

ADOPTED

ORDINANCE NO. 16A-9

APR 22 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, LICENSES, OF THE CODE OF JAMES CITY, VIRGINIA, ARTICLE II, SPECIFIC BUSINESSES AND ACTIVITIES, SECTION 9-52, CONTRACTORS AND PERSONS CONSTRUCTING FOR THEIR OWN ACCOUNT FOR SALE, SECTION 9-58.1, FINANCIAL, REAL ESTATE AND PROFESSIONAL SERVICES. SECTION 9-78.1, REPAIR, PERSONAL, BUSINESS AND OTHER SERVICES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Licenses, of the Code of the County of James City, is hereby amended and reordained effective July 1, 1985, by amending Section 9-52, Contractors and persons constructing for their own account for sale; Section 9-58.1, Financial, real estate and professional services; Section 9-78.1, Repair, personal, business and other services.

Chapter 9. Licenses

Article II. Specific Businesses and Activities

Section 9-52. Contractors and persons constructing for their own account for sale.

(1) The license tax imposed upon a person engaged in contracting and persons constructing for their own account for sale is thirty dollars (\$30.00) or sixteen cents (\$0.16) per one hundred dollars (\$100.00) of gross receipts, whichever is greater.*

*State law reference--Section 58.1-3715 of the Code of Virginia provides: "When a contractor, electrical contractor or a plumbing and steam fitting contractor shall have paid the . . . (required) State license and any local license required by the city, town or county in which his principal office and any branch office or offices may be located, no further license shall be required by the State or the city, town or county for conducting any such business within the confines of this State, except where the amount of business done by such contractor in any other city, town or county exceeds the sum of twenty-five thousand dollars in any year such other city, town or county may require of such contractor a local license, and the amount of business done in such other city, town or county in which a license tax is paid may be deducted by the contractor from the gross revenue reported to the city, town or county in which the principal office or any branch office of the contractor is located, and except further that qualification under Section 32-61 (regulation of plumbing and sewer connections) may be required of contractors doing plumbing business."

(2) Contractor. A "contractor," for purposes of this classification, is any person who accepts or offers to accept:

- (a) 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 other building material;
- (b) 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;
- (c) 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;
- (d) An order or contract to construct any sewer of stone, brick, terracotta or other material;
- (e) 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;
- (f) An order or contract to remodel, repair, wreck or demolish a building;
- (g) An order or contract to bore or dig a well;
- (h) An order or contract to install, maintain or repair air conditioning apparatus or equipment.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) Soliciting business for a contractor is not contracting but is a business service.

(8) 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.

(9) 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 seller is a contractor.

(10) 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, tile 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.

(11) 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.

(12) The mere hauling of sand, gravel and dirt is not contracting but is a business service.

(13) 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.

(14) 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.

Section 9-58.1. Financial, real estate and professional services.

(1) The maximum rate for local license taxes imposed on a person engaged in a financial, real estate or professional service is thirty dollars (\$30.00) or fifty-eight cents (\$0.58) per one hundred dollars (\$100.00) of gross receipts, whichever is greater.

(2) Financial service. 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 of this Code.

(a) Those engaged in rendering financial services include, but are not limited to, the following:

- Buying installment receivables;
- Chattel mortgage financing;
- Consumer financing;
- Credit care 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;
- Security and commodity brokers and services;
- Stockbroker;
- Working capital financing.

(b) 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.

(3) Real estate service. Any person rendering a service for compensation as lessor, buyer, seller, agent or broker is providing a real estate service, unless the service is specifically provided for under another section.

(a) Those rendering real estate services include, but are not limited to, the following:

*Note-Federal credit unions are not subject to state or local license taxation under the Federal Credit Union Act, 12 USC Section 1768.

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.

(4) Professional service. 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 uses for others as a vocation.

(a) Those engaged in rendering a professional service include, but are not limited to, the following:

Architects;
Attorneys-at-law;
Certified public accounts;
Dentists;
Engineers;
Land surveyors;
Pharmacists;
Practitioners of the healing arts (as defined in Section 54-273(2)*;
Surgeons;
Veterinarians.

(b) The performing of services dealing with the conduct of business itself, including the promotion of sales or services of such business and consulting services, do not constitute the practice of a profession, even though the services involve the application of a specialized knowledge.

(c) (1) Certification as a professional by itself is not sufficient to establish liability for local license taxation. Also, the fact that a professional is compensated by means of a salary is not sufficient by itself to relieve that professional from local license tax liability.

*State law reference-The "healing arts" means the art or science or group of arts or sciences dealing with the prevention and cure or alleviation of human ailments, diseases or infirmities; and has the same meaning as "medicine" when the latter term is used in its comprehensive sense. Code of Va., Section 54-273(2).

- (2) Gross receipts for purposes of local license taxation as a professional include only those gross receipts obtained from the practice of that profession as a business, whether it be on a full or part-time basis, in corporate, partnership, sole proprietorship or association form.

Section 9-78.1. Repair, personal, business and other services.

(1) The maximum rate for a local license tax imposed upon a person engaged in a repair, personal or business service or any other business or occupation not specifically listed or excepted from Code of Virginia, Section 58.1-3703 is thirty dollars (\$30.00) or thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts, whichever is greater.

(2) Repair service. 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.

(3) Personal service. 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.

(4) Business service. 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.

(5) Those rendering a repair, personal or business service or other service as provided for under another section, but are not limited to, the following:

- Advertising agencies;
- Airports;
- Ambulance services;
- Amusements and recreation services (all types);
- Animal hospitals, grooming services, kennels or stables;
- Auctioneers and common criers;
- Automobile driving schools;
- Barbershops, beauty parlors, and hairdressing establishments, schools and services;
- Bid or building preporting service;
- Billiard or pool establishments or parlors;
- Blacksmith or wheelwright;
- Bondsman;
- Booking agents or concert managers;
- Bottle exchangers;
- Bowling alleys;
- Brokers and commission merchants other than real estate or financial brokers;
- Business research and consulting services;
- Chartered clubs;
- Child care attendants or schools;
- Collection agents or agencies;
- Commercial photography, art and graphics;
- Commercial sports;

Dance halls, studios and schools;
Data processing, computer and systems development services;
Developing or enlarging photographs;
Detective agency and protective services;
Drafting services;
Engraving;
Erecting, installing, removing or storing awnings;
Extermination services;
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;
Information bureaus;
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;
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 or others;
Parcel delivery services;
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.

(6) 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.

(7) Photographers who have no place of business in Virginia may be subject to local license taxation so long as the tax is not in excess of the tax imposed on photographers by the state.

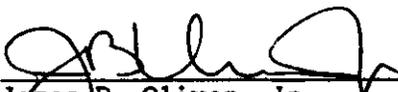
(8) Sign painting is a service unless the sign is painted on the side of a building or any other structure assessed as realty, in which case the sign painting is contracting.

(9) An amusement is a type of entertainment or show for which compensation is received and that is not specifically provided for under another section of these guidelines.



Jack D. Edwards, Chairman
Board of Supervisors

ATTEST:



James B. Oliver, Jr.
Clerk to the Board

Adopted by the Board of Supervisors, James City County, Virginia, on
the 22nd day of April, 1985.

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SUPERVISOR VOTE

BROWN	AYE
EDWARDS	AYE
MAHONE	AYE
DEPUE	AYE
TAYLOR	NAY