



Before the  
**Colonial Beach Town Council**  
Held at  
Colonial Beach Town Center  
22 Washington Avenue, Colonial Beach, VA 22443

**WEDNESDAY JANUARY 19, 2022 at 6:00 PM**  
**TOWN COUNCIL REGULAR MEETING**  
**AGENDA**

- 1. Call To Order**
- 2. Moment of Silence and Pledge of Allegiance**
- 3. Roll Call of Members**
- 4. Approval of the Agenda**
- 5. Consent Agenda (TAB A)**
  - a. Approval of Minutes
  - b. Resolution #03-22, Amends FY 21-22 Budget, SRO Funds
  - c. Resolution #04-22, Amends FY 21-22 Budget, Water & Sewer Funds
- 6. Council Member Announcements**
  - a. Years of Service Awards
    - i. 10 Years, Christopher Ruchty, Deputy Director of Public Works
    - ii. 5 Years, Karl Frederick, Wastewater Treatment Operator, Class III
- 7. Town Manager Update**
- 8. Presentations**
  - a. **Town-wide Inflow & Infiltration (I&I) Analysis**, Dewberry& Associates
  - b. **Westmoreland County**, Tim Trivett, District V County Supervisor
  - c. **Colonial Beach Schools**, Dr. Clint Mitchell, Superintendent
  - d. **Colonial Beach Police Department Monthly Report**, Interim Chief Kenny Miller
- 9. Citizen Input (3 minutes allowed, per citizen)**

## 10. New Business

- a. **Resolution #05-22, CIP Funding Request – Town Pier**, Rob Murphy, Director of Public Works and India Adams-Jacobs, Town Manager **(TAB B)**
- b. **Resolution #06-22, Adoption on 2022 Bylaws and Rules of Procedure (TAB C)**
- c. **PUBLIC HEARING, Ordinance No. 721, Amends Ch. 13.1 Licenses, Article I. Business and Occupational Licenses**, Lisa Okes, Chief Financial Officer **(TAB D)**
  - i. Citizen Input
  - ii. Council Action
- d. **2<sup>nd</sup> Quarter Financial Report**, Lisa Okes, Chief Financial Officer
- e. **Resolution #07-22, Authorizes Town Manager to Enter Agreement with Department of Criminal Justice Services to Accept Grant Funds**, J.C. LaRiviere, Grant Writer **(TAB E)**
- f. **Resolution #08-22, Authorizes Town Manager to Enter Agreement with Community Flood Preparedness Fund to Develop Town of Colonial Beach Resilience Plan**, J.C. LaRiviere, Grant Writer **(TAB F)**

## 11. Closed Meeting

- a. Pursuant to VA Code § 2.2-3711(A)(1) discussion and consideration of prospective candidates for employment and appointment for specific public officers, appointees, or employees of the Town of Colonial Beach, including the police department and possibly other departments.
- b. Pursuant to VA Code § 2.2- 3711 (A)(1) for discussion of prospective candidates for appointment to vacant seat on council.
- c. Pursuant to Virginia Code § 2.2-3711 (A)(8) for consultation with legal counsemployed regarding specific matters requiring legal advice from counsel for development and real estate agreement contract analysis

## 12. Adjournment

# Tab A



**TO:** Town Council  
**FROM:** Lisa M. Okes, CFO  
**COPY:** India Adams-Jacobs, Town Manager  
**SUBJECT:** School Resources Officer Grant Proceeds  
**DATE:** January 5, 2022

**SUMMARY:**

The Town has received \$14,296.92 in grant proceeds from the Department of Criminal Justice Services (DCJS) for the FY20 School Resource Officer Grant. These proceeds are intended to cover the salary of the SRO provided to Colonial Beach Schools. Therefore, staff is requesting that Town Council approve the appropriation and amendment of the FY 2021-2022 General Fund budget for these proceeds.

**BACKGROUND:**

The Town was awarded a School Resource Officer Grant from the Department of Criminal Justice Services (DCJS) in June 2019 for the period of 07/01/2019 through 06/30/2020. All required reports and financial data were filed with DCJS. We received the 3<sup>rd</sup> quarter reimbursement from DCJS in the amount of \$14,296.92.

**ISSUE:**

These grant funds must be adopted and appropriated in the FY21-22 budget.

**ALTERNATIVES:**

There are no alternatives available.

**FISCAL IMPACT:**

The FY 2021-2022 General Fund budget will increase by \$14,296.92.

**RECOMMENDATION:**

Staff recommends that council appropriate and amend the FY 2021-2022 General Fund budget for the \$14,296.92 of SRO grant proceeds received.

COUNCIL PAPER

At the work session held on January 19, 2022 at the Colonial Beach Town Hall

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**RESOLUTION # 03-22, Amends and Appropriates Fiscal Year 2021-2022 Budget, General Fund**

**WHEREAS**, the Colonial Beach Town Council finds it necessary to make the following amendments to the Fiscal Year 2021-2022 budget.

**WHEREAS**, the Town received \$14,296.92 in grant proceeds from the Department of Criminal Justice Services for the FY20 School Resources Officer Grant Program and;

**WHEREAS**, these funds are to reimburse the salary of the School Resources Officer provided to the Colonial Beach Schools;

**NOW THEREFORE BE IT RESOLVED**, that the Town Council at its work session meeting held on Wednesday, January 5, 2022 hereby adopts and appropriates an amendment to the Fiscal Year 2021-2022 budget as follows:

	FY 2021-22 Adopted	FY 2021-22 Revised	Change
General Fund	\$8,635,213.34	\$8,649,510.26	+\$14,296.92

Breakdown of revenue and expenditure allocations:

<u>General Fund</u>	
DB 100-031100-1139 – Salaries & Wages (PD)	\$14,296.92
CR 100-024010-0005 – SRO Grant Proceeds	\$14,296.92

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**TO:** Town Council  
**FROM:** Lisa M. Okes, CFO  
**COPY:** India Adams-Jacobs, Town Manager  
**SUBJECT:** Additional Revenue – Water & Sewer  
**DATE:** January 19, 2022

**SUMMARY:**

The Town has received additional unbudgeted revenue for Water and Sewer connection fees, producing a revenue surplus. Public Works needs additional funding in their budget to purchase additional supplies to install the requested new connections. The revenue surplus will offset the additional expenses for these purchases. Therefore, staff is requesting that Town Council approve the appropriation and amendment of the FY 2021-2022 Water and Sewer Fund budgets for the amounts of revenue surplus.

**BACKGROUND:**

The Water and Sewer Funds have surplus revenue from collection of new connection fees. For Public Works to install requested new connections, they will need to purchase related supplies and will experience additional unanticipated expenses. The surplus revenue collected to date will offset these additional expenses.

**ISSUE:**

Cost of unanticipated supplies to install additional new water and sewer connections will produce a budget deficit in the Water and Sewer Funds.

**ALTERNATIVES:**

Allow the Water and Sewer Funds to have a budget deficit.

**FISCAL IMPACT:**

The FY 2021-2022 Sewer Fund budget will increase by \$45,000.00 and the FY 2021-2022 Water Fund budget will increase by \$31,500.00.

**RECOMMENDATION:**

Staff recommends that council appropriate and amend the FY 2021-2022 Sewer Fund budget for \$45,000.00 and the Water Fund budget for \$31,500.00.

COUNCIL PAPER

At the regular meeting held on January 19, 2022 at the Colonial Beach Town Hall

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**RESOLUTION # 04-22, Amends and Appropriates Fiscal Year 2021-2022 Budget, Water and Sewer Funds**

**WHEREAS**, the Colonial Beach Town Council finds it necessary to make the following amendments to the Fiscal Year 2021-2022 budget.

