

Chapter 144

TAXATION

[HISTORY: Adopted by the Town Council of the Town of Grottoes as indicated in Part histories. Amendments noted where applicable.]

Part 1 Assessment and Payment

[Adopted 2-3-1970 as Title 27 of the 1970 Ordinances of the Town of Grottoes]

ARTICLE I General Provisions

§ 144-1. Annual tax rates; assessments. [Amended 7-26-1978; 7-1-1999]

The Council shall annually, before the 30th day of June, fix the tax rates on all real and personal property properly subject to taxation within and by the Town and shall assess such taxes as may be required to provide for the needs and purposes of the Town. In determining the valuation of property in the Town, reference shall be had to the records of the Commissioner of Revenue of the county.

§ 144-2. Tax tickets; bills.

As soon as practicable after taxes are assessed as provided in § 144-1, the Treasurer shall make or cause to be made for each taxpayer a tax ticket substantially in the form prescribed by the State Department of Taxation and shall send by mail to each taxpayer a bill for such taxes.

§ 144-3. Payment of taxes; penalty; interest. [Amended 2-3-1981; 7-8-1996; 8-8-2016]

- A. Except as otherwise provided, all taxes shall be due and payable as soon as the tax bills referred to in § 144-2 are sent. Any person failing to satisfy such tax bill on or before the fifth day of February of the year next after taxes were assessed under § 144-1 following the mailing thereof shall incur a penalty of 10% of the total taxes due or the sum of \$10, whichever shall be greater; provided, however, that no penalty shall exceed the amount of the original tax.
- B. Interest at the rate of 10% per annum shall be collected upon the principal and penalty from March 1 of the year next after taxes were assessed under § 144-1.

Part 2 Utility Tax

[Adopted 9-6-1977]

ARTICLE II

General Provisions

§ 144-4. Definitions.

The following words and phrases when used in this Part 2 shall, for the purposes of this article, have the following respective meanings, except where the context clearly indicates a different meaning:

COMMERCIAL OR INDUSTRIAL USER — The owner or tenant of property used for commercial or industrial purposes, including the owner of master-metered apartment buildings, who pays for utility service for said property.

LOCAL TELEPHONE SERVICE — Any service taxable as local telephone service under the provisions of the Internal Revenue Code of 1954, as amended, relating to federal communications taxes, as such provisions were in force and effect on December 1, 1971.

PERSON — Includes individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

PURCHASER — Includes every person who purchases a utility service.

RESIDENTIAL USER — The owner or tenant of private residential property or tenant of an apartment who pays for utility service in or for said property.

SELLER — Includes every person, whether a public service corporation or not, who sells or furnishes a utility service.

UTILITY SERVICE — Includes local telephone service (excluding long-distance messages), electric service and gas service (excluding bottle or liquid gas), whether generally termed a utility service or not, furnished in the corporate limits of the Town of Grottoes.

§ 144-5. Imposition of tax.

There is hereby imposed and levied by the Town of Grottoes upon each and every purchaser of a utility service a tax in the amount of 15% of the charge (exclusive of any federal tax thereon) made by a seller against the purchaser with respect to each utility service, which tax in every case shall be collected by the seller from the purchaser and shall be paid by the purchaser unto the seller for the use of the Town of Grottoes at the time the purchaser price or such charge shall become due and payable under the agreement between the purchaser and the seller; provided, however, that in case any monthly bill submitted by any seller for any residential utility service shall exceed \$10 for a residential user, there shall be no tax computed on so much of said bill as shall exceed \$10; in case any monthly bill submitted by any seller for a commercial or industrial user of any utility service shall exceed \$100, there shall be no tax computed on so much of said bill as shall exceed \$100, except that there shall be no tax computed on bills submitted for electric service for heating water and space heating where a separate meter is used solely for water heating and space heating service or on bills submitted for unmetered electric service. In case bills are submitted by any seller for two months' service, there shall be no tax computed on so much of said bill as shall exceed \$20 for a residential user of electric utility service or \$200 for a commercial or industrial user of electric utility service; provided, further, that there shall be no tax computed on bills submitted on sales of electric utility service for resale.

§ 144-6. Duties of seller.

It shall be the duty of every seller in acting as the tax collecting medium or agency for the Town of Grottoes to collect from the purchaser for the use of the Town the tax hereby imposed and levied at the time of collecting the purchase price charged therefor, and the taxes collected during each calender month shall be reported by each seller to the Town Treasurer, and each seller shall remit the amount of tax shown by said report to have been collected to the Town Treasurer on or before the last day of the second calendar month thereafter, together with the name and address of any purchaser who has refused to pay this tax. The required reports shall be in the form prescribed by the Town Treasurer. The tax levied or imposed under this Part 2, with respect to the purchase of any gas or electric service, shall become effective on bills rendered on meter readings on and after September 1, 1977, and with respect to local telephone service on charges first appearing on bills rendered on September 1, 1977, and thereafter.

§ 144-7. Records.

Each and every seller shall keep complete records showing all purchases in the Town, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof and the date of payment thereof and the amount of tax imposed hereunder, and such record shall be kept open for inspection by the duly authorized agents of the Town at reasonable times, and the duly authorized agents of the Town shall have the right, power and authority to make such transcripts thereof during such times as they may desire.

§ 144-8. Government agencies exempt.

The United States of America, the Commonwealth of Virginia and the political subdivisions, boards, commissions and authorities thereof are hereby exempted from the payment of the tax imposed and levied by this Part 2 with respect to the purchase of utility services used by such governmental agencies.

§ 144-9. Local exchange telephone service tax.

The tax hereby imposed and levied on purchasers with respect to local exchange telephone service shall apply to all charges made for local exchange telephone service, except local messages which are paid for by inserting coins in coin-operated telephones.

§ 144-10. Violations and penalties. [Amended 7-8-1996]

Any purchaser failing, refusing or neglecting to pay the tax hereby imposed or levied and any seller violating the provisions hereof and any officer, agent or employee of any seller violating the provisions hereof shall, upon conviction, be subject to the penalties set forth in Chapter 39 of Title 58.1 of the Code of Virginia.

**Part 3
License Taxes**

[Adopted 2-3-1970 as Title 16 of the 1970 Ordinance of the Town of Grottoes]

ARTICLE III

General Provisions
[Amended 12-9-1980]

§ 144-11. License required.

For each calendar year or other designated period, the professions, occupations and business transactions set out in Article IV of this Part 3 shall be deemed privileges and shall not be pursued, done or engaged in the Town unless a license therefor shall first have been granted.

§ 144-12. Assessment of license taxes against enumerated professions.

There is hereby assessed, for the license year unless otherwise provided, against the professions, occupations and business transactions enumerated in Article IV of this Part 3 the license taxes set forth in Chapter A171, Fees.

§ 144-13. Failure to comply with license requirements; penalty. [Amended 12-8-2008]

- A. No person engaged in a profession, occupation or business within the Town upon which a license is required under the provisions of this Part 3 shall fail to procure the requisite license or to pay the requisite license tax within the time required therefor under this Part 3.
- B. All license taxes payable under this Part 3 shall be due and payable by the first day of July of the year for which assessed, and if not paid by the first day of July of the year for which assessed, a penalty for \$10 or 10% of the amount of the license tax, whichever is the larger amount, shall then be imposed; provided, however, that the profession, occupation or business transaction is one which was being engaged in or conducted on the date of July 1.
- C. Interest at the rate of 10% per annum shall be collected upon the principal and penalty from July 1 or the first day of the month following the month in which such license tax is due, whichever is later, on all unpaid license taxes.
- D. The imposition of a penalty pursuant to the foregoing provisions of this section shall not be construed to prohibit the imposition of any fine or imprisonment for failure to comply with this Part 3.

§ 144-14. Application for license.

Any person desiring a license as required in § 144-11 shall file an application therefor with the Town Treasurer, setting out such information as may be required by the Town Treasurer.

§ 144-15. License year; proration and abatement of tax. [Amended 12-8-2008]

Unless otherwise specified, all licenses the grant of which is required in § 144-11 shall be annual licenses for the license year in which issued and shall expire on June 30 of that year. License taxes referred to in such § 144-12 shall not be prorated and shall be without abatement, unless otherwise provided in this Part 3.

§ 144-16. Refund of license taxes.

No donation or contribution shall be made to any person for the purpose of refunding any license taxes or portion of any license tax paid to the Town for any purpose whatsoever.

§ 144-17. Assignment and transfer of licenses.

