VIRGINIA: AT THE REGULAR MEETING OF THE BOARD OF SUPERVISORS HELD IN THE BOARD MEETING ROOM OF THE PAMPLIN ADMINISTRATION BUILDING IN DINWIDDIE COUNTY, VIRGINIA, ON THE 18TH DAY OF DECEMBER, 1996, AT 2:00 P.M.

PRESENT:	AUBREY S. CLAY, CHAIRMAN	ELECTION DISTRICT #5
	HARRISON A. MOODY, VICE-CHAIR	ELECTION DISTRICT #1
	EDWARD A. BRACEY, JR.	ELECTION DISTRICT #4
	MICHAEL H. TICKLE	ELECTION DISTRICT #2
	LEENORA EVERETT (ARRIVED AT 3:00 P.M.)	ELECTION DISTRICT #3
	BEN EMERSON	COUNTY ATTORNEY

IN RE: MINUTES

Upon motion of Mr. Tickle, seconded by Mr. Moody, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that the corrected minutes for the November 20, 1996 Regular Meeting and the minutes for the December 4, 1996 Regular Meeting are hereby approved in their entirety.

IN RE: CLAIMS

Upon motion of Mr. Moody, seconded by Mr. Bracey, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that the following claims are approved and funds appropriated for same using checks #1004077 - #1004221 for Accounts Payable in the amount of $237,838.77; General Fund $132,376.69, Jail Commission $150.00, E911 Fund $6,446.44, Self Insurance Fund $29,763.00, Law Library $85.00, Fire Programs/EMS Fund $2,774.73, County Debt Service $66,242.91.

IN RE: APPROVAL OF REQUISITION #13 -- COURTHOUSE CONSTRUCTION

Mrs. Wendy Weber Ralph, Ass't County Administrator, stated that Requsition #13 for the Courthouse consists of invoices for Special Inspections and Legal Services.

Extract

Upon motion of Mr. Bracey, seconded by Mr. Moody, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that Requisition #13 in the amount of $1,271.25 be approved and funds appropriated for CIP expenses for the Courthouse Project Fund.

IN RE: CITIZEN COMMENTS

1. D.R. Lauter, Disputanta, VA, came before the Board and stated that he was getting the run around in reference to how much these Archeological Digs were costing the County that VDOT has to do and what was being found when they were done.

Mr. Charles Gill, Contract Administrator for the Department of Transportation, came before the Board and stated that there is an accounting of each project and he would be glad to help Mr. Lauter the best he could.

Mr. Lauter stated that he specifically would like to see the breakdown of what Route 604 and Route 670 cost.

2. Anne Scarborough, Dinwiddie, VA, came before the Board and stated that she would like for the Board to consider changing the tax rate on aircraft's back to what it was originally opposed to what it was lowered to. She also stated that she would like to know the total revenue value before the tax cut.

IN RE: VIRGINIA DEPARTMENT OF TRANSPORTATION -- REPORT

Mr. Charles Gill, Contract Administrator for the Department of Transportation, came before the Board and stated that Mr. Reekes, Resident Engineer, could not be present. He stated that he did not have anything to present but would be glad to try and answer any questions that the Board may have.

Mr. Tickle stated that he would like an update on how the construction on Interstate 85 was coming and when would it be wrapping up.

Mr. Reekes stated that from South of Halifax Road after December 31st the North and South bound lanes would reopen but north of Halifax Road would still be under construction for an undetermined amount of time. He stated that it all depended on the contractor that was doing the repairs.

Mr. Tickle stated that he does not like the way that the work was handled. He feels that it should of been done in a different way. Lives have been lost and families will suffer just because of a contractor wanting to make some money.

Mr. Tickle requested that this construction be expedited and a response from the Department of Transportation explaining why this has taken so long and when will it be done.

IN RE: COMMISSIONER OF THE REVENUE -- REPORT

Mrs. Deborah M. Marston, Commissioner of the Revenue, came before the Board and stated that she did not have anything to present but was available for any questions that the Board may have.

Mr. Tickle requested a letter from Mrs. Marston in reference to a request that he made prior to the meeting.

Mrs. Marston stated that she would be glad to help Mr. Tickle if he would put in writing what he wanted specifically.

Mr. Moody wanted to know for the public what the process of appealing to the Board of Equalization was.

Mrs. Marston stated that the Board of Supervisors will recommend 3 to 5 people to the Circuit Court Judge that they would like to serve on the Board of Equalization. Once the Circuit Court Judge has appointed the members the State Department of Taxation will train them on what they can and cannot do by Law. Then the Board will set up times and dates that they will hear appeals. A notice will be run in all three local papers, The Dinwiddie Monitor, The Progress Index and The Courier Record, stating the dates and times that they will hear appeals.

Mr. Bracey stated that he would like to see the notice run several times not just once.

Mr. Bracey stated that he would like for Wingate Appraisal Service to come before the Board and explain their process of how they assess. He specifically stated that he only wanted them to come if it would not be an additional cost incurred.

IN RE: TREASURER -- REPORT

Mr. William E. Jones, Treasurer, presented his report for the month of November, 1996.

IN RE: APPROVAL OF VEHICLE & DOG LICENSE AGENTS & LOCATIONS

Upon motion of Mr. Bracey, seconded by Mr. Moody, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

Extract

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that the following list for Vehicle & Dog License Agents & Locations was approved for 1997:

VEHICLE LICENSE:

Namozine Fire & Rescue	Namozine Fire & Rescue
Wilson-Hebron-Ford Ruritan	B & B Grocery
Reams Ruritan	Reams Grocery
Robert Wallace	Wallace & Sons Grocery

ANIMAL LICENSE:

Robert Wallace	Wallace & Sons Grocery
Reams Ruritan	Reams Grocery
Mike Barnes	Bolsters Store
George Williams	Country Hardware
Richard Grenoble	Chesdin Animal Hospital
Steve Beville	

BE IT FURTHER RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that Dr. Richard Grenoble be added to the list of existing agents to sell Animal Licenses and that he be required to obtain a surety bond in the amount of $5,000.00 and it be recorded with the Clerk of the Circuit Court; and

BE IT FURTHER RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that Larry K. Maitland be added to the list of existing agents to sell Vehicle Licenses and that he be required to obtain a surety bond in the amount of $10,000.00 and it be recorded with the Clerk of the Circuit Court; and

BE IT FURTHER RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that Louis and Judy Dowdy be deleted as licensing agents and their surety bond be voided.

IN RE: COMMONWEALTH ATTORNEY -- REPORT

Mr. T.O. Rainey, III, Commonwealth Attorney, came before the Board and stated that he was available to answer any questions that the Board may have.

IN RE: SHERIFF -- REPORT

Deputy Roy Hodges, came before the Board and stated that the Sheriff had nothing to present.

Mr. Tickle wanted Deputy Hodges to have the Sheriff update the Board on the parking problem on Route 460.

Deputy Hodges stated that he would take his question to the Sheriff.

LEENORA EVERETT ARRIVED AT 3:00 P.M.

IN RE: BUILDING INSPECTOR -- REPORT

Mr. Dwayne Abernathy, Building Inspector, came before the Board and presented his report for the month of November, 1996.

IN RE: ANIMAL WARDEN -- REPORT

Mr. Steve Beville, Animal Warden, presented his report for the month of November, 1996.

IN RE: LIVESTOCK CLAIM -- BILLY WOOD

Mr. Beville stated that on November 6, 1996 some stray dogs killed five of Mr. Billy Wood's goats. The total value of the animals that were killed was $285.00.

Extract

Upon motion of Mr. Bracey, seconded by Mr. Tickle, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye", BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that the livestock claim for Billy Wood, for five goats in the amount of $285.00 be approved.

IN RE: DIRECTOR OF PLANNING -- REPORT

Mr. W.C. Scheid, Director of Planning, presented his report for the month of November, 1996.

IN RE: ZONING ADMINISTRATOR -- REPORT

Mr. March Altman, Jr., Zoning Administrator, presented his report for the month of November, 1996.