**WHEREAS**, the Town received additional unbudgeted revenue of \$31,500.00 for water connections and \$45,000.00 for sewer connections and;

**WHEREAS**, additional supplies are needed for Public Works to install the requested new connections;

**NOW THEREFORE BE IT RESOLVED**, that the Town Council at its regular meeting held on Wednesday, January 19, 2022 hereby adopts and appropriates an amendment to the Fiscal Year 2021-2022 budget as follows:

	FY 2021-22 Adopted	FY 2021-22 Revised	Change
Water Fund	\$1,203,881.98	\$1,235,381.98	+\$31,500.00
Sewer Fund	\$2,503,933.22	\$2,548,933.22	+\$45,000.00

Breakdown of revenue and expenditure allocations:

Water Fund

DB 503-044000-8011 – Water Line – New Connections \$31,500.00  
CR 503-016080-0005 – New Water Connection Fees \$31,500.00

Sewer Fund

DB 501-045000-8012 – Sewer Line – New Connections \$45,000.00  
CR 503-016080-0006 – Connection Fees – Sewer \$45,000.00

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# Tab B



**TO:** The Honorable Mayor and Town Council  
**FROM:** India Adams-Jacobs, Town Manager  
**COPY:** Rob Murphy; Director of Public Works/DTM  
**SUBJECT:** CIP Funding Request- Town Pier  
**DATE:** January 19, 2022

**SUMMARY:**

The purpose of this memo is to request that Council allocate \$100,000 from the Capital Improvement Fund to repair the Town's, Municipal Pier. The pier is closed as it is currently unsafe for pedestrian use. Town staff recommends that Town Council take immediate action to allocate funding to repair the pier so that repairs can occur before the tourist season begins.

**BACKGROUND:**

On October 29th, 2021, the Municipal Pier suffered significant damage during an extreme weather event.

**ISSUE:**

The issue is whether to allocate \$100,000 from the Town Reserve Fund to repair the Municipal Pier.

**ALTERNATIVES:**

**Option one:**

Town Council could direct the Town Manager to identify another source of funding.

**FISCAL IMPACT:**

Cost projections for the necessary repairs are approximately \$88,000 based on a quote received by the Director of Public Works. However, the Town staff recommends allocating \$100,000 for the total project cost to include contingencies and the current market for construction materials and contractors.

**RECOMMENDATION:**

Staff recommends immediate action from Town Council to allocate \$100,000 from the Capital Improvement fund and authorize the Town Manager to enter a contract with a contractor to repair the Municipal Pier.

COUNCIL PAPER

At the meeting held on January 19, 2022 at the Colonial Beach Town Hall

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**RESOLUTION # 05-22, Amends and Appropriates Fiscal Year 2021-2022 Budget, General Fund & Capital Improvement Fund Budget**

**WHEREAS**, the Colonial Beach Town Council determined during the Special Meeting on January 14, 2022, that the Town Pier is in need of emergency repairs, estimated to cost \$100,000.00, and

**WHEREAS**, it is necessary to begin these repairs right away in order to have the Town Pier ready by the spring tourist season, and

**NOW THEREFORE BE IT RESOLVED**, that the Town Council at its regular meeting held on Wednesday, January 19, 2022, hereby adopts and appropriates an amendment to the Fiscal Year 2021-2022 budget as follows:

	FY 2021-22 Adopted	FY 2021-22 Revised	Change
General Fund	\$8,649,510.26	\$8,749,510.26	+\$100,000
Capital Projects Fund	\$537,000.00	\$637,000.00	+\$100,000

Breakdown of revenue and expenditure allocations:

General Fund

DB 100-043100-8212 – Capital Projects

CR 100-090000-0007 – Transfers from Capital Projects Fund

Capital Projects Fund

DB 330-099999-0100 – Transfer to General Fund

CR 330-099999-1000 – Carry-Over From Prior Years

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# Tab C

**COUNCIL PAPER**

**At a meeting held on January 19, 2022 at Colonial Beach Town Center**

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**Resolution #06-22, Adoption of 2022 Bylaws and Rules of Procedure**

**BE IT RESOLVED**, that the Town Council meeting in regular session, Wednesday, January 19, 2022 hereby adopts the attached 2022 Bylaws and Rules of Procedure.

**202~~1~~-BYLAWS AND RULES OF  
PROCEDURE  
Colonial Beach Town Council  
Preamble**

The Colonial Beach Town Council operates in accordance with federal and state laws at all times. If there should be any conflict between these Bylaws and federal, state, or local law or regulation, the federal, state or local law or regulation shall be followed.

The citizens and businesses of the Town of Colonial Beach, Virginia are entitled to have fair, ethical, and accountable local government, so as to earn the public's full confidence and trust. The effective functioning of democratic government requires that public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government; that public officials be independent, impartial and fair in their judgment and actions; that public office be used for the public good, not for personal gain; and that public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Colonial Beach Town Council has adopted these Bylaws and Rules of Procedure to assure public confidence in the integrity of local government and its effective and fair operation.

**Section 1 Meetings**

**Section 1-1 Annual organizational meetings**

A. The Town Council shall conduct an organizational meeting at its first meeting in January of every year.

B. At the organizational meeting in January, the Council shall establish the date, time and place for its regular monthly meetings for the remainder of the calendar year. At the organizational meeting, the Town Council shall elect a Vice-Mayor.

C. The Town Council shall conduct a prioritization meeting in January of every year.

**Section 1-2 Meeting Cancellations and Postponements**

The Mayor may cancel or postpone any meeting because of inclement weather or disaster and will reschedule any postponed meeting at the earliest possible date when a quorum is available.

**Section 1-3 Special Meetings**

A special meeting of the Council shall be held when called by the Mayor or requested by two or more Members of the Council in accordance with state law. The Council may hold such special meetings as it deems necessary at such times and places, as it may find convenient.

## **Section 1-4 Meetings held electronically, pursuant to Virginia Code §2.2-3708.2 (A)**

- A. The Colonial Beach Town Council may conduct meetings electronically during a State of Emergency declared by the Governor. Public notice shall be given within 3 days of the meeting. Arrangements for public access to the meeting shall be made. The type of electronic communication, electronic communication means and the reason for an electronic meeting shall be included in the minutes.
- B. If a member is unable to attend a meeting due to medical or personal matter, the member may appear electronically, upon approval by the Mayor. There is a two-meeting limit per calendar year for each member to electronically participate due to personal matters. The remote location of the member, and the reason for attendance through electronic communication means shall be recorded in the minutes. If the member's request is disapproved by the Mayor, the reason for disapproval of request shall be recorded in the minutes with specificity.
- C. This shall act as the written policy allowing participation of members by electronic communication means, pursuant to VA Code §2.2-3708.2 (C). All participation by electronic communication shall be audible to all persons at the meeting.

## **Section 1-5 Quorum and method of voting**

- A. A quorum shall consist of a majority of the members of the Town Council, which is four.
- B. It shall be the duty of every member to vote on issues before the Town Council. Each member shall vote by stating "aye," "nay" or "abstain."

## **Section 2 Officers**

### **Section 2-1 Mayor and Vice Mayor**

The Mayor shall preside over all meetings of the Town Council. The Vice- Mayor serves in the absence of the Mayor. In the absence from any meeting of both the Mayor and the Vice-Mayor, the members present shall choose one of their members to preside over the meeting.

The Mayor shall appoint individual Council members as the Liaison for the following areas:

- Public Safety
- Economic Development ~~and~~
- Department of Planning & Zoning
- Finance
- Parks and Recreation Department
- Administration
- Public Works
- Schools
- NGO's

The Mayor may appoint Liaisons for other areas as necessary and may establish other committees when needed. As with nominations for any committee or appointment, the Council Member nominated may decline.

The Liaison shall serve in a role similar to that of a committee chair. The Liaison shall be responsible for ensuring that matters related to the designated area of the Liaison are thoroughly researched so as to then provide the Town Council with a comprehensive overview.

