

TITLE 2
Government and Administration

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CHAPTER 1
Town Council

State Law Reference: Powers of local government, Va. Code Title 15.2, Subtitle II (15.2-900, et seq.)

Cross Reference: Town council, town charter, Sec. 3.1 et seq.

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Article A
General Provisions

Sec. 2-1-1 Duties of the mayor.

It shall be the duty of the mayor to:

- (a) keep informed as to the town's business;
- (b) sign all contracts, franchises or paper writings authorized by the council;
- (c) appoint such committees, and outline their powers and duties, as deemed necessary to properly care for the affairs of the town; and
- (d) make such recommendations as deemed necessary, or expedient, to the council.

Cross Reference: Duties of mayor, town charter, Sec. 3.5.

Sec. 2-1-2 Compensation; mayor and council members.

The mayor and council members shall receive as compensation such sum as may be fixed by resolutions of the council from time to time.

Sec. 2-1-3 Employees hold office at pleasure of the council.

All employees elected, or appointed, by the council hold their offices at the pleasure of the council and may be removed at any time by them for good cause.

Sec. 2-1-4 Vacancies.

All vacancies occurring from death, disability, resignation or otherwise in any appointive office shall be filled by the council at the next regular meeting, or as soon thereafter as possible.

Sec. 2-1-5 Standing committees.

(a) The Mayor and council shall maintain standing committees of the council as needed to manage town business including at least the following areas:

- (1) personnel
- (2) emergency services, fire, and police
- (3) water and sewer
- (4) cemetery
- (5) finance and purchasing

(b) The members of the standing committees shall be appointed by the mayor for a term of two years.

Sec. 2-1-6 Election, qualification and term of office of councilmen and mayor.

The mayor and councilmen in office at the time of the passage of this act shall continue in office until their successors have been elected and have been qualified to serve. An election for mayor and councilmen shall be held on the first Tuesday in November, 2014 (November General Election) and every two years thereafter. The mayor and councilmen elected at the November General Election shall enter upon their duties on the first day of January next succeeding his or their election, and shall each serve for a term of two years, or until their successors have qualified.

Secs. 2-1-7 through 2-1-10 reserved.

ARTICLE B
Meetings

Sec. 2-1-11 Regular meetings.

There shall be regular meetings of the council, at the municipal building or at such other place as may be designated, each month on a date and time as established by council and communicated to the public in accordance public meeting laws.

Sec. 2-1-12 Adjourned meetings.

If a quorum shall fail to attend any regular or special meeting of the council or if for any reason such meeting shall fail to complete transaction of the business before the meeting, the meeting may be adjourned to any date prior to the next regular meeting agreed upon by a majority of the members present.

Sec. 2-1-13 Order of business.

(a) The order of business at all regular meetings shall be established by an agenda approved by council including at least the following items:

- (1) approval of minutes of last meeting
- (2) approval of invoices
- (3) citizen comments

- (4) reports of committees
- (5) unfinished business
- (6) new business

(b) If the council directs any matter to be the special business of a future meeting, such matter shall have precedence over all other business at such future meeting.

(c) No proposition shall be entertained by the mayor until it has been seconded, and every proposition shall, when required by the mayor or any member, be reduced to writing.

Sec. 2-1-14 Rules of procedure.

Except as otherwise provided by ordinance, the procedure of the council shall be governed by Robert's Rules of order.

Sec. 2-1-15 Previous questions.

The previous questions may be called at any time by a majority of the members present. The ayes and nays may be called for by any member.

Sec. 2-1-16 Motions having precedence.

(a) When a question is under consideration no motion shall be received except as follows:

- (1) to lay on the table;
- (2) to postpone to a time certain;
- (3) to postpone indefinitely;
- (4) to refer to a committee;
- (5) to amend;
- (6) to strike out or insert; and
- (7) to divide.

(b) Motions for any of these purposes shall have precedence in the order named.

Sec. 2-1-17 Motion to adjourn.

A motion to adjourn shall always be in order and shall be decided without debate.

CHAPTER 2
Officers and Departments

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§ 2-2-1 Creation of office; term; powers and duties.

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§§ 2-2-11 through 2-2-20 reserved.

ARTICLE C
Town Departments

§ 2-2-21 Designation of departments.

ARTICLE A
Town Clerk-Treasurer

Sec. 2-2-1 Creation of office; term; powers and duties.

The office of town clerk-treasurer is hereby created. The clerk-treasurer shall serve at the pleasure of the council. The clerk-treasurer shall maintain the official records and minutes of the council, collect and account for revenue receipts and disbursements, and perform such other duties as required by the town charter or the council.

Secs. 2-2-2 through 2-2-10 reserved.

ARTICLE B
Town Attorney

Secs. 2-2-11 through 2-2-20 reserved.

ARTICLE C
Town Departments

Sec. 2-2-21 Designation of departments.

The departments of the town shall include the following:

- (a) police
- (b) fire
- (c) administration
- (d) public works

CHAPTER 3

Personnel

§ 2-3-1 Employee Handbook.

Sec. 2-3-1 Employee Handbook.

(a) The Council committee with responsibilities for personnel shall maintain an “Employee Handbook” to provide guidance for town employees and their managers. The Committee should review the “Employee Handbook” at least every two years and make revisions as needed.