Except as otherwise provided, any license provided for in this Part 3 may be assigned by endorsement thereon and transferred for the unexpired term thereof, and upon presentation to the Town Treasurer of such license so assigned, the assignee shall be issued a new license therefor, which new license shall have the same privileges and be subject to the same regulations and penalties as an original license.

§ 144-18. Revocation of licenses.

For just cause shown, the Town Council may at any time revoke any license issued with reference to any of the professions, occupations or business transactions enumerated in Article IV of this Part 3, without reimbursement to the licensee in question.

§ 144-19. Gross receipts.

Except where otherwise provided, the term "gross receipts" when used in this Part 3 shall mean the gross receipts from any business, profession, trade, occupation, vocation, calling or activity, including cash, credits, fees, commissions, brokerage charges and rentals and property of any kind, nature or description, from either sales made or services rendered without any deduction therefrom on account of cost of the property sold, the cost of materials, labor or services, rentals, royalties, taxes, interest or discounts paid or any expense whatsoever, and shall include in the case of merchants the amount of the sale price of supplies and goods furnished to or used by the licensee or his family or other person for which no charge is made or for which a charge less than the prevailing sale price is made. With respect to wholesale merchants and retail merchants dealing in articles upon which there is levied a direct excise tax or gasoline tax by the United States or the state and payable by such wholesale merchant or retail merchant, the term "gross receipts" shall not include such excise tax or gasoline tax; it being the intent, however, that the exclusion of such taxes from gross receipts shall apply to the wholesale merchant or retail merchant actually paying such tax.¹

§ 144-20. Permits for going-out-of-business sales.

The Treasurer of the Town, in accordance with the provisions of § 18.2-224 of the Code of Virginia 1950, as amended, shall issue permits to retail merchants who make application, accompanied by an inventory of all goods which are to be offered for sale to conduct a special going-out-of-business sale and shall charge a fee as set forth in Chapter A171, Fees, or the issuance of each such special sale permit. Upon issuing a special permit for a going-out-of-business sale, the Treasurer shall forward a copy of said permit, together with copies of the application and inventory submitted by the retail merchant, to the Chief of Police who shall be responsible for ensuring that the sale is advertised and conducted in conformity with the required permit and state law.

§ 144-20.1. Applicability. [Added 12-17-1996]

Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and

1. Editor's Note: Original Section 16-10, Vendors selling door-to-door, which immediately followed this section, was deleted 7-8-1996.

notwithstanding any other current ordinances or resolutions enacted by this governing body, whether or not compiled in the Code of this jurisdiction, 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 locality.

§ 144-20.2. Definitions. [Added 12-17-1996; amended 4-11-2011]

For the purposes of this Part 3, unless otherwise required by the context, the following words shall have the meanings indicated:

AFFILIATED GROUP

- A. One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if:
- (1) Stock possessing at least 80% of the voting power of all classes of stock and at least 80% 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
 - (2) The common parent corporation directly owns stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of the nonvoting stock of at least one of the other includable corporations. As used in this Part 3, 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:
- (1) At least 80% of the total combined voting power of all classes of stock entitled to vote or at least 80% of the total value of shares of all classes of the stock of each corporation; and
 - (2) More than 50% of the total combined voting power of all classes of stock entitled to vote or more than 50% 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.
- C. When one or more of the includable corporations, including the common parent corporation, is a nonstock corporation, the term "stock," as used in this subsection, shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

ASSESSMENT — 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 — The Treasurer of this jurisdiction.

BUSINESS — 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:

- A. Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or
- B. Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

CONTRACTOR — 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.

DEFINITE PLACE OF BUSINESS — An office or a location at which occurs a regular and continuous course of dealing for 30 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.

DIRECT SELLER — Any person who:

- A. Engages in the trade or business of selling or soliciting the sale of consumer products primarily in private residences and maintains no public location for the conduct of such business; and
- B. Receives remuneration for such activities with substantially all of such remuneration being directly related to sales or other sales-oriented services, rather than to the number of hours worked; and
- C. Performs such activities pursuant to a written contract between such person and the person for whom the activities are performed, and such contract provides that such person will not be treated as an employee with respect to such activities for federal income tax purposes.

FINANCIAL SERVICES — 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 Part 3.

- A. **BROKER** — An agent of a buyer or a seller who buys or sells stocks, bonds, commodities or services, usually on a commission basis.
- B. **COMMODITY** — Staples such as wool, cotton, etc., which are traded on a commodity exchange and on which there is trading in futures.
- C. **DEALER** — 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.
- D. **SECURITY** — For purposes of this Part 3, shall have the same meaning as in the Securities Act (§ 13.1-501 et seq. of the Code of Virginia) or in similar laws of the United States regulating the sale of securities.
- E. 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 — 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.² Any special deductions or exclusions should be set forth.)

LICENSE YEAR — The calendar year for which a license is issued for the privilege of engaging in business.

PERSONAL SERVICES — Rendering for compensation any repair, personal, business or other services not specifically classified as "financial, real estate or professional service" under this Part 3, or rendered in any other business or occupation not specifically classified in this Part 3, unless exempted from local license tax by Title 58.1 of the Code of Virginia.

2. Editor's Note: See § 58.1-3700 et seq., Code of Virginia.

PROFESSIONAL SERVICES — 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.

PURCHASES — 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 — 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 Part 3, 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 — 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.

SERVICES — Things purchased by a customer which do not have physical characteristics or which are not goods, wares or merchandise.

WHOLESALE or WHOLESALE MERCHANT — 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.

§ 144-20.3. License requirements. [Added 12-17-1996]

- A. Every person engaging in this jurisdiction in any business, trade, profession, occupation or calling (collectively hereinafter "a business") as defined in this Part 3, unless otherwise exempted by law, shall apply for a license for each such business if such person maintains a definite place of business in this jurisdiction; such person does not maintain a definite office anywhere but does maintain an abode in this jurisdiction, which abode for the purposes of this Part 3 shall be deemed a definite place of business; or 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, 58.1-3718 or 58.1-3728, 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:
- (1) 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 this jurisdiction;
 - (2) 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
 - (3) 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 this jurisdiction on or before January 1 of the license year, or no later than July 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. [Amended 12-8-2008]
- C. 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 July 1. [Amended 12-8-2008]
- D. 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 shall 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 10% of the portion paid after the due date.
- E. Late payments; penalty.
- (1) A penalty of 10% 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 30 days, the Treasurer (or other collecting official) 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.

- (2) "Acted responsibly" means that 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 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.
- (3) "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.

F. Interest.

- (1) Interest shall be charged 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 Part 3 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 same rate charged of 10%. [Amended 12-8-2008]
- (2) 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 that the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

§ 144-20.4. Situs of gross receipts. [Added 12-17-1996]

A. General rule. Whenever the tax imposed by this Part 3 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 this jurisdiction. 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 this jurisdiction 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.

§ 144-20.5. Limitations and extensions. [Added 12-17-1996]

- A. Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this Part 3, 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, 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 six preceding years. [Amended 12-8-2008]
- 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 § 144-20.6B or D of this Part 3 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.

§ 144-20.6. Appeals and rulings. [Added 12-17-1996]

- A. Any person assessed with a licensing tax under this Part 3 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 that 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 § 144-20.3F of this Part 3, 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 to depart quickly from the locality, to remove his property therefrom, to conceal himself or his property therein or 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 Part 3 as a result of an audit may apply within 90 days of the determination by the assessing official on an application pursuant to Subsection A above to the Tax Commissioner for a correction of such assessment. The Tax Commissioner shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. 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 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 § 144-20.3F, 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 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 there is a change in the law, a court decision or 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.

§ 144-20.7. Recordkeeping and audits. [Added 12-17-1996]

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 this jurisdiction. 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 that the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the Assessor's office upon demand.

§ 144-20.8. Exclusions and deductions from gross receipts. [Added 12-17-1996]

- 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 on cigarettes or 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.

- 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 and 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.

ARTICLE IV
Occupations
[Amended 12-9-1980]

§ 144-21. Agents and solicitors generally.

- A. Each person who, for compensation, solicits or offers for sale or acts as agent or solicitor in making such sales or acts as such agent or solicitor in any business not otherwise herein classified and licensed shall pay a license tax as set forth in Chapter A171, Fees, for the privilege of conducting such business or acting as such agent or solicitor in the Town. [Amended 8-13-2001; 4-12-2004]
- B. If no compensation is to be received by such person, no license shall be required. However, such person shall contact the Police Department for verification of proper credentials or authorization for such solicitation.

§ 144-22. Bank franchise tax.

- A. Definitions. For the purpose of this section, the following words shall have the meanings ascribed to them by this section:

BANK — Shall be defined as in § 58.1-1201 of the Code of Virginia.