The Liaison shall keep the other members of Council informed in a timely manner, but at least on a monthly basis of the matters that the Liaison is addressing. The function of the Liaison is to make the deliberations by the Town Council more efficient.

### **Section 2-2 Preservation of order**

At meetings of the Council, the Mayor shall preserve order and decorum.

### **Section 2-3 Parliamentarian**

Except as modified herein or as provided by Virginia law, the most current edition of Robert's Rules of Order for Small Groups shall be the parliamentary authority at all meetings of the Town Council with the following exceptions:

- Members may raise a hand instead of standing when seeking to obtain the floor and may remain seated while making motions or speaking.
- There is no limit to the number of times a member may speak to a debatable question.
- Informal discussion of a subject is permitted while no motion is pending.

The Town Attorney shall act as Parliamentarian to the Council. In the absence of the Town Attorney, the Town Clerk shall act as Parliamentarian. Any questions involving the interpretation or application of Robert's Rules of Order for Small Groups shall be addressed to the Town Attorney or, if not available, to the Town Clerk. If the Town Attorney and Town Clerk are not available, then the Town Manager shall act as Parliamentarian.

## **Section 3 Conduct of Business**

### **Section 3-1 Order of business**

A. At the Council's meeting, the order of business shall be generally as follows:

- Call to Order
- Roll call of members
- Additions to the Agenda
- Approval of the Agenda
- ~~Approval of the minutes~~ Consent Agenda (Minutes, Housekeeping Resolutions)

- Regular Meeting - Council Member Announcements  
Work Session - Council Liaison and Committee Reports
- Presentations
- Citizen Input
- Unfinished business
- New Business
- Closed meeting (if necessary)
- Recess/Adjournment

### **Section 3-2 Agenda Details**

Every ordinance or resolution which involves the expenditure of funds shall identify the budget line item number that will be used to fund the expenditure.

### **Section 3-3 Motions**

The Mayor need not rise while putting questions to a vote.

The Mayor may, without leaving the chair, speak in informal discussion and debate, and vote on all questions.

### **Section 3-4 Appeal to Council**

Any member of the Council may appeal to the Council from the decision of the Mayor on any question of order or the interpretation of these Bylaws. A majority vote of those present is necessary to overrule the Mayor. No second is required on a member's appeal.

### **Section 3-5 Suspending Rules**

At any time when Council Members wish to proceed on an item or discussion, in a manner that is not in accordance with these Bylaws, a motion to suspend is in order. A vote of majority of the members present is required to suspend the Bylaws.

### **Section 3-6. Public Comment**

Individuals may speak during the portion of the agenda designated for public comment and may speak for up to three (3) minutes. An individual who is representing a group of people may speak for up to five (5) minutes. The Mayor may exercise discretion in these time limits based upon the circumstances but should do so only rarely.

Council members may not interrupt citizen speakers.

### **Section 3-7 Citizen Questions, Complaints and Suggestions**

The purpose of the Public Comment portion of the agenda is to permit citizens an opportunity to address statements to the Town Council. The Public Comment period is not intended as a question and answer session with the Town Council.

In order to promote good government, citizen questions, complaints, concerns, requests, etc. may first be addressed to the Receptionist at Town Hall, who will either answer the questions or refer them to the proper administrators for answers.

The Mayor may, in their discretion, answer a question or a complaint if the answer is brief or may recognize a Council Member to respond. For more involved answers to questions, the Mayor will respond to the citizen by saying that the question has been referred to the Town Manager who will see to it that an answer is provided if the citizen provides their contact information.

Citizen suggestions about the day-to-day practical operations of the Town may be made to the Receptionist at Town Hall, who will direct them, if necessary, to the appropriate departments

Citizen suggestions about Town Council policies and actions may be made during the Public Comment period of Council meetings. The Town Clerk will keep a record of these suggestions. And the Town Council will consider them at its next work session, to determine which suggestions may be appropriate for action at the next, or later, regular meeting.

### **Section 3-8 Work Sessions**

When items are to be included in the agenda for consideration at a work session, a summary sheet providing an overview (including pros and cons) shall be prepared by the appropriate liaison member, or Town Manager, provided to the Clerk and distributed to the Council Members in advance of the work session by the Clerk.

At every work session of the Town Council, the Town Manager shall provide a comprehensive list of all pending items and shall include the most recent status of each item.

Routine administrative matters, may be introduced by motion, including but not limited to simple referral of items to the planning commission and authorization to advertise a public hearing, may be voted on by the Town Council at work sessions.

### **Section 4 -- Public Hearings**

#### **Section 4-1 Mayor to conduct public hearings**

The Mayor shall conduct all public hearings.

## **Section 4-2 Hearing presentations**

Hearings shall begin with a brief presentation from a staff member and/or representative from the relevant board, authority, commission or committee. The presentation shall summarize the facts about the issue. Council members' inquiry during the staff's presentation shall be limited to questions about the issue. Discussion or debate about the merits of the proposal shall occur after the close of the public hearing. Council members shall be mindful of their obligation to keep an open mind regarding matters involving public hearings.

## **Section 4-3 Order of public hearings**

The order of public hearings shall be as follows:

- A. The Mayor shall open the public hearing.
- B. The applicant (or his or her representative) shall be the first speaker(s). Any and all representations made by the applicant to the Town on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Town.
- C. The Mayor shall then solicit comments from the public. Each speaker must clearly state his or her name and address.
- D. After public comments have been received, the applicant, at his or her discretion, may respond with additional information.
- E. Upon the conclusion of the applicant's comments, the Mayor shall close the public hearing.

## **Section 4-4 Members' participation**

Council members shall withhold their comments in public hearings to ensure participation by the public without Council interference.

## **Section 4-5 Close of hearing**

When a public hearing has been closed by the Mayor, no further public comments shall be permitted. Council members, however, may direct questions to the applicant, the representative of the relevant board, authority, commission, committee or a staff member for clarification prior to taking any vote, if a vote is in order.

## **Section 4-6 Debate**

Following the close of the public hearing, the Mayor entertains a motion and a second to address the issue and the Council may debate the merits of the issue.

## Section 5 – Agenda

### Section 5-1 Preparation

A. The Clerk shall prepare an agenda for each regular and special meeting conforming generally to the order of business specified in Section 3-1(A) entitled "Order of Business". The Town Manager shall coordinate the scheduling of items on the agenda with the Mayor. Every item that is placed on an agenda shall be accompanied by a cover sheet that identifies the action that is recommended, the pros and cons, and relevant background information. Complete agenda packets shall be distributed to the Council and made available to the public by noon on the Friday immediately preceding the Town Council meeting.

B. Council members may request that items for discussion to be placed on the agenda of a Work Session, ~~for discussion,~~ by contacting the Town Manager and Town Clerk at least eight business days prior to that Work Session. The Town Manager and the Mayor will make the final decision to add it to the agenda. No such item shall be removed without the consent of the requesting Council member.

Before an item is placed on the Regular Meeting Agenda ~~Agenda of a Regular Meeting~~ for action, that item should have been discussed and vetted at a previous work session. While it may not always be possible because of time constraints to discuss a matter at a work session in order to promote thoroughness and attention to detail, this shall be the generally accepted practice.

C. Appointments may be placed on the agenda for consideration at any time.

D. At least twenty-four (24) hours prior to every regular meeting, the Town Manager shall also provide the Town Council with a written, monthly report as to the current workload being carried and performed by each department so that the Council is aware of pending projects as well as whether additional resources may be needed to support the staff.

E. On a quarterly basis during the months of April, July, October and January, at least twenty-four (24) hours prior to the regular meeting, the Town Manager and the Chief Financial Officer shall provide budget updates. These updates shall state the current revenues and expenditures and the projected end of year outcome. The budget update shall include all funds.