IN RE: DIRECTOR OF SOCIAL SERVICES -- REPORT

Mrs. Peggy M. McElveen, Director of Social Services, presented her report for the month of November, 1996.

IN RE: SUPPLEMENTAL APPROPRIATION -- SCHOOL BOARD BUDGET

Mrs. Troilen Seward, Superintendent of Schools, came before the Board and stated that she was authorized to request a supplemental appropriation in order to address the refunds from the Department of Environmental Quality (DEQ) in a manner requested by the auditors. There are still two test sites, Midway Elementary and the maintenance shop, for petroleum products.

In the past, the reimbursements from DEQ have been dealt with as expenditure refunds. Since the reimbursements are state money, the auditors requested that they no longer treat them as expenditure refunds, but show them as revenue. This information was given to them in June 1996 which was significantly after the budget process for the current year.

Extract

Mrs. Seward continued by saying that they have received two reimbursements from DEQ this year. The total of the two reimbursements is $52,360. She requested that the Board approve a supplemental appropriation in the amount of $52,360 to the revenue budget and to the expenditure budget in the Facilities category. The continuing expenditures for the testing are charged to Facilities, and this revenue will be used to offset those expenditures.

She also stated that they are diligently trying to get DEQ to close these two alleged spill sites and allow them to stop paying for all of this testing. Their consultants have repeatedly tried to get DEQ to allow closure, but they have been unsuccessful in having DEQ grant closure as the School Board has.

Upon motion of Mrs. Everett, seconded by Mr. Moody, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that $52,360 be appropriated to the revenue budget and to the expenditure budget in the Facilities category of the School Board budget.

IN RE: SUPERINTENDENT OF SCHOOLS

Mrs. Seward presented her report for the month of November, 1996 and wanted to know if she could answer any questions from the Board.

Mr. Tickle questioned what the High School was going to look like once the renovations were completed. He stated that he thought that it would be good for the public to be made aware of the exact renovations that are going to be done because citizens were under the impression that the High School would look brand new and he knew that that was not so.

Mr. Bracey wanted to know if the contracts have been signed yet for the Improvements on the Schools.

Mrs. Seward stated that they have been signed and she would be glad to get Mr. Bracey copies.

Mr. Bracey also requested that some signs be put up at the High School directing where traffic needs to go. They have started construction and you can no longer enter where you used to.

Mrs. Seward assured Mr. Bracey that the contractor promised them that they would put up some signs as soon as possible.

IN RE: RECREATION DIRECTOR -- REPORT

Mr. Anthony S. Rinaldi, Recreation Director, presented his report for the month of November, 1996.

IN RE: DIRECTOR OF WASTE MANAGEMENT -- REPORT

Mr. Dennis E. King, Director of Waste Management, presented his report for the month of November, 1996.

IN RE: DEPUTY EMERGENCY SERVICES COORDINATOR -- REPORT

Mrs. Dawn Titmus, Deputy Emergency Services Coordinator, presented her report for the month of November, 1996.

IN RE: COUNTY ATTORNEY -- REPORT

Mr. Ben Emerson, County Attorney, came before the Board and stated that he did not have anything to present but was available to answer any questions that the Board may have.

IN RE: CONSTRUCTION INSPECTOR -- REPORT

Mr. Donald Faison, Construction Inspector, came before the Board and stated that he has received the following bids for lead abatement services on the existing courthouse:

W.W. Nash (Richmond)	$56,994.00
Rollins Painting (Hopewell)	$37,200.00
Special Renovations (Midlothian)	$28,200.00

Mr. Faison then stated that he received the following bids for painting the existing courthouse:

W.W. Nash (Richmond)	$29,698.00
Rollins Painting (Hopewell)	$17,440.00
M.P. Barden and Sons (Powhatan)	$12,875.00

Mr. Faison wanted to know if the Board wanted him to proceed with the above mentioned services or wait until a later time.

Mr. Bracey stated that he felt that there was too much of a difference in between bids and they should be thrown out and rebid when the Board could come up with some funds. He felt that since the Courthouse was a historical site maybe they could be eligible for some grant funds.

Mr. Faison stated that some work needs to be done to some bricks that have come down before the painting can start and a possible structural problem needs to be investigated.

The Board stated that they would like for Mr. Faison to investigate the problems that he addressed and bring them back a status report in January.

IN RE: AIRPORT MANAGER -- REPORT

Mr. Gordon Winn, Airport Manager, came before the Board and presented his report for the month of November, 1996.

Mr. Bracey requested from Administration that he be given the original text as to why the personal property taxes were lowered on aircraft's.

IN RE: A-96-26 -- ACTION ON NEW BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE TAX ORDINANCE

Mr. Ben Emerson, County Attorney, came before the Board and stated that at the last Board meeting a public hearing was conducted for the purpose of amending portions of Chapter 13 of the Dinwiddie County Code, specifically Sections 13-1 to 13-54 and 13-85 to 13-182 thereof concerning County license taxes in order to comply with the requirements of the Code of Virginia governing the County's business, professional and occupational license tax and to impose additional license tax filing requirements.

He stated that the Board delayed action until this meeting and he presented the proposed ordinance.

Upon motion of Mr. Bracey, seconded by Mr. Moody, Mrs. Everett, Mr. Bracey, Mr. Moody, Mr. Clay voting "aye", Mr. Tickle voting "abstain",

AN ORDINANCE TO AMEND AND REORDAIN PORTIONS OF CHAPTER 13 OF THE DINWIDDIE COUNTY CODE, SPECIFICALLY SECTIONS 13-1 TO 13-54 AND 13-85 TO 13-182 THEREOF CONCERNING COUNTY LICENSE TAXES IN ORDER TO COMPLY WITH THE REQUIREMENTS OF THE CODE OF VIRGINIA GOVERNING THE COUNTY'S BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE TAX AND TO CLARIFY CERTAIN PROVISIONS THEREOF

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF DINWIDDIE COUNTY THAT SECTIONS 13-1 TO 13-54 (INCLUSIVE) AND SECTIONS 13-85 TO 13-182 (INCLUSIVE) OF THE CODE OF THE COUNTY OF DINWIDDIE ARE AMENDED AND REORDAINED TO PROVIDE IN THEIR ENTIRETY AS FOLLOWS:

A. Overriding Conflicting Ordinances.

Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current ordinances or resolutions enacted by the Board of Supervisors of the County, whether or not compiled in the Code of the County, to the extent of any conflict, the following provisions shall be applicable to the levy, assessment, and collection of licenses required and taxes imposed on businesses, trades, professions and callings and upon the persons, firms and corporations engaged therein within this County.

B. Imposition and purpose of taxes generally.

There shall be levied and collected for each license tax year or for such other period of time as may be specifically provided herein the license taxes as set forth in this chapter. The taxes imposed by the provisions of this chapter are in all cases imposed upon the privilege of doing business in the County, including all phases and activities of the business, trade or occupation, conducted in the County.

C. Limitation.

(a) Notwithstanding any provision contained herein, no license tax shall be imposed or levied pursuant to this chapter on any business or profession exempted from such taxation by the provisions of Chapter 37 of Title 58.1 of the Code of Virginia, and all license taxes hereby imposed by this chapter shall be subject to any express limitation of amount as set forth in Chapter 37 of the Code of Virginia irregardless of the rate of taxation herein set forth.

(b) Notwithstanding any provision contained herein, no license tax shall be imposed or levied upon any person solely because of the sale of goods by that person at any arts and craft show conducted in the County by the governmental body or any nonprofit club or civic organization.

(c) Cemeteries operating as a non-profit corporation or a stock corporation, the stock on which is, by the provision of the charter of such corporation, non-dividend paying, shall be exempt from the provisions of this article.

(d) The gross receipts of a cemetery shall exclude the amounts received from the sale of burial plots.

(e) Every person engaged in the business of preparing bodies for burial, an embalmer, conducting funerals, or an undertaker, shall be allowed to deduct from the gross receipts of the business all payments made on account of its customers or clients for burial lots, for doctors, hospitals or nurses services, for newspaper notices, transportation expenses, or other like expenses; provided, that no such item shall be deducted with respect to which the taxpayer has received or become entitled to receive any commission, fee, discount or profit whatsoever.