(b) The “Employee Handbook” should provide guidance in the following areas:

- (1) Application and selection process
- (2) Performance and behavioral expectations
- (3) Use of Town vehicles and equipment
- (4) Employee benefits
- (5) Disciplinary process
- (6) Grievance procedures
- (7) Other issues as appropriate

CHAPTER 4
Taxation

Cross Reference: Fiscal year of town, Charter, Sec. 7.1

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ARTICLE A
General Provisions

Secs. 2-4-1 through 2-4-10 reserved.

ARTICLE B
Property Taxes

Sec. 2-4-11 Annual fixing of tax rate and assessment, valuation of property.

The council shall, annually, before the first day of July fix the tax rates on all real and personal property, household property excluded, properly subject to taxation within and by the town and shall assess such taxes as may be required to provide for the needs and purposes of the town. In determining the valuation of property in the town, reference shall be had to the records of the commissioner of revenue of the county.

Sec. 2-4-12 Tax tickets: bills for taxes.

As soon as practicable after taxes are assessed as provided in section 2-4-11, the treasurer shall make or cause to be made for each taxpayer a tax ticket substantially in the form prescribed by the state department of taxation and shall send by mail to each taxpayer a bill for such taxes.

Sec. 2-4-13 When taxes due and payable: penalty.

Except as otherwise provided, all taxes shall be due and payable as soon as the tax bills referred to in section 2-4-12 are sent. Any person failing to satisfy such tax bill on or before December 5 following the mailing thereof shall incur a penalty of ten percent of the total taxes due or the sum of \$2, whichever is greater.

Sec. 2-4-14 Interest.

Interest at the rate of 10 percent per annum shall be collected upon the unpaid principal and penalty from January 1 of the year next after the assessment year.

Sec. 2-4-15 Treasurer to make out lists of uncollectible taxes and delinquents.

The treasurer, after ascertaining which of the taxes and levies assessed in the town cannot be collected, shall, not later than August 1 in each year, make out lists as follows:

- (a) a list of real estate on the commissioner of revenue's land book improperly placed thereon or not ascertainable, with the amount of taxes and levies charged thereon;
- (b) a list of other real estate which is delinquent for the nonpayment of the taxes and levies thereon;
- (c) a list of such of the taxes and levies assessed on tangible personal property, machinery and tools and merchants' capital, and other subjects of local taxation, except real estate, as he is unable to collect; and
- (d) a list of such of the taxes on intangible personal property as he is unable to collect.

Sec. 2-4-16 Delinquent lists submitted to governing body; publication of lists.

(a) A copy of each of the three lists mentioned in paragraphs (a), (b), and (c) in the preceding section shall be submitted by the treasurer to the town council at the first meeting held after the treasurer shall have completed the lists. The council may direct the treasurer to certify to the commissioner of revenue a copy of the list of real estate on the commissioner's land book improperly placed thereon or not ascertainable and the commissioner of revenue shall correct his land book accordingly; and the treasurer shall be given credit for the entire amount of the taxes and levies included in the list and may destroy the tax tickets made out by him for such taxes and levies.

(b) The council shall cause the lists mentioned in paragraphs (b) and (c) of section 2-4-15, or such parts thereof as deemed advisable, to be publicly posted at the town office for a period of at least 30 days.

(c) If the taxes and levies on any real estate appearing on the list mentioned in paragraph (b) of section 2-4-15 are not paid by the third anniversary of the original due date thereof, a lien should be recorded by the treasurer in the clerk's office of the Circuit Court of Nottoway County, if not previously recorded; provided, however, if the clerk has not yet recorded a lien in the delinquent land book, the treasurer may collect after the third anniversary of the original due date but on or before December 5 immediately following such third anniversary, any taxes which appear on the delinquent list and shall note on the list to be transmitted to the clerk that payment thereof has been made or report the payment to the clerk if the list has already been transferred.

State Law Reference: Code of Va., Sections 58.1-1800, 58.1-3921 to 58.1-3924.

Sec. 2-4-17 Fee added to personal property taxes in lieu of town vehicle licenses.

A vehicle license fee, at a rate to be established by council, shall be added to the personal property tax statement for each vehicle subject to taxation within and by the town.

Secs. 2-4-18 through 2-4-30 reserved.

ARTICLE C

Bank Franchise Tax

Sec. 2-4-31 Definitions.

For the purposes of this article, the following words shall have the meanings ascribed to them by this section:

Bank shall be as defined in section 58.1-1201 of the Code of Virginia.

Net capital shall mean a bank's net capital computed pursuant to section 58.1-1205 of the Code of Virginia.

Sec. 2-4-32 Imposition of town bank franchise tax.

(a) Pursuant to the provisions of Chapter 12 of Title 58.1 of the Code of Virginia, there is hereby imposed upon each bank located within the boundaries of this town a tax on net capital equaling 80 percent of the state rate of franchise tax set forth in section 58.1-1204 of the Code of Virginia.

(b) In the event that any bank located within the boundaries of this town is not the principal office but is a branch extension or affiliate of the principal office located outside the corporate limits hereof, the tax upon such branch shall be apportioned as provided by section 58.1-1211 of the Code of Virginia.