NET CAPITAL — A bank's net capital computed pursuant to § 58.1-1205 of the Code of Virginia.

- B. Imposition of Town bank franchise tax.

- (1) Pursuant to the provisions of Chapter 12 of Title 58.1 of the Code of Virginia, there is hereby imposed upon each bank located within the boundaries of this Town a tax on net capital equaling 80% of the state rate of franchise tax set forth in § 58.1-1204 of the Code of Virginia.
 - (2) In the event that any bank located within the boundaries of this Town is not the principal office but is a branch extension or affiliate of the principal office located outside the corporate limits hereof, the tax upon such branch shall be apportioned as provided by § 58.1-1211 of the Code of Virginia.
- C. Filing of return and payment of tax.
- (1) On or after January 1 of each year, but not later than March 1 of any such year, all banks whose principal offices are located within this Town shall prepare and file with the Commissioner of the Revenue of Rockingham County a return as provided by § 58.1-1207 of the Code of Virginia, in duplicate, which shall set forth the tax on net capital computed pursuant to Chapter 10.01 of Title 58 of the Code of Virginia.³ The Commissioner of the Revenue shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the State Department of Taxation.
 - (2) In the event that the principal office of a bank has branch offices located outside the corporate boundaries of this Town and such bank has offices located within this Town, in addition to the filing requirements set forth in Subsection C(1) hereof, any bank conducting such branch business shall file, with the deduction schedule, apportionment and other items which are required by §§ 58.1-1207, 58.1-1211 and 58.1-1212 of the Code of Virginia.
 - (3) Each bank, on or before June 1 of each year, shall pay into the Treasurer's office of this Town all taxes imposed pursuant to this section.
- D. Effective date of section. The provisions of this section shall be effective for the year beginning January 1, 1980.
- E. Penalty upon bank for failure to comply with section. Any bank which shall fail or neglect to comply with any provision of this section shall be fined in accordance with the provisions of § 58.1-1216 of the Code of Virginia. [Amended 7-8-1996]
- F. Section 16-22 of the 1970 Code of the Town of Grottoes, Virginia, is hereby repealed; provided, however, that in the event that the provisions of Chapter 10.01 of Title 58 of the Code of Virginia 1950, as amended, are held unconstitutional for tax year 1980, then the repeal of said Section 16-22 shall not be effective until on and after January 1, 1981.⁴

§ 144-23. Auctioneers. [Amended 7-8-1996; 4-12-2004]

The license tax on each auctioneer selling real or personal property shall be in accordance with state law. Such license shall not be used by any person other than the one to whom it is issued,

3. Editor's Note: Title 58 of the Code of Virginia was repealed by Acts 1984, c. 675.

4. Editor's Note: Title 58 of the Code of Virginia was repealed by Acts 1984, c. 675.

and if any auctioneer allows his or her license to be used by any other person it shall be automatically revoked.

§ 144-24. Bill posters. [Amended 7-8-1996]

The license tax on each person posting bills or other advertising matter for compensation is more particularly described in Chapter A171, Fees.

§ 144-25. Carnivals, shows, circuses, menageries and trained animal shows.

- A. Every person, firm or corporation which exhibits or gives a performance or exhibition in the Town of any carnival, show, circus, menagerie or trained animal show shall pay a license tax as set forth in Chapter A171, Fees. For the purpose of this section, a "carnival" shall mean an aggregation of shows, amusements, concessions, eating places and riding devices or any of them operated together on one lot or street or on contiguous lots or streets, moving from place to place, whether the same are owned and actually operated by separate persons, firms or corporations or not.
- B. Any exhibit, performance or exhibition for which a license is required by this section may be exempted from the license tax imposed by Subsection A if such performance or exhibition is sponsored by a church, school, charitable institution, association of war veterans or a nonprofit community service by an authorized representative of such organization in advance of any scheduled performance or exhibition.

§ 144-26. Coin-operated machines or devices.

- A. Every person engaged in the business of operation of coin-operated machines or devices shall obtain a license for the privilege therefor and shall pay an annual license tax as set forth in Chapter A171, Fees, for each such machine operated; provided, however, that the total license tax imposed under this subsection shall not exceed a sum as more particularly described in Chapter A171, Fees, in any one year. "Person engaged in the business of operating coin-operated machines or devices" means any person, firm or corporation selling, leasing, renting or otherwise furnishing or providing a coin-operated machine or device operated on the coin-in-the-slot principle, but shall not include a person, firm or corporation owning fewer than three coin machines and operating such machines on property owned or leased by such person, firm or corporation. The license tax imposed by this subsection shall not be applicable to operators of weighing machines, automatic baggage or parcel checking machines or receptacles nor to operators of vending machines which are so constructed as to do nothing but vend goods, wares and merchandise or postage stamps or provide service only nor to operators of viewing machines or photomat machines nor operators of devices or machines affording rides to children or for the delivery of newspapers.
- B. In addition to the tax imposed under Subsection A, every person engaged in the business of operating coin-operated machines or devices, as defined above, including machines vending merchandise or stamps, shall pay a tax as set forth in Chapter A171, Fees. [Amended 4-12-2004]
- C. It shall be the duty of every licensee to whom a license is issued under Subsection A above

to attach such license to the machine or device covered thereby in such manner as to be easily accessible for inspection by the public or by any law enforcement officer and to keep the same so attached throughout the license period.

- D. Every operator of any coin-operated machine or device located in the Town shall furnish to the Town Treasurer a complete list of all machines on location and the address of each location on or before July 1 of each year. [Amended 12-8-2008]
- E. Nothing contained in this section shall be construed as permitting any such person, firm or corporation to keep, maintain, exhibit or operate any coin machine or other device the operation of which is prohibited by law.
- F. Any person, firm or corporation providing any such coin machine or other devices and failing to procure a Town license shall, on conviction, be punished by a fine for each offense as provided in § 1-7, General penalty, of Chapter 1, General Provisions, and the machine or other device shall become forfeited to the Town. [Amended 7-8-1996]

§ 144-27. Contractors. [Amended 3-3-1981]

- A. Every contractor operating or doing business in the Town and persons constructing for their own account for sale shall pay a license tax as set forth in Chapter A171, Fees, based on a limitation of \$25,000 per job for work performed outside the Town or on the full amount of gross sales for work performed in the Town, but in no event shall the tax imposed be less than a fee more particularly detailed in Chapter A171, Fees; provided, however, that when a contractor shall have paid the state license as required by § 54.1-1103 of the Code of Virginia and a local license in the city, town or county in which his or her principal office or offices and any branch offices may be located, no further license shall be required for conducting any such business in the Town, except where the amount of business done by such contractor herein exceeds the gross sum of \$25,000 in any year, a license based upon the aggregate amount of such business done in the Town in any year shall be required. The license must be obtained prior to the issuing of a zoning permit. If the contractor did not perform any work within the Town in the previous year, then the cost of the license will be calculated from the estimated cost of construction. If for some reason a separate contractor, other than the one listed on the zoning permit, is performing the work, then the Town has the authority to halt construction until said contractor obtains a business license. [Amended 12-8-1997; 8-13-2001; 12-8-2008]
- B. For the purpose of this section, a "contractor" shall be any person, firm or corporation: [Amended 7-8-1996]
 - (1) 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, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead or other metal or any other building material.
 - (2) Accepting or offering to accept contracts to do any paving, curbing or other work on sidewalks, streets, alleys or highways or public or private property using asphalt, brick, stone, cement, concrete, wood or any composition.
 - (3) Accepting or offering to accept an order for or contract to excavate earth, rock or

other material for foundation or any other purpose or for cutting, trimming or maintaining rights-of-way.

- (4) Accepting or offering to accept an order or contract to construct any sewer of stone, brick, terra cotta or other material.
- (5) Accepting or offering to accept orders or contracts for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing or maintaining electric wiring, devices or appliances permanently connected to such wiring or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power.
- (6) Engaging in the business of plumbing and steam fitting.

§ 144-28. Financial, real estate and other professional services.