(f) Advertising agents and agencies shall exclude the amounts paid by them for any customer for advertising space, radio time, electrical transcription, pressings, art work, engraving, plates, mats, printing, printing stock and postage from the amount of gross receipts of the business at the advertising agent or agency in computing the basis for their license tax.

(g) The amounts received by the operator of an impounding lot for feeding animals shall be excluded from the gross receipts of the business for the purpose of computing the license tax on such operator.

(h) The real estate agent shall exclude from his gross receipts the commissions on insurance premiums and receipts from conducting business with respect to real estate belonging to such person and excluding interest, brokerage, and other receipts from the business of lending money belonging to such person.

D. Certain permits required in addition to the permits hereunder.

Every person desiring a license under the provisions of this chapter for activities which require an additional permit or license from state or federal authorities or which require an additional permit pursuant to any other provision of this Code, shall first acquire such additional permit and a copy thereof shall be made part of the application for the required permit or license required hereunder. The commissioner of the revenue or the treasurer as the case may be shall require proof of any such other permit or license prior to the issuance of the license or permit required by this chapter.

E. Definitions.

For the purposes of this ordinance, unless otherwise required by the context:

"Affiliated group" means:

(a) One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if:

(i) Stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations; and

(ii) The common parent corporation directly owns stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other includable corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

(b) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

(i) At least eighty percent of the total combined voting power of all classes of stock entitled to vote or at least eighty percent of the total value of shares of all classes of the stock of each corporation, and

(ii) More than fifty percent of the total combined voting power of all classes of stock entitled to vote or more than fifty percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the includable corporations, including the common parent corporation is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

"Ancillary" means subordinate to, subservient to, auxiliary to, or in aid of, that which is principal and primary.

"Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

"Assessor" or "assessing official" means the Commissioner of the Revenue of the County.

"Base year" means the calendar year preceding the license year, except for contractors subject to the provisions of §58.1-3715.

Every person beginning a business, occupation or profession that is subject to a tax equal to a per centum of the gross receipts of the business shall estimate the amount of the gross receipts of the business that he will receive between the date of beginning business and the end of the then current license tax year, and the license tax on every such person beginning business shall be a sum equal to the per centum of that estimate prescribed by the particular provision of this chapter applicable to such business.

Every person whose business occupation or profession is subject to a tax equal to a per centum of the gross receipts of the business and who was licensed for only a part of the next preceding license tax year shall estimate the amount of the gross receipts of the business that he will receive during the then current license tax year, and the license tax on every such taxpayer shall be a sum equal to the per centum of that estimate prescribed by the particular provision of this chapter applicable to such business, occupation or profession.

Every person beginning a business, occupation or profession that is subject to a tax equal to a per centum of a basis other than gross receipts of the business shall estimate the amount of the applicable tax base for the period between the date of beginning of business and the end of the then current license tax year, and the tax for that year shall be an amount equal to the per centum of that estimate at the rate prescribed by the applicable provisions of this chapter with respect to the business.

Every person whose business, occupation or profession is subject to a tax equal to a per centum of a basis other than the gross receipts of the business and who was assessable for only a part of the then next preceding license tax year shall estimate the amount of the applicable tax base for the then current license tax year, and the license tax on every such taxpayer shall be a sum equal to the per centum of that estimate prescribed by the particular provision of this chapter applicable to such business, occupation or profession.

Every estimate made in accordance with the provisions of the preceding four (4) sections shall be subject to correction by the commissioner of the revenue at the close of the license tax year so that the final correct tax shall be computed upon the basis of the actual amount of the applicable tax base at the end of the license tax year.

"Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business; or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

"Charitable nonprofit organization" means an organization which is described in IRC § 501(c)(3) and to which contributions are deductible by the contributor under IRC § 170, except that educational institutions shall be limited to schools, colleges and other similar institutions of learning.

"Contractor" shall have the meaning prescribed in §58.1-3714.B of the Code of Virginia, as amended, whether such work is done or offered to be done by day labor, general contract or subcontract.

Every person accepting or offering to accept orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, cement, wood, fabricated or manufactured floor or wall coverings, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, or other metal or any building material; or accepting or offering to accept orders or contracts to do any paving or curbing on sidewalks or streets, public or private property, requiring the use of asphalt, brick, stone, cement, wood, or any composition; or accepting or offering to accept orders or contracts to excavate earth, rock or material for foundations or any other purpose; or accepting or offering to accept orders or contracts to dredge any material for any purpose; or accepting or offering to accept orders or contracts to construct any sewer of stone, brick, concrete, terra cotta, or other materials; or accepting or offering to accept orders or contracts to care for plots and cemeteries; or accepting or offering to accept orders or contracts for building, remodeling, repairing, wrecking, razing or demolishing any structure; or for moving any building, or for drilling, boring or digging a well; or for the installation, maintenance, or repair or neon signs, or air conditioning apparatus or equipment; or for fumigation or disinfecting to prevent the spread of disease; or for the eradication or extermination of rats, mice, termites, vermin, or insects or bugs of any kind shall be deemed to be a contractor, whether such work is done or offered to be done by day labor, general contractor or subcontract.

Every person conducting or engaging in any of the activities enumerated below by force account on land or property owned, leased or otherwise controlled by such person, for purposes of eventual sale, shall be deemed to be a builder or developer; work on or in any building or structure requiring the use of paint, stone, brick mortar, cement, wood, wallpaper, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead or other metal or any other metal or any other building material; any electrical work on or in any building or structure; paving or curbing on sidewalks or streets, public or private property, requiring the use of asphalt, brick, stone, cement, wood or any composition; excavating earth, rock, or material for foundations or any other purpose; surveying and/or subdividing tracts of land; constructing any sewer of stone, brick, concrete, terra cotta or other material; building, wrecking, repairing, remodeling, razing, or demolishing any structure; moving any building, boring or digging a well.

Every person engaging in the business of accepting or offering to accept orders or contracts for doing any work on or in any building or premises involving erecting, installing, altering, repairing, servicing or maintaining electrical wiring, devices or appliances permanently connected to such wiring; or the erecting, repairing, or maintaining of lines of the transmission distribution of electric light and power shall not be deemed to be a contractor as defined in the preceding section, but shall be deemed to be an electrical contractor and shall pay for the privilege of conducting the business of an electrical contractor the same license tax as that of a contractor, which shall be computed in the same manner, on the same basis and at the same schedule of rates as the license tax imposed by this article upon contractors generally.

It is especially provided, however, that no person who engages in the business of a plumber or steamfitter shall be deemed to be a contractor as defined by this article, by reason of or with respect to the conduct of the business of plumbing or steamfitting; but every such person shall pay for the privilege of conducting the business of a plumber or steamfitter a license tax, computed in the same manner, on the same basis and at the same schedule of rates as the license tax imposed by this article upon contractors generally.

Every contractor, builder and developer, electrical contractor, plumber and steamfitter who proposes to do work in the County for which a permit must be obtained from or contract let by a department, bureau or officer of the County, shall, upon making application for such permit or upon the award of such contract, exhibit to the proper County official the County license authorizing him to engage in the business for the year in which the permit is applied or in which such contract is awarded and shall furnish to that official and to the license inspector a list of his subcontractors. If any or all of such subcontracts have not been closed or awarded at the time of applying for such permit or award of such contract, he shall furnish such list in writing immediately upon awarding the subcontract or contracts, and he shall not allow the work under any subcontract to proceed until the subcontractor shall have exhibited to him his County license to do such business in the County for the current year.

Every person engaged in the business of wrecking, razing, or demolishing buildings or structures and selling the materials obtained from the buildings and structures shall, in addition to the contractor's license tax, pay for such additional privilege of selling the material a merchant's tax.

"Definite place of business" means an office or a location at which occurs a regular and continuous course of dealing for thirty consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis; and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

"Financial services" means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities and other investments and shall include the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this ordinance.