F. Any matter not on the printed agenda may be heard, provided that every member of Council shall have been previously notified and that such a request is in the form of a motion to amend the agenda, is duly seconded, and then voted upon by a majority of the Council. If a resolution for consideration by Council is not included with the printed agenda, Council shall not vote on any such resolution unless a copy of the proposed resolution shall have been provided to every member of the Council prior to the start of the meeting.

### Section 5-2 Minutes

The Clerk of the Council shall prepare and maintain minutes of the proceedings of the Council, and Council committees, in accordance with the requirements of the Code of Virginia (1950), as amended. Each recorded vote shall indicate how each member of the Council voted as required

by law. Preparation of minutes will not include every aspect of the Council's meetings relating specifically to discussion and debate but will include all significant events relating to official action. The Clerk will make every effort to provide draft minutes to the Council within thirty (30) days or less of the date of the meeting.

## **Section 6 -- General Operating Policy**

### **Section 6-1 Actions by individual members of the Council**

A. It shall be the policy of the Council that no one member shall exert individual action or direct any Town employee or independent contractor(s), or any Council, authority, commission or committee of the Council, to initiate any action that would require a Town employee or independent contractor(s) to perform any action contrary to the laws, ordinances or policies of the Town, or which would require the expenditure of public funds in any amount without the approval of the Council.

No individual member of the Colonial Beach Town Council possesses any individual authority, much less the authority to require Town Manager, Town Attorney, Town Clerk, Chief Financial Officer, the Police Chief, or any other employee of the Town of Colonial Beach, to engage in any work unless that work is requested by a majority of the Colonial Beach Town Council.

When one or more members of Council and/or the Mayor respond to the media, they shall make it clear whether they are expressing a personal opinion or whether they are representing a formal Council position or decision.

B. It is further the policy of the Council that when the Mayor and/or individual members of Council interact with employees or independent contractor(s) of the Town, that the Mayor and/or individual members of Council conduct themselves in a respectful, civilized and appropriate manner at all times. Under no circumstances is it appropriate for the Mayor and/or any individual member of Council to shout or yell at, or shout or yell in the presence of, any Town Employee or independent contractor(s). Neither the Mayor nor any individual member of Council shall make a comment or statement to any Town employee or independent contractor(s) that is vulgar, insulting, or sarcastic. The Mayor and individual members of Council shall support the maintenance of a positive and constructive workplace environment for Town employees or independent contractor(s) and for citizens and businesses dealing with the Town. The Mayor and individual members of Council shall recognize their special role in dealings with Town employees or independent contractor(s) and shall in no way create the perception of any type of inappropriate direction to staff.

C. The conduct of the Mayor and individual members of Council must be above reproach and must avoid even the appearance of impropriety. Under no circumstances shall the Mayor or any member of Council threaten, either directly or indirectly, any Town employee or independent contractor(s) with the loss of his or her job, position, and/or salary.

D. The Mayor and individual members of the Council shall prepare themselves for every meeting by reading and reviewing the Council packet and they shall listen courteously and

attentively to all public discussions before the body and focus on the business at hand. They shall refrain from interrupting other speakers and making personal comments that are not germane to the business before the Council or otherwise interfering with the orderly conduct of the meeting.

E. The Mayor and individual members of Council shall not use the public resources that are not available to the public in general, such as Town staff time, equipment, supplies or facilities, for private gain or personal purposes. The Mayor and individual members of Council may seek assistance from Town staff with respect to official Town business but shall not monopolize Town staff or interfere in any way with the ability of Town staff to perform their jobs.

F. The Mayor and individual members of Council shall respect the confidentiality of information concerning the property, personnel and/or affairs of the Town. They shall neither disclose confidential information without proper authorization of the Council, nor use such information to advance their personal, financial, or other private interests. Likewise, members of Council shall not use their position on Council for any type of personal gain.

G. Recognizing that stewardship of the public interest must be their primary concern, the Mayor and members of Council will work for the common good of the people of the Town of Colonial Beach and not for any private or personal interest, and they will assure fair and equitable treatment of all persons, claims, and transactions coming before the Colonial Beach Town Council. No member of Council should engage in behavior that is self-important or solicitous of special treatment.

H. No individual Council Member may pursue independently any mission, project or commitment that is not in accordance with the majority of the Council, with the exception of carrying out his or her duties consistent with his or her appointment as an advocate for a specific area of Town government where those duties are in accordance with the consensus of Council. Should any staff member have a question as to whether he or she may proceed with work in response to the request of any one particular Council member, the staff member shall ask that the Mayor indicate how the staff member should proceed.

### **Section 6-2 Exit interviews**

Whenever a Department Head resigns or retires, or a hired specialist (such as an auditor) completes their work for the Town, the Mayor or the Vice Mayor, and the department liaison for the governing body shall conduct an exit interview with that person.

### **Section 6-3 Discussion of zoning and land use matters**

Town Council members shall not engage in negotiations with applicants on zoning or land use matters.

### **Section 6-4 Polling Procedure**

The Town Manager or his designee may separately contact members of the Town Council for the purpose of ascertaining a member's position with respect to public business, provided the contact does not constitute a meeting as defined in §2.2-3701 of the Code of Virginia.

### **Section 6-5 Sanctions**

Individual members of the Town Council may be held accountable for their actions in violation of these Bylaws and/or state law by the Town Council in accordance with these Bylaws and state law. For example, a member of Council may be punished or fined for disorderly behavior in accordance with Virginia Code § 15.2-1400 the Town Council may censure a member of Council for violation of these Bylaws or other grossly inappropriate behavior.

### **Section 7 – Amendments Section 7-1 Amendments to the By-Laws and Rules of Procedure**

The Bylaws and Rules of Procedure may be amended as necessary by majority vote of the Council.

### **Colonial Beach Town Council**

Recognizing that elected officials hold office as a public trust, as a member of the Colonial Beach Town Council, I agree to abide by the Bylaws and Rules of Procedure and I will place the welfare of the community, and the best interests of the Town of Colonial Beach, above my loyalty to individuals or particular groups. I will ensure the integrity of the Town Council by not giving any special favors or privileges to anyone. I will not intentionally embarrass my colleagues, the Town staff, or citizens. I will behave in a professional, civilized manner at all times. I will not use my public position to benefit me personally. I will be mindful that I am only one member of Council and that I possess no individual authority, excepting the Mayor's statutory duty to preside at meetings. I will preserve the confidentiality of personal and privileged information shared during a closed meeting. I will not use my elected office to gain any personal privilege.

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council Member

Given under my hand, this \_\_\_\_ day of \_\_\_\_\_, 2020.

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Council Member

# Tab D

## COUNCIL PAPER

At a meeting held on January 19, 2022 at Colonial Beach Town Center

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**ORDINANCE NO. 721, AMENDS THE COLONIAL BEACH TOWN CODE, CHAPTER 13.1 (LICENSES), SEC. 13.1-4, TO ADD UPDATED VIRGINIA CODE REFERENCES AND REMOVE OLD VIRGINIA CODE REFERENCES, SEC. 13.1-5, TO ADD UPDATED VIRGINIA CODE REFERENCES, REMOVE OLD VIRGINIA CODE REFERENCES, AND ADD UPDATED VIRGINIA CODE LANGUAGE, SEC. 13.1-6 AND 13.1-7, TO ADD UPDATED VIRGINIA CODE REFERENCE, SEC. 13.1-10, ADDING A MINIMUM LICENSE FEE, ADD VIRGINIA CODE REFERENCE AND UPDATE LICENSE TAX RATES, SEC. 13.1-11, ADD UPDATED VIRGINIA CODE LANGUAGE, AND DELETING SEC. 13.1-17, DUPLICATE OF SEC. 13.1-11**

**NOW, THEREFORE, BE IT ORDAINED** by the Colonial Beach Town Council at its regular meeting on the 19<sup>th</sup> of January 2022, that the Town Code, Chapter 13.1, Sec. 13.1-4 (License requirement), be amended as follows (additions in italics):