Sec. 2-4-33 Filing of return and payment of tax.

(a) On or after January 1 of each year, but not later than March 1 of any such year, all banks whose principal offices are located within this town shall prepare and file with the commissioner of the revenue a return as provided by section 58.1-1207 of the Code of Virginia in duplicate which shall set forth the tax on net capital computed pursuant to Chapter 12 of Title 58.1 of the Code of Virginia. The commissioner of the revenue shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the State Department of Taxation.

(b) In the event that the principal office of a bank is located outside the corporate boundaries of this town and such bank has branch offices located within this town, in addition to the filing requirements set forth in subsection (a) hereof, any bank conducting such branch business shall file with the commissioner of the revenue or appropriate assessing officer of this county a copy of the real estate deduction schedule, apportionment and other items which are required by sections 58.1-1211, 58.1-1207 and 58.1-1212 of the Code of Virginia.

(c) Each bank, on or before June 1 of each year, shall pay into the treasurer's office of this town all taxes imposed pursuant to this article.

Sec. 2-4-34 Effective date of article.

The provisions of this article shall be effective for the year beginning January 1, 1980.

Sec. 2-4-35 Penalty upon bank for failure to comply with article.

Any bank which shall fail or neglect to comply with any provision of this article shall be fined not less than \$100 nor more than \$500, which fine shall be recovered upon motion, after five days' notice in the circuit court of this locality. The motion shall be in the name of the Commonwealth and shall be presented by the attorney for the Commonwealth of this locality.

State Law Reference: Section 58.1-1211 of the Code of Virginia provides that branch offices located within an incorporated town shall be deemed not within the county where such banks are located.

Sections 58.1-1208, 58.1-1209 and 58.1-1210 of the Code of Virginia authorize localities to impose a tax of up to 80 percent of the state rate.

Secs. 2-4-36 through 2-4-40 reserved.

ARTICLE D Public Utility Tax

Sec. 2-4-41 Public Utility Consumption Tax; Authority and Imposition

Pursuant to the authority granted under § 58.1-3814 et seq. of the Code of Virginia there is hereby imposed a monthly tax on the consumption of electricity within the corporate limits of the Town of Burkeville (“Electricity Tax”).

Section 2-4-42. Classification and Rates.

- (a) Residential Consumers. The Electricity Tax on residential consumers shall be equal to twenty percent (20%) of the minimum monthly charge imposed upon the consumer, plus a rate of \$0.015452 per kilowatt-hour (kWh) delivered monthly, not to exceed \$3.00 per month.
- (b) Nonresidential Consumers. The Electricity Tax on nonresidential consumers shall be equal to twenty percent (20%) of the minimum monthly charge imposed upon the consumer, plus a rate of \$0.014048 per kilowatt-hour (kWh) delivered monthly, not to exceed \$40.00 per month.

Section 2-4-43. Exemptions

The following consumers of electricity are exempt from the Electricity Tax imposed by this article:

- (a) The United States of America;
- (b) The Commonwealth of Virginia; and
- (c) Political subdivisions thereof, including the Town of Burkeville.

Such exemptions shall be applied in accordance with applicable provisions of the Code of Virginia.

Section 2-4-44. Billing, Collection, and Remittance

- (a) The electricity provider, or its provider of billing services, shall bill the Electricity Tax to all consumers located within the corporate limits of the Town of Burkeville who are subject to the Electricity Tax and shall add the Electricity Tax as a separate item on the consumer’s monthly bill.
- (b) The service provider shall remit Electricity Taxes collected to the Town of Burkeville on a monthly basis in accordance with § 58.1-3814(F) and (G) and § 58.1-2901 of the Code of Virginia.
- (c) Any Electricity Tax collected by the service provider shall be deemed to be held in trust for the benefit of the Town until remitted.
- (d) If any consumer receives and pays for electricity but refuses to pay the tax imposed by this article, the service provider shall notify the Town of the name and address of such consumer.
- (e) If any consumer fails to pay a bill issued by a provider of billing services, including the tax imposed by this article, the provider shall follow its normal collection procedures. Upon collection of the bill or any part thereof, the provider shall apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to the Town.

Section 2-4-45. Administration, Enforcement, and Computation

(a) Penalties and Interest.

Any service provider who fails to remit taxes collected as required by this article shall be subject to:

1. A penalty of ten percent (10%) of the amount due; and
2. Interest at a rate of ten percent (10%) per annum, or the maximum rate permitted by law, from the due date until paid.
3. Such penalties and interest shall be collectible in the same manner as the tax.

(b) Audit and Records.

The Town, through its Clerk/Treasurer or other authorized official, shall have the authority to:

1. Examine and audit the books, records, and accounts of any service provider subject to this article;
2. Require such records to be maintained for a period of not less than three (3) years, or as otherwise required by law; and
3. Impose additional taxes, penalties, and interest based on audit findings.

All records shall be made available to the Town upon reasonable notice during normal business hours.

ARTICLE E **Meals Tax**

Sec. 2-4-46 Definitions.

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

Caterer A person who furnishes meals on the premises of another for compensation.

Treasurer The Treasurer of The Town of Burkeville, Virginia and any of his/her duly authorized deputies and agents.