> "Broker" shall mean an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.
>
> "Commodity" shall mean staples such as wool, cotton, etc. which are traded on a commodity exchange and on which there is trading in futures.
>
> "Dealer" for purposes of this ordinance shall mean any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.
>
> "Security" for purposes of this ordinance shall have the same meaning as in the Securities Act (§13.1-501 <u>et seq.</u>) of the Code of Virginia, or in similar laws of the United States regulating the sale of securities.

Those engaged in rendering financial services include, but without limitation, the following:

Buying installment receivables
Chattel mortgage financing
Consumer financing
Credit card 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

"Gross receipts" means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Chapter 37 of Title 58.1 of the Code of Virginia.

"License year" means the calendar year for which a license is issued for the privilege of engaging in business, except for any license issued to a utility and service company. A license issued to a utility and service company shall be effective on a fiscal year basis of July first through June thirtieth.

"Nonprofit organization" means an organization, other than a "charitable nonprofit organization," which is exempt from federal income tax under IRC § 501.

"Person" means individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form or character, including any trustee, receiver, assignee or personal representative thereof carrying on or continuing a business, profession, trade or occupation.

"Personal services" shall mean rendering for compensation any repair, personal, business or other services not specifically classified as "financial, real estate or professional service" under this ordinance, or rendered in any other business or occupation not specifically classified in this ordinance unless exempted from local license tax by Title 58.1 of the Code of Virginia, including the following.

(a) The business of operating:

airport
amusement park
athletic field or park
Barbershop
Beauty parlor
Billiard or pool parlor
Boarding houses and lodging houses
Boat landing or boat basin
Bowling alley
Carnivals
Cemetery (except nonprofit) excluding the sale of burial sites
Charter club
Circuses
Coliseum
Convalescent homes (except nonprofit corporations)

Dance band
Dance halls
Dry cleaning and laundry establishments
Flea markets
Furnishing live music or entertainment
Golf course or driving range
Hair dressing establishment
Hotels, motels and campgrounds
Information bureaus, booths
Motion picture theater
Nursing homes (except nonprofit corporations)
Old age homes (except nonprofit corporations)
Physical fitness establishment
Private hospitals (except nonprofit corporations)
Renting of mobile homes in mobile home parks
Swimming pool (other than nonprofit or cooperative)
Theater
Tourist homes and tourist cabins
Turkish, Roman or other like bath or bath parlor

(b) The business thereof: Addressing letters or envelopes, advertising agents and agencies, protective agents or agencies and installers of burglar alarms, agents finding tenants for and renting single rooms, ticket, transportation, travel and tour agents or brokers, renting airplanes, furnishing ambulance service, operating an analytical laboratory, artist's representative, booking agent or concert manager, erecting awnings, installing awnings, storing awnings, taking down awnings, preparing bodies for burial, operating a bottle exchange, a boiler shop and machine shop, chicken hatchery, cleaning the outside of buildings, furnishing business research service, a caterer, cleaning chimneys, a correspondent establishment or bureau, fortunetelling, furnishing detective service, furnishing clean diapers, an electrologist, an embalmer, operating an engineering laboratory, leasing films to others for compensation, operating a frozen food locker plant, conducting funerals, cleaning furnaces, exhibiting a trained and educated horse, boarding or keeping horses or mules, renting horses or mules to others, furnishing house cleaning service, furnishing clean infants' underwear, furnishing janitorial service, operating a kennel or small animal hospital, supplying clean linen, coats, aprons, lock repairing, locksmith, manicurist, a massage practitioner, a masseur, furnishing messenger service, except telephone or telegraph messenger service, mimeographing, cleaning motor vehicles, greasing motor vehicles, polishing motor vehicles, washing motor vehicles, motor vehicle repair, multigraphing, nurses' registry, packing, crating, shipping, cutting, hauling, or moving goods or chattels for others, a parking lot for the storage of or parking of motor vehicles, a photographer, physician's registry, picture framing or gilding, plating metals or any other materials, operating a reducing salon or health club, renting any kind of tangible personal property, operating a scalp treating establishment, furnishing statistical service, stevedoring.

(c) Repairing, renovating or servicing the following: Bicycles, radios and television apparatus, electric refrigerators, pianos, pipe organs or other musical instruments, fire extinguishers, road construction machinery, road repair machinery, farm machinery, industrial or commercial machinery, business office machinery or appliances, household appliances, shoes, watches, jewelry, umbrellas, harnesses, leather goods or shoes, guns, window shades, dolls, cameras, toys, fountain pens, pencils, kodaks, lawn mowers, mattresses or pillows, mirrors, electric motors, scales, saws or tools, rewinding electric apparatus, repairing or upholstering furniture, repairing or reweaving clothing or hosiery, repairing any article not mentioned.

(d) Repairing or servicing septic tanks or septic systems.

(e) Warehouse for storage or merchandise, tobacco, furniture, other goods, wares or materials, cold storage warehouse, warehouse for icing or precooling goods, wares or merchandise, telephone answering service, furnishing telephone, sanitizing service, supplying clean towels, supplying clean work clothes, an undertaker, renting or furnishing automatic washing machines, cleaning windows, letter writing.

(f) Canvassers, other than those working on a salary or wage basis as employees of persons duly licensed under this section; detectives, publishers of county or city directories, operators of passenger motor bus terminals; renting or furnishing horses or ponies for riding within a limited area, field, park or other enclosure; pawnbrokers and pawnshops.

(g) Ambulance service, book binding, day care center, duplication service, nursing home, homes for the elderly, sanitarium, hospital, supplier of cable TV or sound track music, public motor rink (go-cart or motorcycle), refuse service (hauling).

(h) Any person engaged in any personal service not otherwise licensed under this chapter, where the service is rendered for compensation either upon or for persons, animals or personal effects.

(i) Provided, however, that every individual who alone and not in combination or association with any other entity, tutors another individual on a one-to-one basis in any academic subject or music, dance or art shall be exempt from the license tax levied by this section.

(j) Any person engaged in any business service not otherwise licensed under this chapter where the service is rendered for compensation either upon or for any business, trade, occupation or governmental agency.

(k) Any minor engaged in a personal service, such as babysitting, lawn mowing, etc., on a part-time basis shall be exempt from the license tax levied by this section.

(l) Any person engaged in the business of operating a warehouse and distribution facility which stores and distributes goods and merchandise solely to retain facilities owned by the same person and which receives no gross receipts for such services shall be exempt from the license tax levied by this section.

"Professional services" means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the BPOL guidelines promulgated pursuant to 58.1-3701 of the Code of Virginia. The Department shall identify and list each 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 rather than for personal profit. No license shall be issued to one engaged in the practice of medicine, homeopathy, chiropractic, naturopathy, chiropody, dentistry, law, chemical engineering, civil engineering, highway engineering, sanitary engineering, or any other profession which requires a certificate of registration and examination under the provisions of the Code of Virginia unless such person furnishes evidence to the Commissioner of the Revenue that he has properly registered and has in effect current registration as required by state law.

"Purchases" shall mean all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesaler or wholesale merchant and sold or offered for sale. Such merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine or chooses not to disclose the cost of manufacture.

"Real estate services" shall mean rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in this ordinance, and such services include, but are not limited to, the following:

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

"Retailer" or "Retail Merchant" shall mean any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

Any person who is both a retail merchant and a wholesale merchant is hereby required to obtain both classes of license; provided, however, that any retail merchant who desires to do a wholesale business also may elect to do such wholesale business under his retailer's license by paying license taxes under the provisions of this article as a retailer on both his retail and wholesale business; the provision shall not apply to any retail merchant the greater part of whose business during the next preceding year was wholesale, nor to a beginner, the greater part of whose business it is estimated will be wholesale for the period covered by the license.

"Retail Sale" means a sale of goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users which are classified as wholesale sales.

"Sales Solicitation" is the act or acts directly related to selling particular items or goods to a particular person. Sales solicitation does not include non-solicitation activities prior or subsequent to sales solicitation activities.

"Services" shall mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

"Wholesaler" or "Wholesale Merchant" shall mean any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, government and industrial users which because of the quantity, price, or other terms indicate that they are consistent with sales at wholesale.