### **Chapter 13.1 LICENSES**

#### **ARTICLE I. BUSINESS AND OCCUPATIONAL LICENSES**

##### **Sec. 13.1-4. License requirement.**

*Pursuant to Virginia Code § 58.1-3703.1:*

- (a) Every person engaging in the town in any business, trade, profession, occupation or calling, ~~except for persons renting property by the week,~~ (collectively hereinafter "a business") as defined in this chapter unless otherwise exempted by law, shall apply for a license for each such business if (i) such person maintains a definite place of business in the town, (ii) such person does not maintain a definite place of business anywhere and does reside in the town (iii) there is no definite place of business but such person operates amusement machines, or is classified as a peddler, itinerant merchant, carnival, circus ~~as specified in sections 58.1-3717, 3718, or 3728, respectively of the Code of Virginia,~~, contractor subject to section 58.1-3715 of the Code of Virginia, or is a public service corporation ~~subject to section 58.1-3731 of the Code of Virginia.~~ A separate license shall be required for each definite place of business and for each business. A person engaged in two (2) or more businesses or professions carried on at the same place of business may elect to obtain one (1) license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the town; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (iii) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.
- (b) Each person subject to a license tax shall apply for a license prior to beginning business, if he was not subject to licensing in the town on or before January 1 of the license year, or no later than March 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official *along with the required identification pursuant to Virginia Code § 58.1-3703.2.*

**NOW, THEREFORE, BE IT ORDAINED** by the Colonial Beach Town Council at its regular meeting on the 19<sup>th</sup> of January 2022, that the Town Code, Chapter 13.1, Sec. 13.1-5 (Situs of gross receipts), be amended as follows (additions in italics):

## **Chapter 13.1 LICENSES**

### **ARTICLE I. BUSINESS AND OCCUPATIONAL LICENSES**

#### **Sec. 13.1-5. Situs of gross receipts.**

*Pursuant to Virginia Code § 58.1-3703.1:*

- (b) Apportionment. If the licensee has more than one (1) 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 section 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 *locality jurisdiction* shall not be attributed to this *locality 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 (1) 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 one hundred (100) percent of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. *If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the department of taxation pursuant to Code of Virginia, § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of Code of Virginia, § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.*

**NOW, THEREFORE, BE IT ORDAINED** by the Colonial Beach Town Council at its regular meeting on the 19<sup>th</sup> of January 2022, that the Town Code, Chapter 13.1, Sec. 13.1-6 (Limitations and extensions), be amended as follows (additions in italics):

## **Chapter 13.1 LICENSES**

### **ARTICLE I. BUSINESS AND OCCUPATIONAL LICENSES**

**Sec. 13.1-6. Limitations and extensions.**

*Pursuant to Virginia Code § 58.1-3703.1:*

(c) The period for collecting any local license tax shall not expire prior to the period specified in section 58.1-3940 of the Code of Virginia, two (2) years after the date of assessment if the period for assessment has been extended pursuant to this ~~subdivision~~ subsection, two (2) years after the final determination of an appeal for which collection has been stayed pursuant to section 13.1-7(b) or (d) of the Colonial Beach Code of Ordinances, or two (2) years after the final decision in a court application pursuant to section 58.1-3984 of the Code of Virginia or similar law for which collection has been stayed, whichever is later.

**NOW, THEREFORE, BE IT ORDAINED** by the Colonial Beach Town Council at its regular meeting on the 19<sup>th</sup> of January 2022, that the Town Code, Chapter 13.1, Sec. 13.1-7 (Appeals and rulings), be amended as follows (additions in italics):

**Chapter 13.1 LICENSES**

**ARTICLE I. BUSINESS AND OCCUPATIONAL LICENSES**

**Sec. 13.1-7. Appeals and rulings.**

*Pursuant to Virginia Code § 58.1-3703.1:*

**NOW, THEREFORE, BE IT ORDAINED** by the Colonial Beach Town Council at its regular meeting on the 19<sup>th</sup> of January 2022, that the Town Code, Chapter 13.1, Sec. 13.1-10 (License fee and tax), be amended as follows (additions in italics):

**Chapter 13.1 LICENSES**

**ARTICLE I. BUSINESS AND OCCUPATIONAL LICENSES**

**Sec. 13.1-10. License fee and tax.**

*Every person or business subject to licensure under this chapter shall be assessed and required to pay annually a license fee of \$30 or the applicable rate per \$100 of gross receipts, specified below, whichever is greater.*

Except as may be otherwise provided in sections 58.1-3712, 58.1-3712.1 and 58.1-3713 of the Code of Virginia, every such person or business with annual gross receipts shall be assessed and required to pay annually a license tax on all the gross receipts, *pursuant to the Code of Virginia § 58.1-3706*, ~~of such persons includable as~~ provided in this chapter at a rate set forth below for the class of enterprise listed:

- a. For contractors and persons constructing for their own account for sale, sixteen cents (\$0.16) per one hundred dollars (\$100.00) of gross receipts;
- b. For retailers, twenty cents (\$0.20) cents per one hundred dollars (\$100.00) of gross receipts;
- c. For financial, real estate and professional services, *fifty-eight* ~~thirty-five~~ cents (\$0.58) ~~(\$0.35)~~ per one hundred dollars (\$100.00) of gross receipts;

- d. For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this chapter or otherwise by law, *thirty-six cents (\$0.36)* ~~twenty cents (\$0.20)~~ per one hundred dollars (\$100.00) of gross receipts;
- e. For wholesalers, five cents (\$0.05) per one hundred dollars (\$100.00) of purchases;
- f. For carnivals, circuses and speedways, one hundred dollars (\$100.00) for each day in the Town of Colonial Beach;
- g. For fortunetellers, clairvoyants and practitioners of palmistry, *one thousand five hundred dollars (\$1,000.00)* ~~(\$500.00)~~ per year;
- h. For massage parlors, *five hundred one thousand dollars (\$500.00)* ~~(\$1,000.00)~~ per year;
- i. For direct sellers as defined in section 58.1-3719.1 of the Code of Virginia with total annual sales in excess of four thousand dollars (\$4,000.00), *twenty fifteen cents (\$0.20)* ~~(\$0.15)~~ per one hundred dollars (\$100.00) of total annual retail sales or five cents (\$0.05) per one hundred dollars (\$100.00) of total annual wholesale sales, whichever is applicable.
- j. For persons engaged in a high-tech service, ten cents (\$0.10) per one hundred dollars (\$100.00) of gross receipts.

For the purposes of this subsection a person engaged in a high-tech service and is subject to the tax imposed if he renders a service in which data is received, prepared for entry into a computer and data returned to another party; the person rendering the service acting as an individual contractor.

**NOW, THEREFORE, BE IT ORDAINED** by the Colonial Beach Town Council at its regular meeting on the 19<sup>th</sup> of January 2022, that the Town Code, Chapter 13.1, Sec. 13.1-11 (Payment of delinquent taxes prerequisite to issuance of business license), be amended as follows (additions in italics):

### **Chapter 13.1 LICENSES**

#### **ARTICLE I. BUSINESS AND OCCUPATIONAL LICENSES**

##### **Sec. 13.1-11. Payment of delinquent taxes prerequisite to issuance of business license.**

Pursuant to the authority granted to the town council by section 58.1-3700 of the Code of Virginia (1950), as amended, no business license shall be issued until the applicant has produced satisfactory evidence that all delinquent business *license, real estate*, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to the town have been paid.