A. Every person engaging in any of the following financial, real estate or other professional service occupations who maintains an office or definite place of business in the Town or who does not maintain any office in which he or she practices his or her profession but has a place of abode in the Town shall pay for the privilege an annual license tax as set forth in Chapter A171, Fees; provided, however, that the license tax imposed by this section shall in no event be less than a fee more particularly detailed in Chapter A171, Fees. [Amended 8-13-2001; 12-8-2008]

(1) The business of:

- Artist
- Architect
- Attorney at law
- Bookkeeper, public
- Chiropractor
- Civil engineer
- Collection agent or agency
- Commission merchant
- Consulting engineer
- Dentist
- Doctor of medicine; physicians and surgeons
- Electrical engineer
- Loan company doing business under the Small Loan Act
- Mechanical engineer
- Oculist
- Optometrist or optician
- Orthodontist
- Physiotherapist
- Public accountant
- Real estate broker, agent or salesperson
- Registered nurse
- Sales agency or agent
- Stockbroker

Surveyor
Veterinarian; veterinary hospital

- (2) Other financial, real estate or professional occupations not specifically classified under another section of this Part 3 and not otherwise taxed.
- B. It is the intent of this section to tax individually those persons practicing a profession who are members of a partnership, firm or corporation or who are employees thereof. In such cases, individually, gross receipts shall be measured by salary or commission, or both, as to employees; and the members of partnerships or firms shall be taxed only in the proportion that their respective shares in the partnership or firm bear to the total gross receipts.
- C. Every person engaging in short-term rentals as defined in Chapter 100, Land Development, Article II, Terminology, § 100-7, of this Code in the Town of Grottoes shall pay for the privilege an annual license tax as set forth in Chapter A171, Fees. [Added 2-12-2018]

§ 144-29. Fortune-tellers.

The license tax for any person who, for compensation, either directly or indirectly, through the sale of merchandise or otherwise, shall profess to tell fortunes, assume to act as a clairvoyant or to practice palmistry or phrenology shall be as set forth in Chapter A171, Fees. Such license shall not be abated or prorated. The license tax for which is here set out shall not be assignable. This section shall not apply to public theatrical performances.

§ 144-30. Peddlers. [Amended 7-8-1996; 5-11-2009]

- A. Any person who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the same or actually sell or barter the same shall be deemed a peddler. All persons who do not keep a regular place of business (whether it is a house or vacant lot or elsewhere), open all times in regular business hours and at the same place, who shall offer for sale goods, wares and merchandise, shall be deemed peddlers under this section. All persons who keep a regular place of business, open at all times in regular business hours and at the same place, who shall through their agents offer for sale or sell, and at the time of such offering for sale deliver, goods, wares and merchandise, shall also be deemed peddlers as above; but this section shall not apply to those who sell or offer for sale in person poultry, fish, oysters, game, vegetables, fruits or other family supplies of a perishable nature grown or produced by them and not purchased by them for sale; but a dairyperson who uses upon the streets of the Town one or more wagons may sell and deliver from his or her wagon or vehicle milk, butter, cream and eggs in Town without procuring a peddler's license.
- B. For the privilege of peddling or bartering in the Town, there is hereby imposed a license tax as set forth in Chapter A171, Fees. In addition to the tax imposed, the peddler must be registered with the Police Chief, by means of a Grottoes Police Department-conducted background check, prior to the issuance of the license.
- C. No license tax for a peddler under this section shall be prorated, and no license issued under this section shall be transferable.

- D. Every person licensed as a peddler, which shall include the need for independent contractors to be licensed separately, shall endorse his or her name on the license issued to him or her, and every vehicle used in peddling shall have conspicuously displayed thereon the name of the person using the same, together with his or her post office address.
- E. Nothing in this section shall be construed to require of any person a peddler's license for the privilege of selling or peddling farm products, wood or charcoal grown or produced by him or her.
- F. No peddler shall peddle for sale or sell or barter without a license. On conviction of any person of a violation of this section, the penalty shall be a fine as set forth in Chapter A171, Fees.
- G. Any person selling or offering to sell as a peddler shall exhibit his or her license, and upon his or her failure or refusal to do so, he or she shall be subject to the penalties for peddling without a license.
- H. When such activities are conducted on behalf of a nonprofit charitable, civic or religious organization, no fee will be charged.
- I. Should the Town Superintendent determine the need for the license to be revoked for any reason, the applicant will not be eligible for a refund of the tax paid.

§ 144-31. Repair, personal and business services. [Amended 7-8-1996; 8-13-2001]

Every person conducting or engaging in any of the following repair, personal or business service occupations, with a definite place of business in the Town, shall pay for the privilege a license tax as set forth in Chapter A171, Fees; provided, however, that the license tax imposed under this section shall in no event be less than a fee more particularly detailed in Chapter A171, Fees:

A. The business of:

- Automobile repair shops
- Automobile washing
- Automobile painting or upholstery shops
- Barbershops
- Billiard rooms and poolrooms
- Boardinghouses and rooming houses
- Bowling alleys
- Business and office machine repair shops
- Cleaning and pressing establishments
- Cold storage plants
- Delivery services
- Dry-cleaning establishments
- Furniture repairing and upholstery shops
- Hairdressing or manicuring establishments
- Homes for adults
- Hotels
- Junk dealers

- Laundries (self-service and other)
- Machine shops
- Moving-picture theaters
- Nursing homes
- Photographers
- Planing mills
- Printing shops
- Rent-alls (including car and truck rentals)
- Shoe repair shops
- Shoe shining parlors or stands
- Shooting galleries (see § 144-36)
- Sign painting shops
- Skating rinks
- Stables for the sale of livestock
- Taxicabs and other for-hire vehicles
- Taxidermists
- Tree surgeons, trimming
- Undertaking establishments

B. Other repair, personal and business service occupations not specifically classified under another section of this Part 3 and not otherwise taxed.

§ 144-31.1. Direct sellers. [Added 4-11-2011]

For direct sellers, should their total sales exceed \$4,000 per year, there shall be paid an annual license tax as set forth in Chapter A171, Fees. For direct sellers whose total sales are less than \$4,000 per year, such seller shall still be required to obtain a license for such business, but the tax rate shall not be assessed.

§ 144-32. Retail merchants. [Amended 8-13-2001]

Every person conducting or engaging in any of the following retail merchants' occupations, business or trades, with a definite place of business or office in the Town, shall pay for the privilege a license tax as set forth in Chapter A171, Fees; provided, however, that the license tax imposed by this section shall in no event be less than a fee more particularly described in Chapter A171, Fees:

A. The occupation, business or trade relating to:

- Antique dealer
- Appliance store
- Automobile accessories, tires and batteries
- Automobile sales, new and/or used
- Bakery
- Bicycle sales
- Books or stationery store
- Building materials
- Butcher shop or meat market

Clothing store
Coal dealer
Convenience store
Dairy products
Delicatessen
Department store
Drug store
Dry goods store
Farm equipment sales
Fish and seafood market
Floor coverings
Florist shop
Fruit store or vegetable market
Fuel dealer
Furniture store
Garden supplies
General store
Gifts, novelties or souvenirs
Grocery store
Hardware
Heating, plumbing or electrical equipment
Hogs, grain, seed or feed
Ice
Jewelry
Leather goods
Livestock dealer
Lumber goods
Motorcycle sales
Musical instruments and equipment
Office equipment and supplies
Optical supplies
Paint, glass or wallpaper
Photographic supplies and equipment
Restaurant, eating place or nightclub
Secondhand store
Service station
Shoe store
Soda fountain
Sporting goods
Tombstones
Tobacco dealers
Variety store

- B. Other retail merchants not specifically classified under another section of this Part 3 and not otherwise taxed.

§ 144-33. Telephone and telegraph companies. [Amended 8-13-2001]

The license tax on each company carrying on a telephone or telegraph business in Town shall be as set forth in Chapter A171, Fees, of such company accruing from business in the Town; provided, however, that long-distance telephone calls and telegraph messages to or from points without the state shall not be considered receipts of the business in the Town.

§ 144-34. Water or heat, light and power companies. [Amended 8-13-2001]

All persons, firms or corporations furnishing water for domestic, commercial and industrial consumption and all persons, firms or corporations furnishing heat, light or power by means of electric current or gas in the Town shall pay for the privilege an annual license tax as set forth in Chapter A171, Fees, of such enterprise or enterprises derived from the Town during the preceding fiscal year; excluding, however, such services furnished federal, state and local public authorities and sales for resale to other electric utilities.

§ 144-35. Wholesale merchants. [Amended 7-8-1996; 8-13-2001]

The license tax on each wholesale merchant with a place of business in the Town shall be as set forth in Chapter A171, Fees; provided, however, that this tax shall not be applicable to any manufacturer who sells goods, wares and merchandise at wholesale at the place of manufacture.

§ 144-36. Hobby horses; merry-go-rounds.

The license tax on hobby horses, merry-go-rounds, ocean waves or similar devices shall be as set forth in Chapter A171, Fees, except where the device in question is part of a carnival show or shows which pay a license as such.

§ 144-37. Shooting galleries.

The license tax on a shooting gallery shall be as set forth in Chapter A171, Fees. No license shall be issued for a shooting gallery unless the location therefor shall have been approved by the Mayor. Such location shall be named in the license.