F. License Requirement.

(a) Every person engaging in the County in any business, trade, profession, occupation or calling (collectively hereinafter "a business") as defined in this ordinance, unless otherwise exempted by law, shall apply for a license for each such business if (i) such person maintains a definite place of business in the County, (ii) such person does not maintain a definite office anywhere but does maintain an abode in the County, which abode for the purposes of this ordinance shall be deemed a definite place of business, or (iii) there is no definite place of business but such person operates amusement machines, is engaged as a peddler or itinerant merchant, carnival or circus as specified in §§ 58.1-3717, 3718, or 3728, respectively of the Code of Virginia, or is a contractor subject to §58.1-3715 of the Code of Virginia, or is a public service corporation subject to §58.1-3731 of the Code of Virginia. A separate license shall be required for each definite place of business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the County; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (iii) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

(b) Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensing in the County on or before January 1 of the license year, or no later than March 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official.

(c) Every license issued under this article shall state the amount of license tax assessed and paid, the privilege to be exercised under the license and the period of time for which the license is valid.

(d) Each person receiving a license in the County shall also be provided by the Commissioner of the Revenue at the same time a brief written notice of the taxpayer's right to appeal for a correction of any licensing tax assessed hereunder.

(e) In the event of a failure or refusal of any person to file with the Commissioner of the Revenue the information necessary to enable the Commissioner to assess the license tax due under this article, the Commissioner shall assess the tax upon the best information he can obtain, adding thereto any penalty due thereon.

G. Expiration of license.

No license shall be issued under this chapter for a period beyond the end of the current license tax year, and unless otherwise expressly provided every license issued under this chapter shall expire at the end of the license tax year.

H. Collection and payment of tax.

(a) The tax shall be paid with the application in the case of any license not based on gross receipts. If, the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 1, or if such day is not a business day, the next following business day.

(b) The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten percent of the portion paid after the due date.

(c) It shall be the duty of the County Treasurer to collect the license taxes imposed by this article.

I. Interest for failure to file or nonpayment.

(a) A penalty of ten percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax 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.

"Acted responsibly" means that: (i) the taxpayer 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 taxpayer 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.

"Events beyond the taxpayer'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 taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(b) Interest shall be charged at the rate of ten (10) percent per annum on the late payment of the tax 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 together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this ordinance from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the rate of ten (10) percent per annum, as allowed pursuant to § 58.1-3916.

(c) No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, provided the refund or the late payment is made not more than thirty days from (i) the date of the payment that created the refund, or (ii) the due date of the tax, whichever is later.

J. Situs of Gross Receipts.

(a) General rule. Whenever the tax imposed by this ordinance is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within the County. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of §58.1-3715 of the Code of Virginia.

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then the definite place of business from which the services are directed or controlled.

(b) Apportionment. If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule and the affected jurisdictions are unable to reach an apportionment agreement, except as to circumstances set forth in §58.1-3709 of the Code of Virginia, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the County solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) Agreements. The assessor may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100% of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the Department of Taxation pursuant to § 58.1-3701, notice of the request shall be given to the other party. Notwithstanding the provisions of §58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of §58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

K. <u>Limitations and extensions</u>

(a) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this ordinance, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) Notwithstanding § 58.1-3903 of the Code of Virginia, beginning in 1997, if the commissioner of the revenue ascertains that any local tax has not been assessed, the commissioner shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six (6) preceding years. If the assessing official determines that any local tax has not been assessed for any tax year prior to 1997, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the three (3) preceding years.

(c) The period for collecting any local license tax shall not expire prior to the period specified in § 58.1-3940 of the Code of Virginia, two years after the date of assessment if the period for assessment has been extended pursuant to this section, two years after the final determination of an appeal for which collection has been stayed pursuant to the following subsection L(b) or L(d) of this ordinance, or two years after the final decision in a court application pursuant to § 58.1-3984 of the Code of Virginia or similar law for which collection has been stayed, whichever is later.

L. Appeals and Rulings

(a) Any person assessed with a licensing tax under this ordinance as the result of an audit may apply within 90 days from the date of the 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).

(b) Provided an application is made within 90 days of an assessment, collection activity shall be suspended until a 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 subsection I(d) of this ordinance, 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 County, (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.

(c) Any person assessed with a license tax under this ordinance as a result of an audit may apply within ninety days of the determination by the assessing official on an application pursuant to subsection F(a) above to the Tax Commissioner for a correction of such assessment. The Tax Commissioner shall issue a determination to the taxpayer within ninety days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The application shall be treated as an application pursuant to § 58.1 - 1821 of the Code of Virginia, and the Tax Commissioner may issue an order correcting such assessment pursuant to § 58.1 - 1822 of the Code of Virginia. Following such an order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to § 58.1-3984 of the Code of Virginia. However, the burden shall be on the party making the application to show that the ruling of the Tax Commissioner is erroneous. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

(d) On receipt of a notice of intent to file an appeal to the Tax Commissioner under subsection L(c) above, 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 in accordance with the provisions of subsection I(d), 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 subsection L(b) above.

(e) 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 the guidelines issued by the Department of Taxation upon which the ruling was based, 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.

M. Recordkeeping and audits.

Every person who is assessable with a license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the County. The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside the County, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

N. Exclusions and deductions from "gross receipts."

(a) General Rule. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.

(b) The following items shall be excluded from gross receipts:

(1) Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.

(2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

(3) Any amount representing returns and allowances granted by the business to its customer.

(4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

(5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

(6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

(7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.

(8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

(9) Advertising agents and agencies shall exclude the amounts paid by them for any customer for advertising space, radio time, electrical transcription, pressings, art work, engraving, plates, mats, printing, printing stock and postage from the amount of gross receipts of the business of the advertising agent or agency in computing the basis for their license tax.

(10) Every person engaged in the business of preparing bodies for burial, an embalmer, conducting funerals, or an undertaker, shall be allowed to deduct from the gross receipts of the business all payments made on account of his customers or clients for burial lots, for doctors, hospital or nursing services, for newspaper notices, transportation expense or other like expenses; provided that no such item shall be deducted with respect to which the taxpayer has received or become entitled to receive any commission, fee, discount or profit whatsoever.

(11) The amounts received by the operator of an impounding lot for feeding animals shall be excluded from the gross receipts of the business for the purpose of computing the license tax on such operator.

(12) A real estate agent shall exclude from his gross receipts the commissions on insurance premiums and receipts for conducting business with respect to real estate belonging to such person and excluding interest, brokerage, and other receipts from the business of lending money belonging to such person.

(c) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

(1) Any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property an not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

(2) Any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income.

(d) Cemeteries operating as a non-profit corporation or a stock corporation, the stock on which is, by the provision of the charter of such corporation, non-dividend paying, shall be exempt from the provisions of this article. The gross receipts of the cemetery shall exclude the amounts received from the sale of burial plots.

O. <u>License Fee and Tax</u>

Every person or business subject to licensure under the ordinance shall be assessed and required to pay annually:

(a) Except as may be otherwise provided in §§ 58.1-3712, 58.1-3712.1 and 58.1-3713 of the Code of Virginia, every such person or business with annual gross receipts of more than $2,000.00 shall be assessed and required to pay annually a license tax on all the gross receipts of such persons includable as provided in this ordinance at a rate set forth below for the class of enterprise listed

1. For contractors and persons constructing for their own account for sale, $0.14 cents per $100 of gross receipts, from such occupation during the preceding calendar year; the minimum annual license tax shall be thirty dollars ($30);

2. For retailers, $0.16 cents per $100 of gross receipts. The minimum annual license tax shall be twenty-five dollars ($25.00); All goods, wares and merchandise manufactured by a retail merchant and sold as merchandise shall be considered as sales; provided, that this section shall not be construed as applying to manufacturers who sell or offer for sale at the place of manufacture goods, wares and merchandise manufactured by them. A manufacturer may, without a retail merchant's license, sell at the place of manufacture the goods, wares, and merchandise manufactured by him. If a manufacturer desires to sell at a definite place or store other than the place of manufacture, at retail only and not for resale the goods, wares and merchandise manufactured by him, then such manufacturer must take out a retail merchant's

license. When a manufacturer establishes a place or store for the sale of his goods, wares and merchandise, other than at his place of manufacture, at retail only and not for resale, the gross receipts of the business shall include not only the amount of sales made by such manufacturer of goods, wares and merchandise purchased from others, but also the gross receipts for the sale of the goods, wares, and merchandise manufactured by him and sent from the place of manufacture to his store for sale and sold; and he is required to report as hereinafter provided, not only the amount of sale of goods, wares and merchandise purchased by him from others and sold, but also the amount of sales of goods, wares and merchandise manufactured by him either within or without the County and offered for sale by him and sold at his store or definite place in this County other than the place of manufacture.