*Any person who engages in a business without obtaining a required local license, or after being refused a license, shall not be relieved of the tax imposed by the ordinance.*

**NOW, THEREFORE, BE IT ORDAINED** by the Colonial Beach Town Council at its regular meeting on the 19<sup>th</sup> of January 2022, that the Town Code, Chapter 13.1, Sec. 13.1-17 (Payment of delinquent taxes prerequisite to issuance of business license), be deleted as it is a duplicate of 13.1-11:

### **Chapter 13.1 LICENSES**

#### **ARTICLE I. BUSINESS AND OCCUPATIONAL LICENSES**

**~~Sec. 13.1-17. -- Payment of delinquent taxes prerequisite to obtaining business license.~~**

~~No business license under this article shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to the town have been paid.~~

~~Any person who engages in a business without obtaining a required local license, or after being refused a license, shall not be relieved of the tax imposed by the ordinance.~~

## Chapter 13.1 LICENSES<sup>1</sup>

### **ARTICLE I. BUSINESS AND OCCUPATIONAL LICENSES**

#### **Sec. 13.1-1. Authority for chapter; application of guidelines of state department of taxation.**

This chapter is enacted pursuant to the authority granted by general law, including sections 58.1-3702 and 58.1-3703 of the Code of Virginia. To that end, it is intended that the guidelines promulgated by the state department of taxation, pursuant to [section] 58.1-3701 of the Code of Virginia, for purpose of defining and explaining the separate tax categories, govern in administering the taxes imposed by this chapter.

(Ord. No. 379; Ord. No. 591)

#### **Sec. 13.1-2. Overriding conflicting ordinances.**

Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current ordinances or resolutions enacted by this governing body, whether or not compiled in the Code of the Town of Colonial Beach 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 the Town of Colonial Beach.

(Ord. No. 379; Ord. No. 591)

#### **Sec. 13.1-3. Definitions.**

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

*Affiliated group* means:

- (1) One (1) or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if:
  - a. Stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty (80) percent of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one (1) or more of the other includable corporations; and

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<sup>1</sup>Editor's note(s)—Ord. No. 379, adopted Dec. 12, 1996, enacted Ch. 13.1, Licenses, substantive sections thereof being §§ 13.1-1—13.1-16, 13.1-26—13.1-33, 13.1-41—13.1-46, and 13.1-51—13.1-59. At the direction of the town, the history notes to those sections of former Ch. 13 which were adopted into Ch. 13.1 have been retained; hence, several sections of Ch. 13.1 reflect ordinances adopted prior to Ord. No. 379.

Cross reference(s)—Bicycle licenses, § 6-16 et seq.; dealers in precious metals and gems, permit, § 8-17 et seq.; fireworks display permit, § 10-8; vehicle licenses, § 14-21 et seq.

State law reference(s)—Licenses generally, Code of Virginia, § 58.1-3700; town license taxes, § 58.1-3701 et seq.

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- b. The common parent corporation directly owns stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty (80) percent of each class of the nonvoting stock of at least one (1) of the other includable corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.
- (2) Two (2) or more corporations if five (5) or fewer persons who are individuals, estates or trusts own stock possessing:
- a. At least eighty (80) percent of the total combined voting power of all classes of stock entitled to vote or at least eighty (80) percent of the total value of shares of all classes of the stock of each corporation; and
  - b. More than fifty (50) percent of the total combined voting power of all classes of stock entitled to vote or more than fifty (50) percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one (1) or more of the includable corporations, including the common parent corporation is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

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

*Assessor or assessing official* means the chief financial officer for the town or his or her designees.

*Base year* means the calendar year preceding the license year, except for contractors subject to the provisions of section 58.1-3715 [of the Code of Virginia].

*Business* means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one (1) business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business; or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

*Contractor* shall have the meaning prescribed in section 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* means an office or a location at which occurs a regular and continuous course of dealing for thirty (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.

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

*Broker* shall mean an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.

*Commodity* shall mean staples such as wool, cotton, etc., which are traded on a commodity exchange and on which there is trading in futures.

*Dealer* for purposes of this chapter shall mean any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

*Security* for purposes of this chapter shall have the same meaning as in the Securities Act (section 13.1-501 et seq.) of the Code of Virginia, or in similar laws of the United States regulating the sale of securities.

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

Buying installment receivables;

Chattel mortgage financing;

Consumer financing;

Credit card services;

Credit unions;

Factors;

Financing accounts receivable;

Industrial loan companies;

Installment financing;

Inventory financing;

Loan or mortgage brokers;

Loan or mortgage companies;

Safety deposit box companies;

Security and commodity brokers and services;

Stockbroker;

Working capital financing.

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

*License year* means the calendar year for which a license is issued for the privilege of engaging in business.

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

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*Professional services* means services performed by architects, attorneys at law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the BPOL guidelines promulgated pursuant to section 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* shall mean all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by a any wholesaler or wholesale merchant and sold or offered for sale. Such merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine or chooses not to disclose the cost of manufacture.

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

- Appraisers of real estate;
- Escrow agents, real estate;
- Fiduciaries, real estate;
- Lessors of real property;
- Real estate agents, brokers and managers;
- Real estate selling agents;
- Rental agents for real estate.

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

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

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

(Ord. No. 379; Ord. No. 591)

#### **Sec. 13.1-4. License requirement.**

**[Pursuant to Virginia Code § 58.1-3703.1:](#)**

- (a) Every person engaging in the town in any business, trade, profession, occupation or calling, ~~eexcept for persons renting property by the week,~~ (collectively hereinafter "a business") as defined in this chapter unless otherwise exempted by law, shall apply for a license for each such business if (i) such person maintains a

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definite place of business in the town, (ii) such person does not maintain a definite place of business anywhere and but does reside maintain an abode in the town which abode for the purposes of this chapter shall be deemed a definite place of business, or (iii) there is no definite place of business but such person operates amusement machines, or is classified engaged as a peddler, or itinerant merchant, carnival, or circus, ~~as specified in sections 58.1-3717, 3718, or 3728, respectively of the Code of Virginia~~, or is a contractor subject to section 58.1-3715 of the Code of Virginia, or is a public service corporation ~~subject to section 58.1-3731 of the Code of Virginia~~. A separate license shall be required for each definite place of business and for each business. A person engaged in two (2) or more businesses or professions carried on at the same place of business may elect to obtain one (1) license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the town; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (iii) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

- (b) Each person subject to a license tax shall apply for a license prior to beginning business, if he was not subject to licensing in the town on or before January 1 of the license year, or no later than March 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official ~~along with the required identification pursuant to Virginia Code § 58.1-3703.2.-~~
- (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 April 1.
- (d) The assessing official may grant an extension of time, not to exceed ninety (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 ten (10) percent of the portion paid after the due date.
- (e) A penalty of ten (10) percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return ~~was~~ made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within thirty (30) days the assessor may impose a ten (10) percent late payment penalty. The penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

"Acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business, and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

"Events beyond the taxpayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g. due to death or serious illness) of the person with the

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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 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 chapter 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 under Code of Virginia § 58.1-3916.

No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, provided the refund or the late payment is made not more than thirty (30) days from (i) the date of the payment that created the refund; or (ii) the due date of the tax, whichever is later.

(Ord. No. 379; Ord. No. 591; Ord. No. 647)

### **Sec. 13.1-5. Situs of gross receipts.**

#### [Pursuant to Virginia Code § 58.1-3703.1:](#)

- (a) *General rule.* Whenever the tax imposed by this chapter is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within the town. 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 (1) 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 section 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 (2) 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.

