



# Albemarle County

## Legislation Text

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**File #:** 16-419, **Version:** 1

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**AGENDA DATE:** 7/13/2016

**TITLE:**

Business License Ordinance Amendment

**SUBJECT/PROPOSAL/REQUEST:** Public Hearing to Consider Proposed Business License Ordinance Amendment

**ITEM TYPE:** Regular Action Item

**STAFF CONTACT(S):** Foley, Letteri, Kamptner, Herrick, Burrell, Lamb

**PRESENTER (S):** Betty Burrell

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Thomas C. Foley

**BACKGROUND:** Upon review of the County's business license ordinance, the Finance Department is recommending updates and improvements to seven sections of Chapter 8 (Licenses) of the Albemarle County Code. These proposed revisions are intended both to improve the County's collection practices and to align the County Code with current State law.

**STRATEGIC PLAN:** Goal 4: Economic Prosperity -- Foster an environment that stimulates diversified job creation, capital investments, and tax revenues that support community goals

**DISCUSSION:** The attached proposed ordinance (Attachment A) would amend seven sections of Chapter 8 (Licenses) of the Albemarle County Code.

1. Sec. 8-402 - License Fee - due date - Would require payment of a business, professional, and occupational license (BPOL) fee at the time of application in the case of any license not based on gross receipts, as enabled by *Virginia Code* § 58.1-3703.1(A)(2)(b).

- Purpose: To align the County Code with state enabling authority and to receive more timely payment of flat license fees, at the time of a license application.

- Consequence: Would assess a 10% late payment penalty on businesses subject to a license fee that failed to remit the fee with their business license application.

2. Sec. 8-403 - License Fee - proration - Would repeal the proration of a flat license fee for beginning businesses, as enabled by *Virginia Code* § 58.1-3710(A).

- Purpose: To simplify the license fee schedule, in alignment with state enabling authority.

- Consequence: A small number of affected County businesses would pay a full license fee. However, the proposed change would be easier both for business owners to understand and for County to administer.

3. Sec. 8-406 - Failure to File Penalty - Would allow a 10% penalty for the failure to file a business license application, as enabled by *Virginia Code* § 58.1-3703.1(A)(2)(d).

- Purpose: To identify the failure to file a business license application as a separate offense from the failure to pay the applicable license tax or fee. This proposal would be more fair and equitable for businesses that timely file their license applications and would discourage late filing.

- Consequence: Based on 2016 filings, 29% of County businesses failed to timely file the required

license application and would have been assessed a 10% penalty. The timely 71% of businesses would be treated more equitably for having timely filed their BPOL applications by the due date.

4. Sec. 8-502 - BPOL Penalty - Would eliminate the 50% additional penalty for the fraudulent or evasive failure to obtain a business license, in alignment with the maximum allowable collections under *Virginia Code* § 58.1-3703.1(A)(4)(b).

- Purpose: To align the County ordinance with state enabling authority.

- Consequence: Because staff does not recall having imposed this penalty in the past, staff does not expect a significant consequence from this proposed change.

5. Sec. 8-600(E) - Allowable Deduction for Alcohol License - Would eliminate the ability to deduct amounts paid for County alcoholic beverage business licenses from the license tax due on retail sales generally. This proposal is system driven, in that the current system is not programmed to allow for this deduction.

- Purpose: To align Albemarle County with all the other jurisdictions in Virginia served by the County's Revenue Administration System vendor, none of which allow this deduction. A vendor customization for this purpose would be costly.

- Consequence: Businesses that report gross receipts for alcoholic beverages would not be able to deduct the amount of the County's flat alcoholic beverage license fee from their retail gross receipts. However, few businesses would be affected by this change.

6. Sec. 8-603(C) - License Tax - threshold for out-of-County contractors - Would lower from \$100,000 to \$25,000 the minimum gross receipts threshold over which out-of-County contractors are subject to County business license taxes, as enabled by *Virginia Code* § 58.1-3715(A). This proposed amendment would allow the County to collect business license taxes that would otherwise go to other localities.

- Purpose: To collect business license fees and taxes from contractors not located in the County that operate within the County, making more equitable tax treatment for businesses with primary offices in the County.

- Consequence: Out-of-County contractors with County-based gross receipts of \$25,000-\$100,000 would be required to file for an Albemarle County business license and pay the applicable County license fee or tax.

7. Sec. 8-620 - License Tax Rate - Federal Research and Development Contractors - Would add a new classification for federal research and development contractors to the business license ordinance: *Virginia Code* § 58.1-3706(D) provides a special (low) \$0.03 license tax rate for certain principal or prime contractors receiving identifiable federal appropriations for research and development services. Though County staff is already correctly assessing these businesses in accordance with state law, adding this section to the County Code would conform the County code language to the Virginia Code, and would make it less likely to be overlooked in the future.

- Purpose: To align the County ordinance with state enabling authority.

- Consequence: Because County staff is already correctly assessing these businesses, no negative consequences are expected from this change.

**BUDGET IMPACT:** Though the budgetary impact of these proposed amendments is difficult to predict with any certainty, staff anticipates a budgetary impact from only three of the proposed revisions:

- Sec. 8-403 - License Fee - proration - projected \$1,000 revenue gain per year.

- Sec. 8-406 - Failure to File Penalty - projected \$150,000 one-time revenue gain. Some revenue gain may occur in subsequent years, but would likely decrease as more businesses timely filed their required license applications.

- Sec. 8-603(C) - License Tax -- threshold for out-of-County contractors - projected \$10,250 revenue gain per year. Staff does not anticipate a significant budgetary impact from the other proposed revisions.

## RECOMMENDATION:

Following a public hearing, staff recommends that the Board adopt the attached proposed ordinance (Attachment A).

**ATTACHMENTS:**

A - Proposed Ordinance - Chapter 8 (Licenses)