Every cooperative association, society, company or exchange created or operating under the provisions of the Code of Virginia, §§ 13.1-301 to 13.1-311, every non-profit, cooperative association, with or without capital stock, created or operating under the provisions of the Code of Virginia, §§ 13.1-312 to 13.1-344, and every cooperative marketing or purchasing association or corporation incorporated or organized under the general corporation laws of this state and brought under the provisions of the Code of Virginia, §§ 13.1-301 to 13.1-344, whether such association, society, company, exchange or corporation be organized or brought under the provisions of those sections of the Code of Virginia prior or subsequent to the effective date hereof, and whether chartered under the laws of this state or otherwise chartered and doing business in this state, and conducting a mercantile, merchandise or brokerage business on the cooperative plan, shall be taxable as a merchant by the County. Every such association, society, company, exchange or corporation which sells to others at retail only and not for resale shall be a retail merchant and taxable as such under this section.

Every person who sells merchandise by means of a coin-operated machine or device shall pay the merchant's license tax prescribed herein. All such machines shall be plainly marked so as to show the name and address of the owner thereof.

3. For financial, real estate and professional services, $0.45 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, $0.30 cents per $100 of gross receipts. The minimum annual license tax shall be twenty-five dollars ($25.00);

5. For wholesalers, $0.05 cents per $100 of purchases throughout the then next preceding calendar year. The minimum annual license tax shall be twenty-five dollars ($25.00);

The word "purchases" as used in this section shall be construed to include all goods, wares and merchandise received for sale at each definite place of business of every wholesale merchant and shall not be construed to exclude any goods, wares and merchandise otherwise coming within the meaning of the word. All goods, wares and merchandise manufactured by a wholesale merchant and sold or offered for sale as merchandise shall be considered as purchases within the meaning of this section; provided, that this section shall not be construed to apply to manufacturers who offer for sale at the place of manufacture goods, wares and merchandise manufactured by them, but such manufacturer may, without a wholesale merchant's license, sell at the place of manufacture, the goods, wares and merchandise manufactured by him. If a manufacturer desires to sell at a definite place or store, other than the place of manufacture, to others for resale or to institutional, commercial or industrial users the goods, wares and merchandise manufactured by him, then such manufacturer must take out a wholesale merchant's license. When a manufacturer establishes a place or store for the sale of his goods, wares or merchandise other than at his place of manufacture, to others for resale, the amount of license tax is to be measured not only by the amount of purchases made by such manufacturer from others, if any, but also by the goods, wares and merchandise manufactured by him and sent from the place of manufacture to his store for sale, if any; and he is required to report, as hereinafter provided, not only the amount of goods, wares and merchandise purchased by him from others and offered for resale, but also the amount of goods, wares and merchandise manufactured by him either within or without the County and offered for sale by him at his store or definite place in this County, other than the place of manufacture. The word "purchases" as used in this division in relation to the purchase price of goods, wares an merchandise sold by a manufacturer at a place of business other than the place of manufacture shall be the cost of manufacturing such goods, wares and merchandise together with the factory mark-up and overhead.

Every cooperative association, society, company or exchange created or operating under the provisions of the Code of Virginia, §§ 13.1-301 to 13.1-311, every non-profit cooperative association, with or without capital stock, created or operating under the provisions of the Code of Virginia, §§ 13.1-312 to 13.1-344 and every cooperative marketing or purchasing association or corporation incorporated or organized under the general corporation laws of this state and brought under the provisions of the Code of Virginia, §§ 13.1-301 to 13.1-344, whether such association, society, company, exchange or corporation be organized or brought under the provisions of those sections of the Code of Virginia prior or subsequent to the effective date hereof and whether chartered under the laws of this state or otherwise chartered and doing business in this state, and conducting a mercantile, merchandise or brokerage business on the cooperative plan shall be taxable as a merchant by the County. Every such association, society, company, exchange or corporation which sells to others for resale only or which sells to institutional, commercial or industrial users shall be a wholesale merchant and taxable as such under this division.

6. For massage parlors, $5,000 annual license tax, not subject to proration for part of a license year;

7. For itinerant merchants or peddlers, $500 per year. The license tax for each itinerant merchant doing business at any organized event of five (5) days or less shall be fifty dollars ($50) for each such organized event, not to exceed $500 per year. Any person who engages in, does or transacts any temporary or transient business in the County or traveling from place to place in the same of goods, wares and merchandise and who for the purpose of carrying on such business hires, leases, uses or occupies any building or structure, motor vehicle, tent, car, boat or public room or any part thereof, including rooms in hotels, lodging houses or houses of private entertainment, or in any public road in the County, for a period of less than one (1) year, for the exhibition of or sale of such goods, wares or merchandise, except foods, wares and merchandise received from bankruptcy sales, trustee sales, railroad wrecks, fire sales, slaughter sales or sales of like character or designation, and stock received from expositions and fairs, whether such person associates temporarily with another merchant or engages in such temporary or transient business in connection with or as a part of the business or in the name of another merchant or not, shall be deemed an itinerant merchant. No person who shall be deemed an itinerant merchant solely because such person exhibits or otherwise displays goods or services or information concerning goods or services if such person does not contract to sell, or offer to contract to sell, such goods or services at such temporary location.

Every itinerant merchant when applying for a license to do business in the County shall report to the Commissioner of the Revenue the street and house number of the place where he proposes to conduct business and no license shall be issued unless such place is adequately illuminated in the daytime without the aid of artificial light. He shall further report in detail the goods, wares and merchandise to be sold at such place and what statements or representations are to be made or advertised concerning them; and if previously engaged in a like or similar business, he shall designate all the places where the same has been conducted within the preceding twelve (12) months.

It shall be unlawful for a peddler to park, stand, stop, or allow a vehicle to remain in any place for the purpose of peddling any longer than is necessary to conclude a sale of any goods, wares, or merchandise or a continuous, uninterrupted series of sales thereof, and in any event it shall be unlawful for a peddler to park, stand, stop, or allow a vehicle to remain in any place for the purpose of peddling more than thirty (30) minutes in any day;

The license tax imposed under this article shall be imposed upon each person and each agent of a corporation, association or other entity who conducts the activities of a peddler; except that peddlers who peddle from and in close proximity to any vehicle and who all peddle the same type of goods, wares and merchandise may obtain a peddler's license, which shall list the names of said peddlers, for each vehicle rather than for each peddler peddling from and in close proximity to such vehicle and the license tax for such license shall be the amount of tax that would otherwise have been charged to each of said peddlers.

Nothing in this section shall be construed to require the payment of a license tax for the sale of goods, wares and merchandise by an assignee, trustee, executor, fiduciary, officer in bankruptcy or other officer appointed by any court of the state or of the United States.

Any person who carries from place to place any goods, wares or merchandise and offers to sell or barter the same, or actually sells or barters the same, and at the time of such sale or exposure for sale delivers, or offers to deliver, the goods, wares or merchandise to the buyer is a "peddler." Any delivery on the day of sale shall be construed as a delivery at the time of sale. For purposes of this article, bartering or offering to barter goods, wares or merchandise shall be deemed to be a form of selling or offering to sell goods, wares or merchandise.

Every peddler who is not expressly exempt from tax under the provisions of this article shall obtain a license for the privilege of doing business in the County and shall pay a license tax of the applicable amount set forth below:

(a) Unless otherwise provided in some other section of this Code, the license tax for each peddler other than those described in subparagraphs (b), (c), (d), (e) and (f) shall be $500 for the tax year.