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- (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 (1) 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 section 58.1-3709 of the Code of Virginia~~, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the townthis 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 (1) 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 one hundred (100) percent of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the Department of Taxation pursuant to Code of Virginia, § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of Code of Virginia, § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

(Ord. No. 379; Ord. No. 591)

### **Sec. 13.1-6. Limitations and extensions.**

#### Pursuant to Virginia Code § 58.1-3703.1:

- (a) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this chapter, 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 section 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 (6) preceding years.
- (c) The period for collecting any local license tax shall not expire prior to the period specified in section 58.1-3940 of the Code of Virginia, two (2) years after the date of assessment if the period for assessment has been extended pursuant to this ~~subdivision~~ subsection, two (2) years after the final determination of an appeal for which collection has been stayed pursuant to section 13.1-7(b) or (d) of the Colonial Beach Code of

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Ordinances, or two (2) years after the final decision in a court application pursuant to section 58.1-3984 of the Code of Virginia or similar law for which collection has been stayed, whichever is later.

(Ord. No. 379; Ord. No. 591)

### **Sec. 13.1-7. Appeals and rulings.**

#### **Pursuant to Virginia Code § 58.1-3703.1:**

- (a) Any person assessed with a licensing tax under this chapter as the result of an audit may apply within ninety (90) days from the date of the assessment to the assessing official for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the jurisdiction (e.g. the name and address to which an application should be directed).
- (b) Provided an application is made within ninety (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 section 13.1-4 of the Colonial Beach Code of Ordinances, but no further penalty shall be imposed while collection action is suspended.

The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires (i) to depart quickly from the locality; (ii) to remove his property therefrom; (iii) to conceal himself or his property therein; or (iv) to do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

- (c) Any person assessed with a license tax under this chapter as a result of an audit may apply within ninety (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 ninety (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 section 58.1-1821 of the Code of Virginia, and the tax commissioner may issue an order correcting such assessment pursuant to section 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 section 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 section 13.1-4 of the Colonial Beach Code of Ordinances, but no

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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 (i) there is a change in the law, a court decision, or (ii) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.
- (f) Additionally, any person assessed with a license tax under this chapter as a result of an audit may apply within thirty (30) days of the determination by the assessing official on an application pursuant to subsection (a) above to the town council for a correction of such assessment. The town council shall issue a determination to the taxpayer within thirty (30) days of receipt of the taxpayer's application.

(Ord. No. 379; Ord. No. 591)

### **Sec. 13.1-8. Recordkeeping and audits.**

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

(Ord. No. 379; Ord. No. 591)

### **Sec. 13.1-9. Exclusions and deductions from "gross receipts."**

- (a) General rule. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.
- (b) The following items shall be excluded from gross receipts:
  - (1) Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.
  - (2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g. the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).
  - (3) Any amount representing returns and allowances granted by the business to its customer.
  - (4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

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(Supp. No. 88)

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- (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 (2) 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.

(Ord. No. 379; Ord. No. 591)

### **Sec. 13.1-10. License fee and tax.**

Every person or business subject to licensure under this chapter shall be assessed and required to pay annually a license fee of \$30 or the applicable rate per \$100 of gross receipts, specified below, whichever is greater.

Except as may be otherwise provided in sections 58.1-3712, 58.1-3712.1 and 58.1-3713 of the Code of Virginia, every such person or business with annual gross receipts shall be assessed and required to pay annually a license tax on all the gross receipts, pursuant to the Code of Virginia § 58.1-3706, of such persons includable as provided in this chapter at a rate set forth below for the class of enterprise listed:

- a. For contractors and persons constructing for their own account for sale, sixteen cents (\$0.16) per one hundred dollars (\$100.00) of gross receipts;
- b. For retailers, twenty cents (\$0.20) cents per one hundred dollars (\$100.00) of gross receipts;
- c. For financial, real estate and professional services, fifty-eight thirty five cents (\$0.~~5835~~) per one hundred dollars (\$100.00) of gross receipts;

- d. For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this chapter or otherwise by law, ~~thirty-six cents~~~~twenty cents~~ (\$0.~~36~~~~20~~) per one hundred dollars (\$100.00) of gross receipts;
- e. For wholesalers, five cents (\$0.05) per one hundred dollars (\$100.00) of purchases;
- f. For carnivals, circuses and speedways, one hundred dollars (\$100.00) for each day in the Town of Colonial Beach;
- g. For fortunetellers, clairvoyants and practitioners of palmistry, ~~one thousand five hundred~~ dollars (~~\$500.00~~ \$1,000.00) per year;
- h. For massage parlors, ~~five hundred dollars~~ ~~one thousand dollars~~ (~~\$1,000.00~~) (\$500.00) per year;
- i. For direct sellers as defined in section 58.1-3719.1 of the Code of Virginia with total annual sales in excess of four thousand dollars (\$4,000.00), ~~twenty fifteen~~ cents (~~\$0.15~~) (\$0.20) per one hundred dollars (\$100.00) of total annual retail sales or five cents (\$0.05) per one hundred dollars (\$100.00) of total annual wholesale sales, whichever is applicable.
- j. For persons engaged in a high-tech service, ten cents (\$0.10) per one hundred dollars (\$100.00) of gross receipts.

For the purposes of this subsection a person engaged in a high-tech service and is subject to the tax imposed if he renders a service in which data is received, prepared for entry into a computer and data returned to another party; the person rendering the service acting as an individual contractor.

(Ord. No. 379; Ord. No. 405; Ord. No. 591; Ord. No. 599)

### **Sec. 13.1-11. Payment of delinquent taxes prerequisite to issuance of business license.**

Pursuant to the authority granted to the town council by section 58.1-3700 of the Code of Virginia (1950), as amended, no business license shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, real estate, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to the town have been paid.

Any person who engages in a business without obtaining a required local license, or after being refused a license, shall not be relieved of the tax imposed by the ordinance.

(Ord. No. 379; Ord. No. 591)

### **Sec. 13.1-12. Chapter gives no right to obstruct public places or commit or maintain nuisance.**

Nothing contained in this chapter or any license issued hereunder shall be construed as giving the right to any person to obstruct sidewalks, streets or other public places or to commit or maintain a nuisance.

(Ord. No. 379; Ord. No. 591)

Cross reference(s)—Nuisances, Ch. 15.

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**Sec. 13.1-13. Display or carrying of license.**

- (a) A license issued under this chapter shall be displayed in a conspicuous place at the regular place of business of the licensee and shall be produced by the licensee on the request of any authorized enforcement officer of the town.
- (b) Any licensee who maintains no regular place of business shall carry, on or about his person, the license issued under this chapter, which license shall be produced by the licensee on request of any authorized enforcement officer of the town.

(Ord. No. 19, § 64; Ord. No. 379; Ord. No. 591)

**Sec. 13.1-14. Expiration of license.**

Unless otherwise provided, all licenses issued under this chapter shall expire on the last day of February next following the date of issuance.

(Ord. No. 19, § 64; Ord. No. 379; Ord. No. 591)

**Sec. 13.1-15. Violations of chapter generally.**

It shall be unlawful for any person to violate any of the provisions of this chapter. Unless otherwise provided, any such violation shall constitute a Class 4 misdemeanor. Any day any such violation shall continue shall constitute a separate offense.

(Ord. No. 19, § 64; Ord. No. 379; Ord. No. 591)

Cross reference(s)—Penalty for Class 4 misdemeanor, § 1-10.

**Sec. 13.1-16. Compliance with zoning ordinance prerequisite to issuance of license.**

No license for conducting any business, profession, trade, or occupation at a location shall be issued prior to approval as to zoning compliance by the zoning office.