§ 144-38. Photographers with no established place of business.

- A. Any person, persons, partnership or corporation having no regularly established place of business in this state upon which is paid a properly levied license tax who provides photographers' services consisting of the taking of pictures or the making of pictorial reproductions in this Town shall pay a license tax as set forth in Chapter A171, Fees, for the privilege therefor.
- B. Nothing in this section shall apply to amateur photographers who expose, develop and finish their own work and who do not part with the same for compensation or receive any compensation for performing any of the process of photography; nor to coin-operated photography machines; nor to photographers while in the course of their employment by newspapers, magazines or television stations.

Alcoholic Beverages

§ 144-39. Retailers and wholesalers.

The beverage license tax on retail sellers of alcoholic beverages shall be as set forth in Chapter A171, Fees. Further, every person selling alcoholic beverages wholesale, other than beer, shall be taxed under the provisions of § 144-35, and every person selling such beverage as retail shall be taxed under the provisions of § 144-32, according to the type of business involved. No license tax levied pursuant to this section shall exceed that authorized under § 4.1-233 of the Code of Virginia 1950, as amended.

§ 144-40. Retailers and wholesalers of beer not exceeding three point two percent alcohol.

Retailers and wholesalers of beer not exceeding 3.2% alcohol content shall be taxed under the provisions of § 144-35 and the case of wholesalers of § 144-32 in the case of the retailers. Restaurants, taverns, lunch counters and eating houses selling such beverages for on-premises consumption shall be taxed under the provisions of § 144-32. Compliance with or inclusion under any other section will not operate as an exemption from liability imposed by this section. No license tax levied pursuant to this section shall exceed that authorized under § 4.1-233 of the Code of Virginia 1950, as amended.⁵

ARTICLE VI Motor Vehicles

[Amended 3-10-1975; 8-2-1977; 8-8-1979; 5-5-1981; 8-10-1982; 2-14-1989; 12-12-1989; 5-14-1990;
3-21-1991; 7-8-1996; 7-9-2009; 11-8-2010]

§ 144-41. Definitions.

As used in this article, all terms such as "motor vehicle," "trailer" and "semitrailer" are as defined in Title 46.2 of the Code of Virginia.

§ 144-42. Determination of vehicle owner.

For the purpose of this Part 3, the owner of any motor vehicle, trailer or semitrailer shall be the person who holds the legal title to such vehicle, or has possession of such vehicle; provided, however, that in the event that a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right to purchase upon performance of the conditions stated in the agreement and with the immediate right of possession vested in the conditional vendee or lessee, or in the event that a mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee or mortgagor shall be deemed the owner thereof.

§ 144-43. County license fee assessed.

Pursuant to § 46.2-752 of the Virginia Code 1950, as amended, there is hereby assessed and charged a license fee, to be paid by the vehicle owner, on each motor vehicle, trailer and

⁵. Editor's Note: The following original parts of Article II of Title 16 of the 1970 Ordinances of the Town of Grottoes, which immediately followed this section, were deleted 7-8-1996: Part 4, Amusements; Part 5, Motels, Hotels, Nursing Homes, Boarding Houses, etc.; Part 6, Coin, etc. Operated Devices; Part 7, Contractors, etc.; Part 8, Hire Vehicles; Part 9, Junk Dealers and Canvassers; Part 10, Laundries, Cleaning and Pressing, etc.; Part 11, Manufacturers - Generally; and Part 12, Merchants, etc.

semitrailer for which a state license plate is required and which is normally garaged, stored, or parked in the Town of Grottoes. If it cannot be determined where the motor vehicle, trailer or semitrailer is normally garaged, stored or parked, the situs shall be the domicile of its owner. In the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile.

§ 144-44. Amount of license fee assessed.

License fees shall be assessed as more particularly detailed in Chapter A171, Fees, of the Code of the Town of Grottoes.

§ 144-45. License fee year; billing and collection.

The license fee assessed by this article shall be assessed for one year without apportionment, based on a calendar year. The license fee shall be paid no later than the preceding December 5 or the billing date established for any supplemental personal property tax assessment for personal property that is subject to this license fee. The license fees assessed by this article shall be billed with the personal property taxes assessed on motor vehicles and shall be collected by the Treasurer. All fees paid for personal property taxes and license fees shall be applied in the following order: license fee; personal property taxes; outstanding penalties and interest.

§ 144-46. Exemptions.

- A. The following vehicles are hereby exempt from the vehicle license fee:
- (1) Vehicles owned by volunteer rescue squads.
 - (2) Vehicles owned by volunteer fire departments.
 - (3) Vehicles owned or leased by active or auxiliary members of volunteer rescue squads who are in good standing.
 - (4) Vehicles owned or leased by active or auxiliary members of volunteer fire departments who are in good standing.
- B. The Town Treasurer may establish appropriate regulations and forms for determining the eligibility of any person for an exemption under this section. In order to qualify for the exemption, the motor vehicle owner must timely pay all personal property taxes for such vehicle in the year for which the exemption is sought. Volunteer rescue squads and fire departments must submit proof of ownership of vehicles and a list of all individuals who qualify for the exemptions listed in Subsection A(3) and (4) above to the Town Treasurer no later than September 1 of each year in order to qualify for these exemptions.

§ 144-47. Grace period for members of armed services.

Owners or lessees of motor vehicles, trailers, and semitrailers who have served outside of the United States in the armed services of the United States shall have a ninety-day grace period, beginning on the date they are no longer serving outside the United States, in which to comply with the requirements of this section. For purposes of this section, "the armed services of the

United States" include active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

§ 144-48. License for new residents.

No person who has purchased a local vehicle license, decal, or sticker for a vehicle in a prior county, city, or town and then moves to and garages his vehicle in the Town of Grottoes shall be required to purchase a license for the Town of Grottoes until the expiration date of the local license, decal, or sticker issued by the county, city, or town from which he moved.

§ 144-49. Violations and penalties; enforcement; administrative fee.

- A. It shall be unlawful for any person to operate a motor vehicle, trailer or semitrailer without having paid to the Town Treasurer all vehicle license fees due and owing under this chapter.
- B. Pursuant to § 46.2-752J of the Code of Virginia 1950, as amended, the Town Treasurer may, on the advice of the Town Manager, enter into an agreement with the Commissioner of the Commonwealth, Department of Motor Vehicles, whereby the Commissioner will refuse to issue or renew any vehicle registration of any applicant therefor who owes to the Town any vehicle license fees or delinquent tangible personal property tax or parking citations. In the event the Town is required to enter into such an agreement, the Town shall charge the owner of the motor vehicle an administrative fee, as more particularly detailed in Chapter A171, to cover the costs of such enforcement action. The Town shall be entitled to charge this administrative fee for all accounts which remain unpaid as of February 1 of the calendar year following the due date.
- C. The Town Treasurer may enforce the provisions of this chapter and collect the taxes imposed herein by any method permissible under the laws of the commonwealth.
- D. Any violation of this article shall constitute a misdemeanor, the penalty for which shall not exceed that of a Class 4 misdemeanor, and local law enforcement officers of the Town of Grottoes shall be entitled to issue citations, summonses, parking tickets, or uniform traffic summonses for violations, as authorized by § 46.2-752G of the Code of Virginia 1950, as amended from time to time.

§ 144-50. Disposition of revenue.

The revenue derived from all license fees imposed on motor vehicles, trailers or semitrailers shall be deposited in the Town general fund for general Town purposes.⁶

**Part 4
Additional Taxes**

ARTICLE VII
Meals Tax
[Adopted 5-13-2002]

⁶. Editor's Note: The following original parts of Article II of Title 16 of the 1970 Ordinances of the Town of Grottoes, which immediately followed this section, were deleted 7-8-1996; Part 14, Photographers; and Part 15, Physicians, etc.

§ 144-51. Definitions.

The words and phrases, when used in this article, shall have for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

CATER — The furnishing of food, beverages or both on the premises of another, for compensation.

COLLECTOR — The Treasurer or designee.

FOOD — All food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

FOOD ESTABLISHMENT — Any place in or from which food or food products are prepared, packaged, sold or distributed in the Town, including but not limited to, any restaurants, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, convenience store, movie theater; delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private, and shall include private property outside contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

MEAL — Any prepared food or drink which is offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

TREASURER — The Treasurer and any duly designated deputies, assistants, inspectors or other employees.

§ 144-52. Levy. [Amended 6-11-2007]

There is hereby imposed and levied by the Town on each person a tax as set forth in Chapter A171, Fees, on the amount paid for the meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not.