(b) Any person who sells or offers to sell goods, wares or merchandise to licensed dealers, other than at a definite place of business operated by the seller, and at the time of such sale or exposure for sale delivers, or offers to deliver, the goods, wares or merchandise to the buyer, is a "peddler at wholesale." Any delivery on the day of sale shall be construed as a delivery at the time of sale. Each peddler at wholesale shall pay a license tax for the tax year; the license tax rate for each peddler at wholesale shall be the same as the license tax rate applicable to a wholesale merchant selling similar goods, wares or merchandise at one (1) definite place of business.

(c) No license tax shall be imposed on any peddler who sells or offers for sale in person or by his employees only the following items or any of them if such items were grown or produced by him or by his employees and were not purchased by them for sale: ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm, domestic or nursery products.

(d) A license tax of twenty-five dollars ($25) for the tax year shall be imposed on any peddler who sells or offers for sale in person or by his employees the following items, or any of them if such items were not grown or produced by him or by his employees: meats, milk, butter, eggs, poultry, fish, oysters, seafood, game, vegetables, fruit or other edible family supplies of a perishable nature, or firewood, for home consumption.

(e) A license tax of twenty-five dollars ($25) for the tax year shall be imposed on any peddler who sells or offers for sale only Christmas trees or Christmas greens not grown or produced by him.

(f) A peddler whose activities are conducted solely for charitable purposes and who is not paid for his services shall not be required to pay any license tax under this article.

Every person who is licensed as a peddler and has paid the tax required under this article shall be provided a license tin or tag which shall be affixed to the person of the peddler or to the vehicle used by the peddler.

A peddler's license shall not be transferrable and shall not be subject to proration. The full amount of the license tax shall be paid when assessed.

8. For direct sellers as defined in §58.1-3719.1 of the Code of Virginia with total annual sales in excess of $4,000, $0.16 cents per $100 of total annual retail sales or $0.05 cents per $100 of total annual wholesale sales, whichever is applicable;

9. For every person other than a guaranty, fidelity, and security company doing business in the state under the provisions of the Code of Virginia, Sections 38.2-100 through 38.2-4917, as amended, that engages in the business of entering or offering to enter into bonds for others for compensation, whether as a principal or surety, shall pay a license tax equal to one hundred dollars ($100);

No license shall be issued to any person pursuant to the preceding section until the applicant shall have first obtained a certificate from the judge of the circuit court of the county that such person is of good moral character and entitled to be so licensed pursuant to Code of Virginia, § 58.1-3724.

10. For every person engaged in the business of providing telephone and telegraph communications, an annual license tax equal to one-half of one percent (½ of 1%) of the gross receipts during the preceding license tax year from business accruing to such person from any such business in the County; provided, however, charges for long distance telephone calls shall not be considered receipts from business in the County;

11. For every person furnishing heat, light, power and gas for domestic, commercial or industrial consumption in the County, one-half of one percent (½ of 1% of the gross receipts of such business, excluding receipts from service furnished to other electric utilities for resale.

P. Duty of license applicant to ascertain if location properly zoned and use permit issued.

It shall be the duty of every person applying for a business license to ascertain if the location for the conducting of such business, trade or occupation is properly zoned and has the necessary use permit before making application for such business license as may be required. The commissioner of the revenue or treasurer in any case where he knows that the location is not properly zoned for the type of business, trade or occupation applying for a business license shall refuse to issue such business license until a certificate is issued by the director of planning stating that the location is properly zoned or the business is being operated in a proper zone. Should either the commissioner of revenue, treasurer or director of planning discover that the business, trade or profession is being operated at a location that is not properly zoned for such operation, either official may revoke any license granted hereunder without refund of license tax and cause such operation to cease, or require such operation to move to a properly zoned area and cause the license to be amended.

Q. Assignment and transfer.

(a) No license tax shall be assessed against a taxpayer as a beginner who succeeds in and to the business of a taxpayer that was duly licensed at the time of such succession if such license was assignable and transferable and if such successor contracted with the predecessor for an assignment and transfer of predecessor's license to the business, even though the license be not completely transferred as hereinafter required.

(b) Where there is a change in a partnership by the death or withdrawal of one or more existing partners or by the addition of one (1) or more partners or a combination of either the death or withdrawal and the addition of one (1) or more partners, it shall be considered that there is the creation of a new partnership for the purposes hereof and a beginner's license shall be required of such new partnership, unless there is a contract between the parties for the assignment and transfer of a license which may be lawfully assigned and transferred.

(c) Except where otherwise provided in this chapter, upon presentation to the commissioner of the revenue of any license issued under the provisions of this chapter, except a license the tax upon which is based upon an estimate, for the then current license year, the tax upon which has been fully paid for the entire license tax year, with a written assignment, the license may be assigned and transferred for the unexpired term of such license to the assignee thereof. The assignee shall comply with all the terms and conditions upon which the original license was issued and shall be entitled to all the privileges afforded the original licensee for the unexpired term of the license. The commissioner of the revenue shall make a charge of two dollars ($2.00) for each license assigned and transferred.

(d) Upon the presentation of the assigned license, the commissioner of the revenue shall certify the assignment and transfer upon the original license. Every person conducting any business for which a license is required, without completing the assignment and transfer of such license during the current year of such license and without the payment of the charge for such assignment and transfer, shall be assessed with and shall pay a penalty of twenty dollars ($20.00). Such assessment shall be made by the commissioner of the revenue in the same manner as license taxes are assessed, and the penalty may be recovered in any manner that license taxes may be recovered.

(e) When a person has obtained a license to carry on any business, occupation or profession at any definite place in the County and desires to remove to any other place in the County and wishes his license altered accordingly, the commissioner of the revenue shall make such alteration unless there be an express provision elsewhere forbidding removal or alteration in the license. The commissioner shall charge a fee of two dollars ($2.00) for such alteration.

(f) Every assignment and transfer of a license shall be in such form as is prescribed by the commissioner of the revenue. Nothing in this section shall permit anyone to speculate or trade in licenses. No transfer or assignment shall be valid unless it be pursuant to the bona fide intent of transferee or assignee to engage in the business and at the location covered by the license.

(g) If the license was obtained or had validity by reason of a certificate of any court or of any oath or bond, the assignment shall not be valid without a like certificate in favor of the assignee and a like oath or bond by the assignee as was required for the original grant; and when assigned shall be a personal privilege to the assignee and shall not be exercised by any person other than the assignee, unless otherwise authorized by law. If the license tax already paid by the assignor is less than the license tax which would be assessable against the assignee but for the assignment, an additional license tax shall be paid by the assignee equal to the difference between the tax paid on the assigned license and the license tax which would be otherwise assessable against the assignee.

R. <u>Display of license.</u>

All licenses issued by the commissioner of revenue pursuant to this chapter shall be openly and publicly displayed by the licensee at the business location, residence or place of business as designated on such license. Additionally, any such license shall be made available for inspection by any official of the County upon request.

S. <u>Evidence of payment and display of same.</u>

(a) The commissioner of the revenue shall provide annually tins or tags of such color and design as he may prescribe, to be used as evidence of payment of the license tax prescribed for peddlers, junk dealers, canvassers and dealers in secondhand paper.

(b) The commissioner of the revenue shall provide annually a stamp or sticker of such color and design as he may prescribe to evidence the payment of license taxes on slot machines which shall be issued upon the payment of the license tax so required.

(c) For each renewal tin, tag, button, stamp or sticker where the original has been lost or mutilated, the applicant shall pay one dollar ($1.00).

(d) No license tin, tag, button, sticker or stamp shall be transferred from one person to another, and any sticker issued for a slot machine shall be securely fastened to the machine.

T. Enforcement of Article.

(a) In any case, except where otherwise provided in this chapter, in which the commissioner of the revenue has reason to believe that the return or statement filed is incorrect, he shall cause an investigation of the taxpayer's books and records to be made and shall ascertain whether such person has made a true and correct return or statement. To that end such officer is expressly authorized and empowered when necessary to summon such person before him and require the production of all his books and papers which he has reasonable cause to believe will throw any light upon the matter under investigation and shall also be authorized and empowered to make such other and further investigation and examination as he may deem proper in order to accurately determine the proper return or statement to be made by such person.

