollars (\$1,000.00).

4. For each bottler, five hundred dollars (\$500.00).

5. For each wholesale beer distributor, seventy-five dollars (\$75.00).

6. For each wholesale wine distributor, fifty dollars (\$50.00).

7. 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, thirty-seven dollars and fifty cents (\$37.50).

8. For each retail on-premises beer license for a hotel, restaurant or club, and for each retail off-premises beer license, twenty-five dollars (\$25.00).

9. For each fruit distiller, five hundred dollars (\$500.00).

10. In addition to the foregoing for each license issued to a hotel, restaurant or club for the sale of mixed alcoholic beverages, as defined in Title 4.1 of the Code of Virginia, and acts amendatory thereto, the tax shall be two hundred dollars (\$200.00) for areas seating fifty (50) to one hundred (100) persons; three hundred fifty dollars (\$350.00) for areas seating one hundred (100)

to one hundred fifty persons (150); five hundred dollars (\$500.00) for areas seating more than one hundred fifty persons (150+) and three hundred fifty dollars (\$350.00) for nonprofit clubs.

B. For purposes of this section, the term "beer" includes porter, ale, stout and other malt beverages, but not vinous beverages.

C. No license shall be issued to any person under the provisions of this section unless the applicant therefor holds at the same time, or simultaneously procures, a state license from the alcoholic beverage control board.

D. All dining rooms, restaurants, lunchrooms and club rooms, wherein the beverages defined in this section are sold for consumption on the premises, shall at all times be open to inspection by the state police and the police authorities of the county. Any store, room or other building from which deliveries are made either at wholesale or retail by bottlers, wholesalers or retailers shall at all times be open to the inspection of state police and the police authorities of the county.

~~E. Any person paying a license tax under the provisions of this section and sections 8-617 or 8-618 may deduct the amount paid under the provisions of this section from the amount of the tax owed under section 8-617 or 8-618, but in no event shall the amount of tax due be less than the amount of tax imposed by this section.~~

(3-15-73, § 25; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-27; Code 1988, § 11-27; Ord. 98-A(1), 8-5-98; Ord. 14-8(1), 9-3-14; Ord. 15-8(1), 7-1-15)

State law reference--Va. Code § 4.1-233.

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Sec. 8-603 Contractors, developers, electricians, plumbers, steamfitters and speculative builders.

Each person engaged as a contractor, developer, electrician, plumber, steamfitter or speculative builder shall be subject to a license tax, and other provisions, as set forth herein:

A. Each contractor, developer, electrician, plumber, steamfitter or speculative builder ~~contractor speculative builder or developer~~ shall be subject to a license tax of sixteen cents (\$0.16) for each one hundred dollars (\$100.00) of gross receipts from the business conducted during the preceding fiscal or calendar year.

B. Each person engaged in the business of a contractor shall include in his gross receipts all work done, whether such work is done by contract, subcontract, day labor or time and material.

C. Each contractor who has paid a local license tax or fee to another locality in which his principal office or branch office is located shall be exempt from obtaining a license and from paying ~~a the applicable~~ license tax or fee to this county, as provided in sections 8-101 and 8-402, for conducting any such business within this county unless the amount of business done by any such person in this county is equal to or greater than ~~one hundred thousand dollars (\$100,000.00)~~ twenty-five thousand dollars (\$25,000.00) but less than one hundred thousand dollars (\$100,000.00), in which case the person shall be subject to the license fee provided in section 8-402, and if the amount of business done in this county is equal to or greater than one hundred thousand dollars (\$100,000.00), the person shall be subject to the license tax provided in section 8-101 at the rate established in subsection (A) of this section. The amount of business done in the other locality in which the license tax or fee is paid may be deducted by the person from the gross receipts reported to

this county. The director of finance shall have the power to require such periodic reports as he may deem necessary of all persons claiming exemption under this paragraph.

(3-10-82; Ord. 96-11(1), 11-13-96, § 11-55; Code 1967, § 11-14; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-58; Code 1988, §§ 11-55, 11-58; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code §§ 58.1-3714, 58.1-3715.

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

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Sec. 8-620 Federal research and development contractors.

Each person, person, firm, or corporation designated as the principal or prime contractor receiving identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii) computer software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and physical sciences in the county shall be subject to a license tax of three cents (\$0.03) per each one hundred dollars (\$100.00) of such federal funds received in payment of such contracts upon documentation provided by such person, firm or corporation to the director of finance confirming the applicability of this subsection.

State law reference--Va. Code § 58.1-3706(D).

I, Travis O. Morris, 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 _____.

Senior Deputy Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Dill	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____
Mr. Sheffield	_____	_____