

NOV 26 1996

ORDINANCE NO. 16A-20

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, LICENSES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 9-5, LICENSE REQUIREMENT; SECTION 9-6, EXEMPTIONS; SECTION 9-18, LIMITATIONS, EXTENSIONS, APPEALS AND RULINGS; SECTION 9-21, RATES OF LICENSE TAXES; BY AMENDING ARTICLE II, SPECIFIC BUSINESSES AND ACTIVITIES, SECTION 9-41, BONDSMEN, PROFESSIONAL, AND THEIR AGENTS; SECTION 9-55, DETECTIVE AGENCIES AND WATCHMEN; SECTION 9-72, PAWNBROKERS; SECTION 9-78.1, REPAIR, PERSONAL, BUSINESS AND OTHER SERVICES; SECTION 9-83, TATTOOING; AND BY AMENDING ARTICLE III, PEDDLERS, SECTION 9-103, PEDDLER'S LICENSE TAX.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Licenses is hereby amended and reordained by amending Section 9-5, License requirement; Section 9-6, Exemptions; Section 9-18, Limitations, extensions, appeals and rulings; Section 9-21, Rates of license taxes and fees; Section 9-41, Bondsmen, professional, and their agents; Section 9-55, Detective agencies and watchmen; Section 9-72, Pawnbrokers; Section 9-78.1, Repair, personal, business and other services; Section 9-83, Tattooing; and Section 9-103, Peddler's license tax.

Chapter 9. Licenses

Article I. In General

Sec. 9-5. License requirement.

(c) Each person subject to a license tax ~~and/or fee~~ shall obtain a license within 10 days of beginning business, if he was not licensable in the county on or before January 1, of the license year. The application shall

be on forms prescribed by the assessing official. ~~The initial application and a~~ Any application for renewal shall be submitted prior to ~~February of each year~~ March 1 of each license year.

(d) The tax ~~and/or fee~~ shall be paid with the application in the case of any license not based on gross receipts or purchases. If, the tax is measured by the gross receipts or purchases of the business, the tax shall be paid on or before March 1.

(f) A penalty of ten percent of the tax or \$10.00, whichever is greater, may be imposed upon the failure to file an application or the failure to pay the tax ~~and/or fee~~ by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, 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, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within thirty days the treasurer may impose a ten percent late payment penalty. The penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. 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.

(h) Interest shall be charged on the late payment of the tax ~~and/or fee~~ 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 assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded ~~from the date of payment or the date due,~~

~~whichever is later. Interest shall be paid on any refund from the date of payment or date due, whichever is later. Interest on any refund shall be paid at the same rate charged to the taxpayer.~~

~~State law reference-Doing business at more than one place, Code of Va., § 58.1-3709 and § 58.1-~~

~~3703.1~~

Sec. 9-6. Exemptions.

No license tax ~~or fee~~ shall be assessed or charged to any person prosecuting any business or businesses in which the aggregate gross receipts are \$4,000.00 or less in any license tax year; provided, however, all such persons shall provide the commissioner of the revenue, on a form provided by him, all information otherwise required to apply for a license. This exemption shall apply only to those businesses upon which taxes are imposed based upon gross receipts and shall specifically not apply to businesses upon which taxes are imposed by sections 9-28, 9-47, 9-99, 9-106, 9-120.1 or 9.131.

Sec. 9-18. Limitations, extensions, appeals and rulings.

The enforcement of the provisions of this chapter including limitations with respect thereto, the correction of any assessment hereunder and any appeal by the county or a correction made by its assessing official or by any person assessed with taxes hereunder and aggrieved by such assessment shall be pursuant to chapter 39, title 58.1 of the Code of Virginia; provided, however:

(1) Any person assessed with a licensing tax under this chapter as the result of an audit may within the period provided in section 58.1-3980 of the Code of Virginia, ~~apply apply within 90 days from the date of such assessment~~ to the assessing official for a correction of the assessment. The application must be filed in

good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention.

The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the jurisdiction (e.g., the name and address to which an application should be directed).

(2) ~~Provided an application is made within 90 days of an assessment, a timely and complete application is made~~ collection activity shall be suspended until 30 days after the final determination is issued by the assessor, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of section 9-5(h), but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires (i) to depart quickly from the locality, (ii) to remove his property therefrom, (iii) to conceal himself or his property therein, or (iv) to do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(3) ~~A taxpayer may apply within 90 days of the determination made by the assessing official on an application pursuant to paragraph (1) of this section to the Commissioner of the Virginia Department of Taxation for a correction of such assessment. The tax commissioner shall issue a determination to the~~

~~taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required.~~

~~(4) On receipt of a notice of intent to file an appeal to the tax commissioner the assessing official shall further suspend collection activity until a final determination is issued by the tax commissioner, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in paragraph (2) of this section.~~

~~(3)~~ Any taxpayer may request a written ruling regarding the application of the tax to a specific situation from the assessor. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or (ii) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

Sec. 9-21. Rates of license taxes ~~and fees.~~

~~Except as may be specifically otherwise provided by this chapter or other law, the annual license tax imposed hereunder shall be \$30.00 or the rate set forth below for the class of enterprise listed, whichever is greater.~~ *Except as may be specifically otherwise provided by this chapter or other law, there shall be an*

annual license fee of \$30.00 charged to any class of business requiring a license pursuant to this chapter that has gross receipts exceeding \$4,000 but less than \$50,000. For all businesses requiring a license pursuant to this chapter with gross receipts of \$50,000 or more the annual charge shall be either the \$30.00 license fee or the tax calculated based on the rate set forth below for the class of enterprise listed, whichever is greater. For the purpose of this chapter, gross receipts shall be the aggregate of all gross receipts for all licensable enterprises at a particular place of business.