(b) Whenever any person required under the provisions of this chapter to file a return or statement shall fail or refuse to file such return or statement, the commissioner of the revenue shall make an estimate of the amount of taxes on the basis of his best information.

(c) In addition to any interest or penalty imposed by this chapter, operation of a business or profession without a County license shall constitute a misdemeanor and subject the operator to twelve (12) months in jail, a fine of up to the maximum amount allowed by law or both.

U. Certification of Erroneous Assessments

The Commissioner of the Revenue is empowered to certify to the Treasurer any instances of erroneous assessments. Upon receipts of such certificate the Treasurer is directed to make a refund based upon the certification of the Commissioner of the Revenue.

Licenses issued under the provisions of this chapter, except those measured by other than gross receipts or gross expenditures, shall be subject to refund where the licensee goes out of business before the end of the current license year, subject to all of the following qualifications:

(1) License for the current license year must be based on gross receipts or gross expenditures obtained throughout the preceding calendar year.

(2) The reason for going out of business is not connected in any manner with the violation of any state law or local ordinance or of violation of any rules or regulations made pursuant thereto.

(3) The amount of refund shall be determined in the following manner: If the licensee goes out of business after January first and before April first, the refund shall be seventy-five (75) percent of the tax paid; if the licensee goes out of business on or after April first and before July first, the refund shall be fifty (50) percent of the tax paid; and if the licensee goes out of business on or after July first and before October first, the refund shall be twenty-five (25) percent of the tax paid; but in no case shall the refund reduce the tax below twenty-five dollars ($25.00).

(4) If any person seeking 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.

IN RE: BOARD OF ZONING APPEALS -- REAPPOINTMENT

Upon motion of Mr. Bracey, seconded by Mr. Tickle, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

Extract

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that Ronald Abernathy is recommended to the Circuit Court Judge for reappointment to the Board of Zoning Appeals for a term expiring 12-31-2001.

IN RE: PLANNING COMMISSION -- APPOINTMENT

Upon motion of Mr. Tickle, seconded by Mrs. Everett, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

Extract

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that M.D. McCray is appointed to the Planning Commission to replace Dr. Mark E. Moore for a term expiring 12-31-2000.

IN RE: PLANNING COMMISSION -- REAPPOINTMENT

Upon motion of Mrs. Everett, seconded by Mr. Tickle, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

Extract

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that C. Floyd Perkinson is reappointed to the Planning Commission for a term expiring 12-31-2000.

IN RE: WATER AUTHORITY -- REAPPOINTMENTS

Upon motion of Mr. Bracey, seconded by Mr. Moody, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

Extract

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that John H. Clements and Joseph R. Patterson are reappointed to the Dinwiddie County Water Authority for terms expiring 12-31-2000.

IN RE: SOCIAL SERVICES BOARD -- APPOINTMENT

Upon motion of Mr. Bracey, seconded by Mr. Tickle, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

Extract

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that Linwood Ernest Fitzgerald, Sr. is appointed to the Social Services Board for a term expiring June 30, 2000.

IN RE: DISTRICT 19 COMMUNITY SERVICES BOARD -- APPOINTMENT

Mr. Bracey stated that he had an individual that he would like to appoint to replace Mrs. Lillian Stewart on the District 19 Community Services Board but he did not have her application that she filled out. Mr. Bracey stated that she worked for the School system and wanted to know if Mrs. Troilen Seward, who was in the audience, would tell the Board a little about her.

Extract

Mrs. Seward stated that she is a very dedicated person and she could recommend her with great comfort.

Upon motion of Mr. Bracey, seconded by Mr. Tickle, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that Tamara Colbert is appointed to serve on the District 19 Community Services Board to replace Lillian Stewart for a term expiring 12-31-99.

IN RE: TRANSPORTATION SAFETY COMMISSION -- REAPPOINTMENTS

The Transportation Safety Members have expressed an interest to be reappointed, but due to some health problems, Mr. Glen Powell has requested that he not be reappointed.

Extract

Upon motion of Mrs. Everett, seconded by Mr. Bracey, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that the following persons are herby reappointed to the Transportation Safety Commission for a term of one year, expiring December 31, 1997:

A.S. Clay	T.E. Gibbs, Jr.	Rebecca Tilson
Terry Jones	Barbara Wilson	Daniel Lee
John Roy Hodges		

IN RE: COUNTY ADMINISTRATOR COMMENTS

1. Mr. Charles W. Burgess, Jr., County Administrator, stated that he would be meeting with the Superintendent of Schools & the Recreation Director tomorrow in reference to an agreement between the public schools and the Recreation Department as far as use of facilities. He invited any members of the Board to attend if they so desired.

IN RE: DINWIDDIE VOLUNTEER FIRE DEPARTMENT -- RELEASE OF TITLES

Mr. Burgess stated that DVRS is in the process of purchasing a new ambulance and transport unit. Part of the deal that they have worked out is to trade two other units. They are requesting that the titles be released to the two units so that the purchase can be made.

Upon motion of Mr. Bracey, seconded by Mrs. Everett, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

Extract

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that title to the 1988 GMC and 1991 Ford Ambulance be released to allow Dinwiddie Volunteer Rescue Squad to trade them in on a new ambulance and transport unit.

IN RE: COUNTY ADMINISTRATOR COMMENTS -- CONTINUED

2. Mr. Burgess wanted to know if there were any specific legislative issues that the Board would like for Administration to discuss with the General Assembly.

Mrs. Everett wanted them to discuss the reimbursement of Archeological digs and Library Fund support for a library in the northern part of the County.

Mr. Clay stated that he felt that they should ask for some of the lottery money.

Mrs. Everett stated that the Board needed to support the funds that were being spent on renovations for school buildings.

IN RE: BOARD MEMBER COMMENTS

Mrs. Everett stated that she wanted to wish Mr. Jim Heckle, Dinwiddie Monitor, good luck on his new job that he will be taking after the first of the year. She stated that she felt that he did a good job and he was going to be missed.

Mr. Bracey stated that he hoped that Administration would set up a retreat for the Board after the first of the year. He stated that there are several things that the Board needs to address.

IN RE: EXECUTIVE SESSION

Upon motion of Mr. Bracey, seconded by Mr. Moody, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye", pursuant to the Virginia Freedom of Information Act, Section 2.1-344(a) 1-Discussion of employment, salaries, disciplining of public officers, appointees, or employees of any public body; Section 2.1-344(a) 6-Investment of Public Funds - Remediation of Co-Composting Facility; Section 2.1-344(a) 7-Consultation with legal counsel - Mobile Home Ordinance and A Property Claim; the Board moved into Executive Session at 4:40 P.M. A vote having been made and approved the meeting reconvened into Open Session at 5:25 P.M.

IN RE: CERTIFICATION

Upon motion Mr. Bracey, seconded by Mr. Tickle, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye", the following resolution was adopted:

WHEREAS, the Board of Supervisors of Dinwiddie County convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board of Supervisors of Dinwiddie County, that such Executive meeting was conducted in conformity with the Virginia law;

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors of Dinwiddie County, Virginia, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting to which this certification resolution applies; and (2) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board of Supervisors of Dinwiddie County, Virginia.

IN RE: CLAIM -- SCHOOL BUS ACCIDENT

Upon motion of Mrs. Everett, seconded by Mr. Bracey, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye",

Extract

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that check #1004342 in the amount of $2,256.01 be approved for Suburban Auto Sales to repair a vehicle that was hit by one of the County's School buses.

IN RE: ADJOURNMENT

Upon motion of Mr. Bracey, seconded by Mr. Moody, Mrs. Everett, Mr. Bracey, Mr. Tickle, Mr. Moody, Mr. Clay voting "aye", the meeting adjourned at 5:28 P.M.

Aubrey S Clay

Aubrey S. Clay
Chair, Board of Supervisors

ATTEST: Charles W. Burgess, Jr.
Charles W. Burgess, Jr.
County Administrator

/rlm