Meal Any prepared food and drink, including alcoholic beverages offered or held out for sale by a restaurant or caterer for the purpose of being consumed by an individual or group of individuals at one time to satisfy the appetite. All such food and drink shall be included whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, dinner, supper, or by some other name, and without regard to the manner, time, or place of service.

Purchaser Any person who purchases a meal.

Restaurant Any place or thing within The Town Limits of Burkeville, Virginia from which or in which meals are sold, including, but not limited to places of business known as bakeries, bars, cafes, cafeterias, coffee shops, clubs, convenience stores, delicatessens, diners, dining rooms, drug stores, eateries, eating houses, grills, grocery stores which sell food as defined above, such as in a delicatessen area, ice cream parlors, lunch counters, restaurants and snack bars. "Restaurant" also means push-carts or other mobile facilities from which meals are sold or furnished.

Seller Any person who sells a meal (and any caterer).

Town The Town of Burkeville, Virginia.

Sec. 2-4-47 Levy of Tax.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, a tax is hereby levied and imposed on the Purchaser of every meal sold in the Town in or from a restaurant, whether prepared in such

restaurant or not and whether consumed on the premises or not. The rate of this tax shall be five and one-half percent of the amount paid for the meal. A fractional cent of tax due shall be rounded to the next higher cent.

Sec. 2-4-48 Payment and Collection of Tax.

The tax, in each and every case, shall be collected by the Seller from the Purchaser at the time the charge for the meal shall be due and payable, whether such payments shall be made in cash or on credit by means of a credit card or otherwise. The Seller shall add the tax to the amount charged for the meal and shall pay the taxes collected to the Town as provided in this Article.

Sec. 2-4-49 Collections Held in Trust for Town.

All money collected as taxes under this article shall be deemed to be held in trust by the seller collecting them, until remitted to the Town as provided by this article.

Sec. 2-4-50 Reports and Remittances.

The Treasurer may require all prospective sellers of meals licensed to do business in the Town to register for collection of the tax imposed by this article. Every Seller shall make a report to the Town for each calendar month, showing the amount of charges collected for meals and the amount of tax required to be collected. The monthly reports shall be made on forms prescribed by the Treasurer on or before the twentieth day of the calendar month following the month being reported. Each report shall be accompanied by a remittance of the amount of tax due, made payable to the Town.

Sec. 2-4-51 Discount.

For the purpose of compensating Sellers for the collection of the tax imposed by this article, every Seller shall be allowed two percent of the amount of the tax due and accounted for in the form of a deduction of his or her monthly return; provided, the amount due is not delinquent at the time of payment.

Sec. 2-4-52 Penalty and Interest for Failure to Remit Taxes When Due.

(a) If any person whose duty is to do so shall fail or refuse to make the report or refuse to remit the tax required by this Article to the Treasurer within the time and the amount required, there shall be added to the tax by the Treasurer a penalty in the amount of ten percent of the tax due or the sum of ten dollars, whichever is greater. In addition, there shall be added to such unpaid tax interest at the rate of ten percent per year, which equals .0274 percent interest charged per day on the amount past due (including tax and penalty). Such interest will commence on the twenty-first day of the month following the month for which such taxes are due.

(b) In the case of a false or fraudulent return with intent to defraud the Town of any tax due under this Article, a penalty of fifty percent of the tax shall be assessed against the person required to collect such tax. In addition, such person shall be guilty of a class one misdemeanor as defined by §1-1-8 of the Town Code if convicted thereof.

Sec. 2-4-53 Procedure When Tax Not Reported or Collected.

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed under this Article and make timely report and remittance thereof, the Treasurer shall proceed in such manner as is practicable to obtain facts and information on which to base an estimate of the tax due. As soon as the Treasurer has procured whatever facts and information may be obtainable, upon which to base the assessment of any tax payable by any person who has failed to collect, report or remit such tax, the Treasurer shall proceed to determine and assess against such person the tax, penalty and interest provided in this Article, and shall notify the person by registered mail sent to his or her last known address, of the amount of such tax, penalty and interest. The total amount thereof shall be payable ten days after the date such notice is sent.

Sec. 2-4-54 Enforcement.

(a) It shall be the duty of the Treasurer to ascertain the name of every Seller in the Town, liable for the collection of the tax imposed by this article, who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this Article. The Treasurer may have criminal process issued for such person, pursuant to §2-4-52 or §2-4-55, as is appropriate, in the manner provided by law and the Treasurer may seek conviction or other civil remedy including injunction against such person.

(b) In the event the purchaser of any meal refuses to pay, the tax imposed by this Article, the seller may call upon the Police Department to have criminal process issued pursuant to Section 2-4-55.

Sec. 2-4-55 Violations.

Any person violating or failing to comply with any of the provisions of this Article, shall, upon conviction thereof, be guilty of a Class 3 misdemeanor as defined by §1-1-8 of the Town Code. Conviction shall not relieve a person from the payment, collection or remittance of the tax as provided in this Article. Each violation or failure shall be a separate offense. The Treasurer shall proceed to determine omitted or under reported taxes in addition to such prosecution.

Sec. 2-4-56 Exemptions.