§ 144-53. Collection by seller.

Every person receiving any payment for food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department of Visually Handicapped and located on the property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes. All tax collection shall be deemed to be held in trust for the Town.

§ 144-54. Exemptions; limits and application.

A. The tax imposed under this article shall not be levied on factory-prepackaged candy, gum,

nuts and other items of essentially the same nature served for on- or off-premises consumption.

- B. The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:
- (1) Donuts, crackers, nabs, chips, cookies, and other factory-prepackaged items of essentially the same nature.
 - (2) Food sold in bulk. For the purposes of this provision, a "bulk sale" shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on-premise consumption (e.g., a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.
 - (3) Alcoholic and nonalcoholic beverages sold in factory-sealed containers.
 - (4) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.
 - (5) Any food or food product purchased for home consumption as defined in the Federal Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purpose of administering the tax levied hereunder, the following items, whether or not purchased for immediate consumption, are excluded from the said definition of food in the Federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages. This subsection shall not affect provisions set forth in Subsection D(3), (4) and (5) hereinbelow.
- C. A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.
- D. The tax imposed hereunder shall not be levied on the following purchases of food or beverages:
- (1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.
 - (2) Food and beverage sold by day-care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.
 - (3) Food or beverage for the use or consumption and which are paid for directly by the commonwealth, any political subdivision of the commonwealth or the United States.
 - (4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patient or residents thereof and the spouses and children of such persons.

- (5) Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or central locations.
- (6) Food or beverage sold on an occasional basis, not exceeding 12 times per calendar year, by a nonprofit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organizations exclusively for nonprofit educational, charitable, benevolent or religious purposes.
- (7) Food and beverage sold through vending machines.

§ 144-55. Gratuities and service charges.

Where a purchaser provides a gratuity for an employee of a seller, and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in the latter case, the full amount of the gratuity is turned over to the employee by the seller, and required to be paid by the purchaser, as a part of the selling price of the food and beverages and is subject to the tax imposed by this article.

§ 144-56. Report of taxes collected; remittance; preservation of records.

- A. It shall be the duty of every person required by this article to pay to the Town the taxes imposed by this article to make a report thereof setting forth such information as the Treasurer may prescribe and require, including all purchases taxable under this article, the amount charged to the purchaser for each such purchase, the date thereof the taxes collected thereon and the amount of tax required to be collected by this article.
- B. Reports and tax payments shall be made monthly on or before the following 15th of the month.
- C. Further, such person shall maintain records supporting the reports required by Subsection A of this section. Such records shall be kept and preserved for a period of five years. The Treasurer or his duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

§ 144-57. Violations and penalties.

- A. Any person willfully failing or refusing to file a return as required under this article shall, upon conviction thereof, be guilty of a Class 1 misdemeanor except that any person failing to file such a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000 or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a Class 1 misdemeanor.
- B. Except as provided in Subsection A above, any corporate or partnership officer, as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for, or pay

over the meals tax imposed under this article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.

- C. Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this article.

§ 144-58. Rules and regulations.

The Treasurer is authorized but not required to adopt rules and regulations not inconsistent with the provisions of this article for the purpose of carrying out and enforcing the payment, collection, and remittance of the tax levied by this article. A copy of those rules and regulations shall be on file and available for public examination in the Treasurer's office. Failure or refusal to comply with any rules and regulations promulgated under this section shall be deemed a violation of this article.

ARTICLE VIII
Allocation of Personal Property Tax Relief
[Adopted 4-10-2005]

§ 144-59. Purpose; definitions; relation to other ordinances.

- A. The purpose of this article is to provide for the implementation of the changes to the Personal Property Tax Relief Act of 1998 (PPTRA) effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.
- B. Terms used in this article that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Virginia Code § 58.1-3523, as amended.
- C. To the extent that the provisions of this article conflict with any prior article or provision of the Town Code, this article shall control.

§ 144-60. Method of computing and reflecting tax relief.

- A. For tax years commencing in 2006, the Town of Grottoes adopts the provisions of Item 503.E of the Acts of Assembly 2005, Chapter 951, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for PPTRA and the reporting of such specific dollar relief on the tax bill.
- B. Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

§ 144-61. Allocation of relief among taxpayers.

- A. Allocation of PPTRA relief shall be provided in accordance with the general provisions of this article as implemented by the specific provisions of the Town of Grottoes' annual

budget relating to PPTRA relief

- B. Relief shall be allocated in such as manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of \$1,000 or less.
- C. Relief with respect to qualifying vehicles with assessed values of more than \$1,000 shall be provided at a percentage, annually fixed and applied to the first \$20,000 in value of each such qualifying vehicle, that is estimated fully to use all available state PPTRA relief. The percentage shall be established annually as a part of the adopted budget for the Town of Grottoes.

§ 144-62. Transitional provisions.

- A. Pursuant to authority conferred in Item 503.D of the Acts of Assembly 2005, Chapter 51, the Town Treasurer is authorized to issue a supplemental personal property tax bill in the amount of 100% of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on September 1, 2006, or such date as state funds for reimbursement of the state share of such bill have become unavailable, whichever earlier occurs.
- B. Penalty and interest with respect to bills issued pursuant to Subsection A of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in the Town Code, § 144-3B.

ARTICLE IX
Cigarette Tax
[Adopted 6-11-2012]

§ 144-63. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section.

CARTON — Any container, regardless of material used in its construction, in which 10 packages of 20 cigarettes or eight packs of 25 cigarettes are placed.

CIGARETTE — Any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (ii) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (i) of this definition. The term "cigarette" includes "roll-your-own" tobacco, which means any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," 0.09 ounce of "roll-your-own" tobacco shall constitute one individual "cigarette."

DEALER — Shall mean and include every manufacturer's representative, wholesaler, retailer, vending machine operator, public warehouseman or other person who shall sell, receive, store, possess, distribute or transport cigarettes within or into the Town.

PACKAGE — Shall mean and include any container, regardless of the material used in its construction in which separate cigarettes are placed without such cigarettes being placed into any container within the package. Packages are those containers of cigarettes from which they are consumed by their ultimate user. Ordinarily a package contains 20 cigarettes; however, "package" includes those containers in which fewer or more than 20 cigarettes are placed.

PERSON — Shall mean and include any individual, firm, unincorporated association, company, corporation, joint stock company, group, agency, syndicate, trust or trustee, receiver, fiduciary, partnership and conservator. The word "person" as applied to a partnership, unincorporated association or other joint venture means the partners or members thereof, and as applied to a corporation shall include all the officers and directors thereof.

PLACE OF BUSINESS — Shall mean and include any place where cigarettes are sold, placed, stored, offered for sale or displayed for sale or where cigarettes are brought or kept for the purpose of sale, consumption or distribution, including vending machines, by a dealer within the Town.

REGISTERED AGENT — Shall mean and include every dealer and other person who shall be required to report and collect the tax on cigarettes under the provisions of this article.

RETAIL DEALER — Shall mean and include every person who, in the usual course of business, purchases or receives cigarettes from any source whatsoever for the purpose of sale within the Town to the ultimate consumer; or any person who, in the usual course of business, owns, leases, or otherwise operates within his own place of business one or more cigarette vending machines for the purpose of sale within the Town to the ultimate consumer; or any person who, in any manner, buys, sells, stores, transfers, or deals in cigarettes for the purpose of sale within the Town to the ultimate consumer, who is not licensed as a wholesaler, or vending machine operator.

SALE or SELL — Shall mean and include every act or transaction, regardless of the method or means employed, including barter, exchange, or the use of vending machines or other mechanical devices or a criminal or tortuous act whereby either ownership or possession, or both, of any cigarettes shall be transferred within the Town from a dealer as herein defined to any other person for a consideration.

STAMP — A small gummed piece of paper or decal used to evidence provision for payment of the tax as authorized by the Board required to be affixed to every package of cigarettes sold or used within the Town.

STORE or STORAGE — Shall mean and include the keeping or retention of cigarettes in this Town for any purpose except sale in the regular course of business.

TOWN — Town of Grottoes, Virginia.

USE — Shall mean and include the exercise of any right or power over any cigarettes or packages of cigarettes incident to the ownership or possession of those cigarettes or packages of cigarettes, including any transaction where possession is given or received or otherwise

transferred, other than a sale.

USER — Any person who exercises any right or power over any cigarettes or packages of cigarettes subject to the provisions of this article incident to the ownership or possession of those cigarettes or packages of cigarettes or any transaction where possession is given or received or otherwise transferred, other than a sale.

§ 144-64. Levy and rate.