- (1) For contractors and persons constructing for their own account for sale, 16 cents per \$100 of gross receipts;
- (2) For retailers, 20 cents per \$100 of gross receipts;
- (3) For financial, real estate and professional services, 58 cents per \$100 of gross receipts;
- (4) For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this ordinance or otherwise by law, 36 cents per \$100 of gross receipts;
- (5) For wholesalers, 5 cents per \$100 of purchases (see section 58.1-3716 of the Code of Virginia for limitations);
- (6) For carnivals, circuses and speedways, \$100 for each performance held in this jurisdiction (see section 58.1-3728 of the Code of Virginia for limitations);
- (7) For fortune tellers, clairvoyants and practitioners of palmistry, \$1,000 per year;

- (8) For massage clinic or therapist, 36 cents per \$100 of gross receipts;
- (9) For itinerant merchants or peddlers, \$500 per year (see limitation in section 58.1-3717 of the Code of Virginia);
- (10) For dealers in precious metals, 20 cents per \$100 of gross receipts;
- (11) For permanent coliseums, arenas or auditoriums having a maximum capacity in excess of 10,000 persons, open to the public, \$1,000 per year (see limitation in section 58.1-3729 of the Code of Virginia);
- (12) For savings and loan associations, \$50.00 per year.

Any person engaging in such business without the required license shall be guilty of a Class 3 misdemeanor. This license shall not be proratable or transferrable.

Article II. Specific Businesses and Activities

Sec. 9-41. Bondsmen, professional, and their agents.

- (a) Every person who shall, for compensation, become or furnish surety for any person or persons charged with a felony or misdemeanor or with violation of any county ordinance or state law, shall ~~pay a license tax of thirty dollars (\$30.00) or thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts,~~

~~whichever is the greater amount. be licensed as a personal service enterprise and pay such amount as required under section 9-21.~~ Such license shall not be transferable.

Sec. 9-55. Detective agencies and watchmen.

(a) Every person operating a detective agency, or engaged in a business as a detective, shall ~~pay an annual license tax of \$30.00 or \$0.36 per \$100.00 of gross receipts, whichever is the greater amount. be licensed as a personal service enterprise and pay such amount required under section 9-21.~~

No license shall be issued hereunder unless and until there is presented to the commissioner of the revenue a certificate or permit from the chief of police of this county recommending the applicant as a person of good moral character with no police record.

(b) Every person operating a business or agency furnishing watchmen, including ship watching for compensation, shall ~~pay an annual license tax of \$30.00 or \$0.36 per \$100.00 of gross receipts, whichever is the greater amount be licensed as a personal service enterprise and pay such amount as required under section 9-21.~~

Sec. 9-72. Pawnbrokers.

(c) *Annual tax.* Every person engaging in the business of a pawnbroker shall ~~pay an annual license tax of \$30.00 or \$0.36 per \$100.00 of gross receipts, whichever amount is greater. be licensed as a personal service enterprise and pay such amount as required by section 9-21.~~

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

(a) *Maximum rate.* 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 ~~\$30.00 or \$0.36 per \$100.00 of gross receipts, whichever is greater.~~ *shall be such amount provided in section 9-21.*

Sec. 9-83. Tattooing.

(a) Every person engaged in the business of tattooing in this county shall ~~pay an annual license tax of \$30.00 or \$0.36 per \$100.00 of gross receipts whichever is the greater,~~ *be licenses as a personal service enterprise and pay such amount as required by section 9-21.* which ~~Such~~ license shall not be proratable.

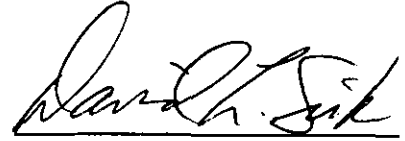
(b) No license shall be issued hereunder unless and until there is presented to the commissioner of the revenue a certificate from the county administrator permitting the operation of this business.

Article III. Peddlers

Sec. 9-103. Peddler's license tax.

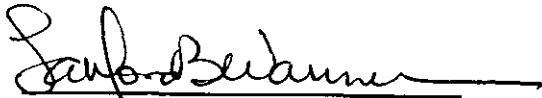
Every person who engages in the business of peddling as defined in this article shall be deemed a peddler and shall ~~pay an annual license tax of thirty dollars (\$30.00) or twenty cents (\$0.20) per one hundred dollars (\$100.00) of gross receipts, whichever is greater.~~ *be licensed as a retail merchant enterprise and pay such amount as required by section 9-21.*

This ordinance shall become effective January 1, 1997.



David L. Sisk
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
TAYLOR	AYE
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of November, 1996.