The following classes of transactions involving meals shall not be subject to tax under this Article:

(a) Meals furnished by restaurants to employees as part of their compensation when no charge is made to the employee.

(b) Meals sold by non-profit day-care centers, public or private elementary or secondary schools or public or private colleges and universities to their students or employees.

(c) Meals furnished by a non-profit charitable organization to elderly, infirm, handicapped or needy persons in their home or at central locations.

(d) Meals sold by non-profit educational, religious, recreational, charitable or benevolent, organization on an occasional basis as a fund-raising activity.

(e) Meals furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm or handicapped or other extended care facility to patients or residents thereof.

(f) Food and beverages sold through vending machines.

(g) Any tangible personal property purchased with food coupons issued by the USDA under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program (WIC).

(h) Any other sale of a meal which is exempt from taxation under the Virginia Retail Sales and Use Tax Act or administration rules and regulations issued pursuant hereof.

Sec. 2-4-57 Preservation of Records.

It shall be the duty of every person liable for collection and remittance of the taxes imposed by this Article to preserve for a period of two years records showing all purchases taxable under this Article, the amount charged the Purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this Article. The Treasurer shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this Article and to make copies of all or any parts thereof.

Sec. 2-4-58 Duty of Person Going Out of Business.

Whenever any person required to collect and remit to the Town any tax imposed by the Article shall cease to operate or otherwise dispose of his or her business, the tax shall immediately become due and payable, and the person shall immediately make to the Treasurer a report and remittance thereof.

Sec. 2-4-59 Advertising Payment of Absorption of Tax Prohibited.

No Seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this Article will be paid or absorbed by the Seller or by anyone else, or that the Seller or anyone else will relieve any Purchaser of the payment of all or any part of the tax.

Sec. 2-4-60 Tips and Service Charges.

Where a Purchaser provides a tip for an employee of a Seller, and the amount of the tip is wholly in the discretion of the Purchaser, said tip is not subject to the tax imposed by this Article, whether paid in cash to the employee or added to the bill and charged to the Purchaser's account, provided, in the latter case, the full amount of the tip is turned over to the employee by the Seller.

An amount or percentage whether designated as a tip or a service charge that is added to the price of a meal by the Seller, and required to be paid by the Purchaser, is a part of the selling price of the meal and is subject to the tax imposed by this Article.

Sec. 2-4-61 Treasurer/Other Power and Duties.

(a) It shall be the duty of the Treasurer to ascertain the name of every person operating a restaurant in the Town liable for the collection of the tax levied under §2-4-47.

(b) The Treasurer shall have the power to issue rules and regulations and develop forms for the administration and enforcement of this Article. A copy of such rules and regulations shall be on file and available for public examination in the Town Office. Failure or refusal to comply with any rules and regulations issued under this section shall be deemed a violation of this Article.

Sec. 2-4-62 Regulations.

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, section or part of this Ordinance shall for any reason be adjudged to be invalid, such invalidity shall not affect the parts which are not adjudged to be invalid.

Secs. 2-4-63 through 2-4-70 reserved.

ARTICLE F
Tax on Transient Lodging

Sec. 2-4-71 Definitions.

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

Hotel means any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, bed & breakfast or other lodging place within the town offering lodging for compensation to any transient.

Lodging means space or room offered any transient.

Transient means any person who, for a period of not more than 30 consecutive days, either at his/her own expense, or at the expense of another, obtains lodging at any hotel.

Clerk/Treasurer means the town clerk and treasurer and any of his/her duly agents.

Sec. 2-4-72 Violations.

Any person violating or failing to comply with any of the provisions of this article shall be guilty of a class 2 misdemeanor. Each violation or failure shall constitute a separate offense. Conviction shall not relieve any person from payment, collection, or remittance of the tax as provided in this article.

State law reference: Tax on transient room rentals, Code of Virginia, Section 58.1-3840

Sec. 2-4-73 Levied.

There is hereby imposed and levied by the town on each transient a tax equivalent to five percent of the total amount paid for lodging, excluding any other taxes levied thereon, by or for any transient to any hotel.

Sec. 2-4-74 Exemptions.

No tax shall be payable under this article in any of the following instances:

- (a) On charges for lodging paid to any hospital, medical clinic, convalescent home or home for the aged.
- (b) On charges made from providing space for a mobile home in a duly authorized mobile home park.

Sec. 2-4-75 Collection generally.

The tax imposed and levied by this article shall be collected from the transient by the person providing such lodging at the time and in the manner provided in this article.

Sec. 2-4-76 Collection procedure.

(a) every person receiving any payment for lodging with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on who such tax is levied or from the person paying for such lodging at the time payment for such lodging is made. The taxes required to be collected under this shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this article.

(b) For the purpose of compensating a person for accounting for and remitting the tax levied by this article, such person shall be allowed three percent of the amount of tax due and accounted for in the form of a deduction in submitting his return and paying the amount due by him; provided the amount due was not delinquent at the time of the payment.

Sec. 2-4-77 Reports, remittance of tax collected.

The person collecting any tax as provided in this article shall make a record thereof upon such forms and setting forth such information as the clerk/treasurer may prescribe and require, showing the amount of lodging charges collected and the tax required to be collected, and shall sign and deliver such reports to the clerk/treasurer with the remittance of such tax. Such report and remittance shall be made on or before the twentieth of each month for taxes collected the preceding month. All payments of monies shall be made to the town treasurer.