In addition to all other taxes of every kind now or hereinafter imposed by law, there is hereby levied and imposed by the Town upon every person who sells or uses cigarettes within the Town from and after the effective date of this article an excise tax equivalent to \$0.10 for each package of cigarettes. The tax shall be paid and collected in the manner and at the time hereinafter prescribed; provided that the tax payable for each cigarette package sold or used within the Town shall be paid but once. The tax hereby levied shall not apply to free distribution of sample cigarettes in packages containing five or fewer cigarettes.

§ 144-65. Delegation of administration.

- A. The Town Treasurer is hereby delegated the authority to administer all provisions of this article.
- B. The Town Treasurer is authorized to promulgate such rules and regulations as it deems appropriate, governing:
 - (1) The display of cigarette stamps in vending machines;
 - (2) The placement of tax liens against property of taxpayers hereunder;
 - (3) The extending of varying discount rates;
 - (4) The establishing of different classes of taxpayers or those required to collect and remit the tax;
 - (5) The requirements concerning keeping and production of records;
 - (6) The administrative and jeopardy assessment of tax where reasonably justified;
 - (7) The required notice to authorities of sale of a taxpayer's business;
 - (8) The audit requirements and authority;
 - (9) The criteria for authority of distributors and others to possess untaxed cigarettes;
 - (10) Any and all powers granted by the provisions of the Code of Virginia of 1950, as amended, or necessarily implied therefrom.
- C. The Town Treasurer is authorized to:
 - (1) Issue a common revenue stamp;
 - (2) Employ legal counsel;
 - (3) Bring appropriate court action in its own name where necessary to enforce payment

of the cigarette taxes or penalties;

- (4) Provide cigarette tax agents and the necessary enforcement supplies and equipment needed to effectively enforce the cigarette tax ordinance.

§ 144-66. Methods of collection; late fees; penalties and interest.

- A. Any tax imposed by this article shall be evidenced by the use of a stamp and shall be paid by each dealer or other person liable for the tax under a reporting method deemed by the Town to carry out the provisions of this article. The stamps shall be affixed in such a manner that their removal will require continued application of water or steam. Each dealer or other person liable for the tax is hereby required, and it shall be his duty, to collect and pay the tax and report separately for packages of cigarettes on forms prescribed for this purpose by the Town:
 - (1) The quantity of Town-stamped cigarettes sold or delivered to:
 - (a) Each registered agent appointed by the Town for which no tax was collected;
 - (b) Each manufacturer's representative; and
 - (c) Each separate person and place of business within the Town during the preceding calendar or fiscal month; and
 - (2) The quantity of Town stamps on hand, both affixed and unaffixed, on the first day and the last day of the preceding calendar or fiscal month and the quantity of Town stamps or Town-stamped cigarettes received during the preceding calendar or fiscal month; and
 - (3) The quantity of cigarettes on hand to which the Town stamp had not been affixed on the first and last day of the preceding calendar or fiscal month and the quantity of cigarettes received during the preceding calendar or fiscal month to which the Town stamp had not been affixed; and
 - (4) Such further information as the administrator for the Town may require for the proper administration and enforcement of this article for the determination of the exact number of cigarettes in the possession of each dealer or user.
- B. Each dealer or other person liable for the tax shall file such reports with the Town and pay the tax due to the Town between the first and 20th day after the close of each calendar or fiscal month, and shall furnish a copy of any cigarette tax reports submitted to the Virginia Department of Taxation for the previous month.
- C. When, upon examination and audit of any invoices, records, books, canceled checks or other memoranda touching on the purchase, sale, receipt, storage or possession of tobacco products taxed herein, any dealer or other person liable for the tax is unable to furnish evidence to the Town of sufficient tax payments and stamp purchases to cover cigarettes which were sold, used, stored, received, purchased or possessed by him, the prima facie presumption shall arise that such cigarettes were received, sold, used, stored, purchased or possessed by him unpaid and impose a penalty of 10% per month and interest at the rate of 3/4 of 1% per month of the gross tax due.

- D. When any dealer or other person liable for the tax files a false or fraudulent report or fails to file a report or fails to perform any act or performs any act to evade payment of the tax, the Town shall administratively assess the tax due and unpaid and impose a penalty of 50% and interest at the rate of 3/4 of 1% per month of the gross tax due.
- E. The dealer or other person liable for the tax shall be notified by certified mail of such deficiency, and such tax, penalty and interest assessed shall be due and payable within 10 days after notice of such deficiency has been issued. Every dealer or other person liable for the tax shall examine each package of cigarettes to ensure that the Town stamp has been affixed thereto prior to offering them for sale.
- F. Any dealer or other person liable for the tax who shall receive cigarettes not bearing the Town stamp shall, within one hour of receipt of such cigarettes, commence and with all reasonable diligence continue to affix the Town stamp to each and every package of cigarettes until all unstamped packages of cigarettes have been stamped and before offering such cigarettes for sale. Any dealer or other person liable for the tax who has notified the Town that he is engaged in interstate or intrastate business shall be permitted to set aside such part of his stock as may be legally kept for the conduct of such interstate or intrastate business (that is, cigarettes held for sale outside the jurisdiction of the Town) without affixing the stamps required by this article. Any such interstate or intrastate stock shall be kept entirely separate and apart from the Town-stamped stock, in such a manner as to prevent the commingling of the interstate or intrastate stock with the Town stock. Any dealer or other person liable for the tax found to have had untaxed cigarettes which have been lost, whether by negligence, theft, or any other unaccountable loss, shall be liable for and shall pay the tax due thereon.
- G. It shall also be the duty of each dealer or other person liable for the tax, and he is hereby required, to maintain and keep for a period of three years, not including the current calendar year, records of cigarettes received, sold, stored, possessed, transferred or handled by him in any manner whatsoever, whether the same were stamped or unstamped, to make all such records available for audit, inspection and examination and to make available at all reasonable times the means, facilities and opportunity for making such audit, inspection or examination upon demand of the Town.

§ 144-67. Registered agents.

- A. Any dealer or other person liable for the tax who shall sell, use, store, possess, distribute or transport cigarettes within or into the Town shall first make application to the Town to qualify as a registered agent. Such application blank, which shall be supplied upon request, shall require such information relative to the nature of the business engaged in by said applicant as the Town deems necessary. Any applicant whose place of business is outside the Town shall automatically, by filing his application, submit himself to the Town's legal jurisdiction and appoint the Town Treasurer as his agent for any service of lawful process. Upon receipt of the properly completed application, the Town shall issue to said applicant a permit to qualify him as a registered agent to purchase, sell, use, store, possess, distribute or transport within or into the Town, Town-stamped cigarettes.
- B. After adoption of this article, dealers or other persons liable for that tax who shall sell, use,

store, possess, distribute or transport tobacco products within or into the Town shall be allowed 30 days to become qualified as a registered agent.

§ 144-68. Notice of intention by retail dealers.

- A. Retail dealers who shall sell, offer for sale, store, possess, distribute, purchase, receive or transport cigarettes in or into the Town shall notify the Town, in writing, of the supplier of such cigarettes and the name and address and the Virginia retail sales and use certificate of registration number for each separate place of business. Possession of a Virginia state retail sales and use tax certificate and a Virginia state retail tobacco license and, where applicable, a retail business license issued by the Town for each separate place of business by a retail dealer shall be considered sufficient written notification to the Town.
- B. No retail dealer, as defined herein, who shall have complied with the provisions of this article and who purchases only tax-paid Town-stamped cigarettes for each separate place of business shall be required to qualify as a registered agent.

§ 144-69. Sale of cigarettes in vending machines; contraband.

- A. Any cigarettes placed in any coin-operated vending machine shall be presumed for sale within the Town. Any vending machine located within the Town containing cigarettes placed so as not to allow visual inspection of the Town stamp through the viewing area as provided for the vending machine manufacturer shall be in violation of this article.
- B. Any cigarettes, coin-operated vending machines, counterfeit stamps, or other property found in violation of this article shall be declared contraband goods and may be seized by the Town and sold pursuant to § 144-72. In addition to any tax due, the dealer or other person liable for the tax possessing such untaxed cigarettes shall be subject to civil and criminal penalties herein provided.
- C. In lieu of seizure, the Town may seal such vending machines to prevent continued illegal sale or removal of such cigarettes. The removal of such seal from a vending machine by any unauthorized person shall be a violation of this article. Nothing in this article shall prevent the seizure of any vending machine at any time after it is sealed.
- D. All cigarette vending machines shall be plainly marked with the name, address and telephone number of the owner of said machine.

§ 144-70. Illegal acts.