(Ord. No. 379; Ord. No. 591)

~~**Sec. 13.1-17. Payment of delinquent taxes prerequisite to obtaining business license.**~~

~~No business license under this article shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to the town have been paid.~~

~~Any person who engages in a business without obtaining a required local license, or after being refused a license, shall not be relieved of the tax imposed by the ordinance.~~

~~(Ord. No. 591)~~

~~[Duplicate of 13.1-11](#)~~

**Secs. 13.1-18—13.1-25. Reserved.**

# Tab E



**TO:** The Honorable Mayor and Town Council  
**FROM:** J.C. LaRiviere, Grant Writer/Coordinator  
**COPY:** India Adams-Jacobs, Town Manager  
**SUBJECT:** Byrne Justice Assistance Grant for Body Cam & Ballistic Protection Initiative  
**DATE:** January 19<sup>th</sup>, 2022

**SUMMARY:**

The purpose of this memo is to present an offer of grant funding for the Council's consideration. The Town has received a grant offer in the amount of \$11,531.25 from the Byrne Justice Assistance Grant Program to enable the Town to update its body cam system and acquire ballistic protection equipment. Town staff recommends that Town Council vote to accept the grant funding by authorizing the municipal government to enter into an agreement with the Department of Criminal Justice Services. The reasoning in support of this recommendation is that this grant funding will enable the Colonial Beach Police Department to install an adequate body cam system and to obtain ballistic protection equipment that will protect CBPD officers when responding to reports of gunfire.

**BACKGROUND:**

Body cams are an integral part of 21<sup>st</sup> century policing. They protect both the officers enforcing the law and the citizens they interact with. The current body cam system is inadequate for data storage and transfer to the Westmoreland County Commonwealth's Attorney's Office. This funding will enable CBPD to purchase new body cameras, a new body cam computer, and new body cam software.

Ballistic protection equipment is also necessary to ensure the safety of CBPD officers when responding to calls for service involving gunfire. The funding will enable CBPD to purchase ballistic protection shields, helmets, and any necessary attachments.

**ISSUE:**

The issue is whether to accept the grant funding to enable the purchase of body cam technology and ballistic protection equipment.

**ALTERNATIVES:**

Town council could direct the Town Manager to reject the grant funding.

**FISCAL IMPACT:**

The fiscal impact to the Town would be accepting the grant award amount of \$11,531.25. The requisite local match is \$3,844. Per grant program stipulations, this must be in the form of a cash match.

**RECOMMENDATION:**

Staff recommends action from Town Council to accept the grant award by authorizing the Town to enter into a grant agreement with DCJS. The main benefits of this course of action are that the CBPD will be able to install a new body cam system and purchase ballistic protection equipment while limiting the impact on the Town budget.

## **COUNCIL PAPER**

**At the regular meeting held on Wednesday, January 19th, 2022 at the Colonial Beach Town Center**

### **RESOLUTION #07-22, Authorizes Town Manager to Enter Agreement with Department of Criminal Justice Services to Accept Grant Funds**

**WHEREAS**, the Town of Colonial Beach has been offered grant funding in the amount of \$11,531.25 from the Byrne Justice Assistance Grant Program to enable the Town to update its body cam system and acquire ballistic protection equipment; and

**WHEREAS**, The current body camera system used by the Colonial Beach Police Department is inadequate for effective data storage and transfer to the Westmoreland County Commonwealth's Attorney's Office; and

**WHEREAS**, body cameras are an integral part of 21st century policing that protect both the officers and the citizens they interact with; and

**WHEREAS**, the safety of police officers is of critical importance to Town leadership; and

**WHEREAS**, the purchase of ballistic protection equipment will significantly minimize risks of mortal injuries to police officers in responding to calls for service related to gunfire.

**NOW, THEREFORE, BE IT RESOLVED** by the Colonial Beach Town Council at its regular meeting on January 19<sup>th</sup>, 2022 that:

1. The Colonial Beach Town Council authorizes the Town Manager to enter into an agreement with the Department of Criminal Justice Services to accept grant funding in the amount of \$11,531.25 to be combined with the requisite local cash match of \$3,844 to fund the purchase of new body camera technology and ballistic protection equipment.
2. The Town recognizes the need to improve operational capacity within the police department through updating its body cam system.
3. The Town of Colonial Beach recognizes the need to protect police officers to the greatest extent possible.

# Tab F



**TO:** The Honorable Mayor and Town Council  
**FROM:** J.C. LaRiviere, Grant Writer/Coordinator  
**COPY:** India Adams-Jacobs, Town Manager  
**SUBJECT:** Community Flood Preparedness Fund Grant for Resilience Plan Development  
**DATE:** January 19<sup>th</sup>, 2022

**SUMMARY:**

The purpose of this memo is to present an offer of grant funding for the Council’s consideration. The Town has received a grant offer in the amount of \$103,500 from the Community Flood Preparedness Fund to fund the development of the Town’s official resilience plan. Town staff recommends that Town Council vote to accept the grant funding by authorizing the municipal government to enter into an agreement with CFPF. The reasoning in support of this recommendation is that this grant funding will enable the Town to undertake a comprehensive resilience planning effort to mitigate risks facing the Town related to floods, storms, rising sea levels, and other impacts of climate change.

**BACKGROUND:**

As a 75% waterfront community that sits on a peninsula, we are acutely aware of threats posed by flooding, rising sea levels, and extreme weather. On October 29<sup>th</sup>, 2021, the Town experienced a major storm surge and dangerous flooding. Much of the sand from the beaches was displaced, several roads flooded and closed, boats washed ashore, the Municipal Pier was significantly damaged, the boardwalk was underwater, and debris covered the streets. A state of emergency was declared to respond to threats brought on by the storm. This was the most significant flood the Town has experienced in the last several years.

This funding will enable the Town to hire a consultant to work with the Resiliency Subcommittee of the Planning Commission in the development of the Town’s official Resilience Plan. This plan will identify and rank projects by resiliency value which will allow Town leadership to strategically select projects that maximize resiliency value on each dollar spent. Part of this plan will include staff training to increase staff capability and knowledge in this arena.

**ISSUE:**

The issue is whether to accept CFPF funding to be used in the development of the Town Resilience Plan.

**ALTERNATIVES:**

Town council could direct the Town Manager to reject the grant funding.

**FISCAL IMPACT:**

The fiscal impact to the Town would be accepting the grant award amount of \$103,500. The requisite local match is \$11,500. Per grant program stipulations, this must be in the form of a cash match.



**RECOMMENDATION:**

Staff recommends action from Town Council to accept the grant award by authorizing the Town to enter into the grant agreement with CFPF. The main benefit of this course of action is that the Resilience Plan developed with this funding will enable the Town to work towards becoming a more resilient community.

**COUNCIL PAPER**

**At the regular meeting held on Wednesday, January 19th, 2022 at the Colonial Beach Town Center**

**RESOLUTION #08-22, Authorizes Town Manager to Enter Agreement with Community Flood Preparedness Fund to Develop Town of Colonial Beach Resilience Plan**

**WHEREAS**, the Town of Colonial Beach has been offered grant funding in the amount of \$103,500 from the Community Flood Preparedness Fund to enable the development of the Town of Colonial Beach Resilience Plan; and

**WHEREAS**, the Town is acutely aware of current and future risks posed by environmental factors as a 75% waterfront community; and

**WHEREAS**, the Town currently has no resilience plan; and

**WHEREAS**, this grant funding will enable the Town to undertake a comprehensive resilience planning effort to mitigate risks facing the Town related to floods, storms, rising sea levels, and other impacts of climate change; and

**WHEREAS**, the Town of Colonial Beach Planning Commission has recently established a Resiliency Subcommittee to undertake resiliency planning efforts on behalf of the Town.

**NOW, THEREFORE, BE IT RESOLVED** by the Colonial Beach Town Council at its regular meeting on January 19<sup>th</sup>, 2022 that:

1. The Colonial Beach Town Council authorizes the Town Manager to enter into an agreement with the Community Flood Preparedness Fund to accept grant funding in the amount of \$103,500 to be combined with the requisite local cash match of \$11,500 to fund the development of the Town of Colonial Beach Resilience Plan.
2. As a 75% waterfront community on a peninsula, the Town faces major short-term and long-term risks posed by environmental factors such as flooding, major storm events, rising sea levels, and climate change.
3. The Town of Colonial Beach is committed to becoming a more resilient community to protect the Town from environmental risks for the benefit of all Town residents.