Sec. 2-4-78 Interest; Penalties.

If any responsible person shall fail or refuse to remit to the town treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article there shall be added to such tax by the treasurer a penalty in the amount of ten percent per annum which shall be computed upon the taxes and penalty from the date such taxes are due and payable.

State law reference: Maximum interest rate, etc., Code of Virginia Section 58.1-3916.

Sec. 2-4-79 Failure or refusal to collect and report tax.

If any responsible person shall fail or refuse the tax shall refuse to collect the tax imposed by the provisions of this article and to make payment within the time required according to the reports and remittances required by this article, the treasurer shall proceed in such manner as he/she may deem best to obtain the facts and information on which to base the estimation of tax due. As soon as the treasurer procures such facts and information as he/she is able to obtain upon which to base the assessment of any tax payable by any person

who shall fail or refuse to collect such tax and to make such report and remittance, he/she shall proceed to determine and assess against such responsible person by registered mail to his last known place of address of the amount of such tax penalty and interest, and the total amount thereof shall be payable within ten days from the date of such notice. The clerk/treasurer shall have the power to examine such records for the purpose of administering and enforcing the provisions of this section. If any responsible person fails to comply with this article or any provision of it, the clerk/treasurer may terminate the business license issued pursuant to Title 7 of the code of the Town of Burkeville or in the alternative, may require the responsible person to place a deposit with the treasurer equal to the greater of one thousand dollars or the equivalent or one month's tax imposed under this article. Said deposit is to serve as security for the payment of future taxes due hereunder.

Sec. 2-4-80 Records.

It shall be the duty of every person liable for the collection and payment to the town of any tax imposed in this article to keep and to preserve for a period of two years such suitable records as may be necessary to determine and show accurately the amount of such tax as he may have been responsible for collecting and paying to the town. The clerk/treasurer, town auditor, or agent may inspect such records at all reasonable times.

ARTICLE G Tax on Cigarettes

Sec. 2-4-81 Definitions.

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

Cigarette means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains any roll of any size or shape of smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant substituted for tobacco, whether it is flavored or unflavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name. The term "cigarette" includes "roll-your-own" tobacco, which means any tobacco in which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for make your own cigarettes. For purposes of this definition of "cigarettes," 0.09 ounces of "roll-your-own" tobacco shall constitute as one individual "cigarette"

Cigarette shall also mean a device that produces an inhalable aerosol, with or without nicotine, by heating the substance within by a means of an electronic device without combustion of the tobacco or by heat generated from a combustible source that only or primarily heats rather than burns the tobacco or substance.

Dealer means every manufacturer, jobber, wholesale dealer or other person who supplies a seller with cigarettes.

Package means every package, box, can, or other container of any cigarettes to which the Internal Revenue Stamp of the United States Government is required to be affixed by and under federal statutes and regulations and in which retail sales of such cigarettes are normally made or intended to be made. Ordinarily, a package contains 20 (20) cigarettes; however, the term "package" includes those containers in which fewer or more than 20 (20) cigarettes are placed.

Sale means every act or transaction, irrespective of the method or means employed, including the use of vending machines and other mechanical devices, whereby title to any cigarettes shall be transferred from the seller, as defined in this section, to any other person within the Town.

Seller means every person who transfers title to any cigarettes of in whose place of business title to any cigarettes is transferred, within the jurisdictional limits of the Town of Burkeville, for any other purpose other than resale.

Stamp means a small, gummed piece of paper or decal to be sold by the Treasurer and to be affixed to every package of cigarettes sold at retail in the Town of Burkeville, and also any insignia or symbols printed by the meter machine upon any such package under the authorization of the Treasurer.

Treasurer means the Treasurer of the Town of Burkeville and any of his or her duly authorized deputies and agents.

Sec. 2-4-82 Levied; Amount; tax additional to other taxes.

With regards to Code of Virginia 58.1-10, There is hereby levied and imposed by the Town of Burkeville, in addition to any other taxes which may be or have been imposed, a tax to be paid and collected as provided in this article on each and every sale of cigarettes made in the Town of Burkeville. This tax is to be paid by the seller, local dealer or other agent affixing a stamp, or causing a stamp to be affixed to every package of cigarettes, in the kind and manner required in this article and the applicable rate as follows: The rate or amount of tax levied or imposed on cigarettes shall be at the rate of thirty cents (\$0.30) for each twenty (20) cigarettes or fractional part thereof. The tax hereby levied shall not apply to free distribution of sample cigarettes from the cigarette manufacturer, in packages containing five or fewer cigarettes.

Sec. 2-4-83 Disposition of Revenue.

Revenue derived from the tax imposed in this article shall be deposited by the Town Treasurer to the credit of the general fund for the Town of Burkeville. Revenue is to be utilized for such legal purposes as the council of the Town may from time to time determine.

Sec. 2-4-84 Preparation, sale, etc., of stamps; duties of the Treasurer generally.