- A. It shall be unlawful and a violation of the article for any dealer or other person liable for the tax:
 - (1) To perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article or of any part thereof, or to fail or refuse to perform any of the duties imposed under him under the provisions of the article or to fail or refuse to obey any lawful order which may be issued under this article; or
 - (2) To falsely or fraudulently make, or cause to be made, any invoices or reports, or to falsely or fraudulently forge, alter or counterfeit any stamp, or to procure or cause to

be made, forged, altered or counterfeited any such stamp, or knowingly and willfully to alter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or stamps; or

- (3) To sell, offer for sale, or authorize or approve the sale of any cigarettes upon which the Town stamp has not been affixed; or
- (4) To possess, store, use, authorize or approve the possession, storage or use of any cigarettes in quantities of more than 60 packages upon which the Town stamp has not been affixed; or
- (5) To transport, authorize or approve the transportation of any cigarettes in quantities of more than 60 packages into or within the Town upon which the Town stamp has not been affixed, if they are:
 - (a) Not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and the consignee or purchaser and the brands and quantity of cigarettes transported; or
 - (b) Accompanied by a bill of lading or other document which is false or fraudulent in whole or part; or
 - (c) Accompanied by a bill of lading or other document indicating:
 - [1] A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such tobacco products on which the taxes imposed by such other jurisdiction have not been paid unless the tax on the jurisdiction of destination has been paid and said cigarettes bear the tax stamps of the jurisdiction; or
 - [2] A consignee or purchaser in the Commonwealth of Virginia but outside the taxing jurisdiction who does not possess a Virginia sales and use tax certificate, a Virginia retail tobacco license and, where applicable, or a business license and a retail tobacco license issued by the local jurisdiction of destination; or
- (6) To reuse or refill with cigarettes any package from which cigarettes have been removed, for which the tax imposed has been theretofore paid; or
- (7) To remove from any package any stamp with intent to use or cause the same to be used after same has already been used or to buy, sell, or offer for sale or give away any used, removed, altered or restored stamps to any person, or to reuse any stamp which had therefore been used for evidence of the payment of any tax prescribed by this article or to sell, or offer to sell, any stamp provided for herein.

§ 144-71. Jeopardy assessment.

If the Town determines that the collection of any tax or any amount of tax required to be collected and paid under this article will be jeopardized by delay, the Town shall make an assessment of the tax or amount of tax required to be collected and shall mail or issue a notice of

such assessment to the taxpayer together with a demand for immediate payment of the tax or of the deficiency in tax declared to be in jeopardy, including penalties and interest. In the case of a current period for which the tax is in jeopardy, the Town may declare the taxable period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer together with a demand for immediate payment of the tax based on the period declared terminated, and such tax shall be immediately due and payable, whether or not the terms otherwise allowed by this article for filing a return and paying the tax have expired.

§ 144-72. Erroneous assessment: notices and hearings in event of sealing of vending machines or seizure of contraband property.

- A. Any person assessed by the Town with a cigarette tax, penalties and interest or any person whose cigarettes, vending machines and other property have been sealed or seized under processes of this article who has been aggrieved by such assessment, seizure, or sealing may file a request for a hearing before the Town for a correction of such assessment and the return of such property seized or sealed.
- B. Where holders of property interest in cigarettes, vending machines or other property known at time of seizure or sealing, notice of seizure or sealing shall be sent to them by certified mail within 24 hours. Where such holders of property interests are unknown at time of seizure or sealing, it shall be sufficient notice to such unknown interest holders to post such notice to a door or wall of the room or building which contained such seized or sealed property. Any such notice of seizure or sealing shall include procedures for an administrative hearing for return of such property seized or sealed as well as affirmative defenses set forth in this section which may be asserted.
- C. Such hearing shall be requested within 10 days of the notice of such assessment, seizure, or sealing and shall set forth the reasons why said tax, penalties and interest and cigarettes, vending machines or other property should be returned or released. Within five days after receipt of such hearing request, the Town shall notify the petitioner by certified mail of a date and time for the informal presentation of evidence at a hearing to be held within 15 days of the date notification is mailed. Any such request for hearing shall be denied if the assessed tax, penalties and interest have not been paid as required or if the request is received more than 10 days from first notice to the petitioner of such seizure or sealing. Within five days after the hearing, the Town shall notify the petitioner, by certified mail, whether his request for a correction has been granted or refused.
- D. Appropriate relief shall be given by the Town if it is proven by the preponderance of the evidence that the illegal sale or use of such seized cigarettes or vending machine or other property was not intentional on the part of the petitioner, and that said seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent at the time said cigarettes, vending machines or other property were seized or sealed or that the petitioner was authorized to possess such untaxed cigarettes. If the Town is satisfied that the tax was erroneously assessed, it shall refund the amount erroneously assessed together with any interest and penalties paid thereon and shall return any cigarettes, vending machines or other property seized or sealed to the petitioner. Any petitioner who is unsatisfied with the written decision of the Town may, within 30 days of the date of said

decision, appeal such decision to the appropriate court in the jurisdiction where the seizure or sealing occurred.

§ 144-73. Disposal of seized property.

Any seized and confiscated cigarettes, vending machines or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the Town after any petitioner has exhausted all administrative appeal procedures. No credit from any sale of cigarettes, vending machines, or other property seized shall be allowed toward any tax and penalties assessed.

§ 144-74. Extensions.

The Town, upon a finding of good cause, may grant an extension of time to file a tax report upon written application therefor, until the end of the calendar or fiscal month in which any tax report is due hereunder, or for a period not exceeding 30 days. In no case shall a request for an extension of time to file a tax report be granted by the Town when such request is not received within the due date for filing such tax report. No interest or penalty shall be charged, assessed or collected by reason of the granting of such an extension. Where such extension is granted beyond the end of the calendar or fiscal month in which any tax report is due hereunder, interest on the tax at a rate of 3/4 of 1% per month shall be charged.

§ 144-75. Penalty for violation of article.

Any persons violating any of the provisions of this article shall be guilty of a Class 1 misdemeanor in addition to all other penalties and interest provided above.

§ 144-76. Each violation a separate offense.

The sale of any quantity or the use, possession, storage or transportation of more than 60 packages of cigarettes upon which the Town stamp has not been affixed shall be and constitute a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.

§ 144-77. Severability.

If any section, phrase, or part of this article should for any reason be held invalid by a court of competent jurisdiction, such decision shall not affect the remainder of the article, and every remaining section, clause, phrase or part thereof shall continue in full force and effect.

ARTICLE X
Transient Occupancy Taxes
[Adopted 2-12-2018]

§ 144-78. Tax imposed.

A transient occupancy tax is hereby levied on all short-term rentals as defined in Chapter 100, Land Development, Article II, Terminology, § 100-7, located within the boundaries of the Town of Grottoes, Virginia, at the rate set forth in Chapter A171, Fees.

§ 144-79. Collection by owner.

Every person receiving any payments for short-term rentals with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such short-term rental at the time payment for such short-term rental is made. All tax collection shall be deemed to be held in trust for the Town.

§ 144-80. Report of taxes collected; remittance; preservation of records.

- A. It shall be the duty of every person required by this article to pay to the Town the taxes imposed by this article to make a report thereof setting forth such information as the Treasurer may prescribe and require, including all purchases taxable under this article, the amount charged to the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article.
- B. Reports and tax payments shall be made monthly on or before the following 15th of the month.
- C. Further, such person shall maintain records supporting the reports required by Subsection A of this section. Such records shall be kept and preserved for a period of five years. The Treasurer or his duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

§ 144-81. Interest.

If any person shall fail or refuse to remit to the Treasurer the tax required to be collected and paid within the time and in the amount specified in this article, there shall be added to such tax by the Treasurer a penalty of 5%. Interest shall accrue on taxes that remain due and delinquent for a period of one month from the date same are due and payable, at the rate of 1.5% per month.

§ 144-82. Violations and penalties.

- A. Any person willfully failing or refusing to file a return as required under this article shall, upon conviction thereof, be guilty of a Class 1 misdemeanor except that any person failing to file such a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000 or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a Class 1 misdemeanor.
- B. Except as provided in Subsection A above, any corporate or partnership officer, as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for, or pay over the transient occupancy tax imposed under this article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.
- C. Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection

or remittance of the tax as provided in this article.

§ 144-83. Rules and regulations.

The Treasurer is authorized, but not required, to adopt rules and regulations not inconsistent with the provisions of this article for the purpose of carrying out and enforcing the payment, collection, and remittance of the tax levied by this article. A copy of those rules and regulations shall be on file and available for public examination in the Treasurer's office. Failure or refusal to comply with any rules and regulations promulgated under this section shall be deemed a violation of this article.