- (a) The Town Treasurer shall acquire, keep, and sell necessary stamps to local dealers and other agents, the stamps to be of such denominations and quantities as may be necessary for the payment of the tax imposed in this article.
- (b) In the sale of such stamps to a local dealer or other agent, the Treasurer shall allow a discount of two cents (\$0.02) per stamp of the face value thereof to cover the cost which will be incurred by such sealer or agent in affixing the stamps to packages of cigarettes.
- (c) The Treasurer may, from time to time and as often as he or she deems advisable, provide for the issuance and exclusive use of stamps of a new design and forbid the use of any other design. The Treasurer is empowered to make and carry into effect such reasonable rules and regulations relating to the preparation, furnishing, sale and redemption of stamps as he may deem necessary. In redeeming stamps or making refunds for destroyed stamps, the Treasurer shall not in any case refund more than ninety (90) percent of the face value of such redeemed or destroyed stamps. The Treasurer is further authorized and empowered to prescribe the method to be employed, the conditions to be observed, and any other necessary requirements not contrary to this article in the use of meter machines for printing upon packages of cigarettes an insignia to represent the payment of the tax and in lieu of stamps.

- (d) The tax imposed by this article shall be evident by the use of a stamp, purchased from the Town Treasurer, and affixed by the dealer or seller to every package of cigarettes to be sold within the Town of Burkeville. Every dealer and seller shall have the right to purchase such stamps from the Treasurer and affix the same to the packages of cigarettes as provided in this article.
- (e) The Mayor, Town Council, and Treasurer may prescribe, adopt, promulgate, and enforce rules and regulations relating to the method and means to be used in the cancellation of stamps and to all other matters pertaining to the administration and enforcement of the provisions of this article. It shall be unlawful for any person to fail, neglect or refuse to comply with such rules and regulations.
- (f) The Treasurer may examine books, records, invoices, papers and all cigarettes in and upon any premises where the same are placed, stored, sold, offered for sale or displayed for sale by a seller or dealer.
- (g) At advice and approval of the Town council, the levied tax may be increased July 1, at the start of the fiscal year. The seller or dealer may not purchase an excessive number of stamps 30 days prior to the change of the fiscal year, amounts not to exceed the number of stamps that are normally purchased from the seller or dealer from the Treasurer. Any stamps that are in possession of the dealer or seller will be honored for 60 days after the beginning of the fiscal year. If any remaining stamps are in the possession of the dealer or seller, the dealer or seller may exchange the stamps and receive 50% of the face value of the stamps in credit toward purchase of the current levied stamps.
- (h) In addition to powers granted in subsections (a) through (g) of this section, the Treasurer of the Town of Burkeville is further authorized and empowered to:
 - i. Delegate his or her powers to agents or others, including police officers of the Town of Burkeville;
 - ii. Act in any other matter pertaining to the administration and enforcement of the provisions of this article.

Sec 2.4-85 Duties of dealers and sellers regarding stamps

- (a) Every dealer in cigarettes is here by required and it shall be his duty to purchase such stamps at the office of the Treasurer as shall be necessary to pay the tax levied and imposed by this article, and to affix or cause to be affixed, a stamp or stamps of the prescribed monetary value to each package of cigarettes prior to delivering or furnishing such cigarettes to any seller.
- (b) A seller is hereby required to examine each package of cigarettes, prior to exposing the same for sale, for the purpose of ascertaining whether such package has the proper stamps affixed thereto or imprinted thereon as required by this article. If upon such examination unstamped or improperly stamped packages of cigarettes are discovered, the seller shall either:
 - i. Purchase and affix to such packages of cigarettes the proper stamps covering the tax imposed by this article; or
 - ii. Immediately notify the dealer who provided the cigarettes, and upon such notification such dealer shall forthwith either affix to the unstamped or improperly stamped packages the proper amount of stamps, or shall replace such packages with other to which stamps have been properly fixed thereon.
- (c) In the event any seller elects to purchase and affix stamps before offering cigarettes for sale, the dealer delivering and furnishing such cigarettes shall not be required to purchase and affix stamps to such cigarettes so sold or furnished; provided that any such dealer shall, on the following day of such delivery, file with the Treasurer a copy of the delivery memorandum showing the name and address of such seller and the quantity and type of cigarettes so delivered and furnished.
- (d) The Treasurer, Mayor, and Town council, by proper rules and regulations, may require every local dealer, agent or seller to cancel stamps upon all packages of cigarettes in his possession.

- (e) It shall be the duty of every dealer and seller to maintain and keep, for a period of two (2) years, not including the current year, such records of cigarettes sold and delivered by him or her as may be required by the Treasurer and to make such records available for examination by such Treasurer or agents of the Treasurer, upon demand, at any and all reasonable times.
- (f) It shall be the duty of each dealer to report monthly (by the 15th of the month) for the preceding month, to the Treasurer separately the following information:
 - i. The quantity of stamped cigarettes sold or delivered during the period request by the Treasurer to:
 - 1.Each dealer;
 - 2.Each seller; and
 - 3.Each separate person or place of business within the Town
 - ii. The quantity of stamps on hand, both affixed and unfixed on the first day of the period of request and the quantity of stamped cigarettes received during the period; and
 - iii. Such further information as the Treasurer may require for the proper administration and enforcement of this article for the determination of the exact number of cigarettes in the possession of each dealer or user.

Sec 2.4-86 Display of stamps; seizure.

- (a) Stamps or printed markings of a meter machine shall be placed upon each package of cigarettes in such manner as to be readily visible to the purchaser.
- (b) Any seller found to possess, prior to being offered for sale, more than 60 packages of cigarettes without the tax paid stamp affixed who is not in the process of affixing such stamps thereto, shall be presumed to be in possession of untaxed cigarettes in violation of this article. If such person has received the cigarettes within the preceding 48 hours, and has not offered them for sale, such presumption shall not apply.
- (a) All cigarette vending machines shall be plainly marked with the name, address, and telephone number of the owner of said machine.
- (b) Any vending machine located within the Town of Burkeville containing cigarettes upon which the stamp has not been affixed or containing cigarettes placed as to not allowed visual inspection of the stamp through the viewing area as provided for by the vending machine manufacturer shall be presumed to contain untaxed cigarettes in violation of this article. If a vending machine does not allow for visual inspection of the stamp, the Treasurer is hereby authorized to direct the owner to open the machine in order to determine whether the cigarettes contained therein are stamped.
- (c) Any cigarettes, coin operated vending machines, counterfeit stamps, or other property found in violation of this article shall be declared contraband goods and may be seized by the Treasurer. In addition to any tax due, the dealer or other person liable for the tax possessing such untaxed cigarettes shall be subject to civil and criminal penalties herein provided.
- (d) First offense of possessing cigarettes that are not affixed with a stamp, In lieu of seizure, the Treasurer may offer purchase of stamps to the seller or dealer, seal such vending machines to prevent continued illegal sale or removal of such cigarettes. The removal of such seal from a vending machine by any unauthorized person, shall be a violation of this article. Nothing in this article shall prevent the seizure of any vending machine at any time after it is sealed.
- (e) Any seized and confiscated cigarettes, vending machines or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the Mayor, Town Council or Treasurer, after notice to the person from whom the items were seized, and any other known holder of a property interest in the property. The notice shall state that the owner of a property interest may challenge the proposed sale and forfeiture by written appeal to the Town of

Burkeville Town Council at least five (5) days prior to the date of the proposed sale. The appellant shall have the right to personally appear before the Town Council, or their designee, and present any relevant evidence or witnesses, to question any witness for the Town, and to assert any available affirmative defense. The Town Council, or designee thereof, shall render a written decision on the appeal within ten (10) working days. If a timely appeal is filed, no sale and forfeiture shall occur unless and until the Town Council renders a decision rejecting the appeal.

- (f) No credit from any sale of cigarettes, vending machines or other property seized shall be allowed toward any tax, penalties, or interest assessed.

Sec 2.4-87 Violations of article Generally

- (a) Any person violating any of the provisions of this article shall be guilty of a class 1 misdemeanor. Conviction and punishment for such violation shall not relieve any person from the payment of any tax, interest or penalty imposed by this article.
- (b) Any person who fails to pay any cigarette tax as the time it is due, shall pay a late payment penalty in the amount of ten (10) percent of the unpaid tax per month.
- (c) Any person who fails to pay any cigarette tax at the time it is due, shall pay interest on the tax found to be overdue and unpaid at the rate of 1% per month.
- (d) In addition, any person who shall perform any fraudulent act, or fail to perform any act, for the purpose of evading the payment of any tax imposed by this article shall be required to pay a penalty in the amount of fifty (50) percent of any tax that is found to be overdue and unpaid.
- (e) Each day's violation of, or noncompliance with, any of the provisions of this article shall be and constitute a separate offense.
- (f) The sale of any quantity or the use, possession, storage or transportation of more than sixty (60) packages of cigarettes upon which the Town stamp has not been affixed shall be and constitutes a separate violation.

Sec 2.4-88 Illegal Acts

It shall be unlawful and a violation of this article for any dealer or other person liable for the tax to:

- (a) Perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article or any part thereof, or fail to refuse to perform any of the duties imposed by him or her under the provisions of this article or fail or refuse to obey any lawful order which may be issued until this article;
- (b) Falsely or fraudulently make, or cause to be made, any invoices of reports, or to falsely or fraudulently forge, alter, or counterfeit any stamp, or to procure or cause to be made, forged, altered or counterfeited any such stamp or knowingly willfully to alter, publish, pass, or tender as true any false, altered, forged or counterfeited stamp.
- (c) Sell, offer for sale or authorize or approve the sale of any cigarettes upon which the Town stamp has not been affixed;
- (d) Possess, store, use, authorize or approve the possession, storage or use of any cigarettes in quantities of more than sixty (60) cigarettes upon which the Town stamp has not been affixed;
- (e) Reuse or refill with cigarettes any package from which cigarettes have been removed, for which the tax imposed has been theretofore paid; or

- (f) Remove from any package any stamp with intent to use or cause the package to be used after such package has already been used or to buy, sell or offer for sale or give away any used, removed, altered or restored stamps to any person, or reuse any stamp which had therefore been used for evidence of payment of any tax prescribed by this article or to sell, offer to sell, any stamp provided for in this article.

Sec 2.4-89 through 2.4-90 Reserved

CHAPTER 5
Purchasing and Financial Management
Reserved