



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of November 17, 2012

DATE: November 6, 2012

SUBJECT: Amendments to Sections 11-5 and 11-6 of the Arlington County Code and Section 36 of the Arlington County Zoning Ordinance relating to payment of delinquent taxes, fees, and other charges as a condition of issuance of a local business license or any type of land use authorization.

C. M. RECOMMENDATION:

Adopt proposed amendments to Sections 11-5 and 11-6 of the Arlington County Code and Section 36 of the Arlington County Zoning Ordinance relating to payment of delinquent taxes, fees, and other charges as a condition of issuance of a local business license or any type of land use authorization.

ISSUES: The attached ordinance proposes amendments to Sections 11-5 and 11-6 of the Arlington County Code and Section 36 of the Arlington County Zoning Ordinance relating to payment of delinquent taxes, fees, and other charges as a condition of issuance of a local business license or any type of land use authorization. No issues have been identified.

SUMMARY: The proposed amendments would condition the issuance of any type of land use authorization upon payment of delinquent taxes, fees, and other charges and would add payment of delinquent real estate taxes to the list of taxes upon which issuance of a business license may be conditioned.

BACKGROUND: On March 21, 2012, the Governor of Virginia approved duly enacted legislation that amends and reenacts §§ 15.2-2286 and 58.1-3700 of the Code of Virginia. 2012 Acts of Assembly Ch. 304.

Specifically, effective July 1, 2012, Section 58.1-3700 reads:

Whenever a license is required by ordinance adopted pursuant to this chapter and whenever the local governing body shall impose a license fee or levy a license tax on any business, employment or profession, it shall be unlawful to engage in such

County Manager:

BMD/mjs

County Attorney:

[Signature]

MNC

14.

Staff: Christopher Sadowski, Treasurer's Office

business, employment or profession without first obtaining the required license. The governing body of any county, city or town may require that no business license under this chapter 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 county, city or town have been paid which have been properly assessed against the applicant by the county, city or town.

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.

Similarly, Section 15.2-2286.B. reads in relevant part:

Prior to the initiation of an application by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and sediment control permits, or prior to the issuance of final approval, the authorizing body may require the applicant to produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the locality and have been properly assessed against the subject property, have been paid.

The proposed amendments to Arlington County Code Sections 11-5 and 11-6 would incorporate post-2012 amendment Section 58.1-3700. The proposed amendment to Section 36 of the Arlington County Zoning Ordinance would incorporate post-2012 amendment Section 15.2-2286.B.

DISCUSSION: Sections 15.2-2286 and 58.1-3700 and the proposed amendments to Arlington County Code reflect the basic principle that no entity or individual should be granted a governmental privilege if it has not met its obligation to that government to pay timely all duly assessed taxes. Other jurisdictions that expressly require applicants to pay all delinquent real estate taxes in their respective zoning ordinances include the Counties of Albermarle (§ 1.9) and Loudoun (§ 6-403(A)) and the Cities of Charlottesville (§ 34-10), Manassas Park (§ 31-52(d)), Newport News (§ 45-3204(a)), Richmond (§ 114-1010) and Roanoke (§ 36.2-510(a)(2)). At its November 5, 2012 meeting, the Arlington County Planning Commission voted unanimously to recommend adoption of the proposed amendment to Section 36 of the Arlington County Zoning Ordinance. Amending the Arlington County Code to reflect the expanded scope of these sections as permitted by the 2012 amendments will aid in the collection of delinquent taxes and thereby ensure fundamental fairness to all taxpayers and citizens.

FISCAL IMPACT: By requiring more applicants to pay their delinquent taxes as a condition of receiving a business license or land use authorization, the proposed amendments should increase County revenue collections. The specific dollar amount of such additional collections is impossible to predict, as the number of prospective applicants who would owe delinquent taxes

is unknown, as is the amount owed by such applicants. Accordingly, the Fiscal Year 2013 revenue appropriations will not be amended.

ATTACHMENT 1

BE IT ORDAINED by the County Board of Arlington, Virginia that:

1. Section 11-5 of the Arlington County Code is amended as follows:

§ 11-5. Procedure for Filing Business License Tax Returns; Reconciliation of Records and Monthly Reports.

A. Except as provided by subsection B below, every person engaging in business under the provisions of this chapter shall file an annual business license tax return with the Commissioner of the Revenue as prescribed in §§ 11-8 and 11-10 of this chapter. The Commissioner of the Revenue shall furnish business license tax return forms which shall be properly and fully executed by the taxpayer and contain such information as may be required by the Commissioner of the Revenue. The Commissioner of the Revenue shall assess the license taxes and fees required by this chapter.

B. Notwithstanding the provisions of this article, a person shall not be required to file a business license application for a license year when the gross receipts attributed to the person's definite place of business are ten thousand dollars (\$10,000.00) or less unless the business is also subject to taxation of business tangibles personal property taxation in an amount greater than fifteen dollars (\$15.00). In cases where a person engaged in a business, profession or occupation grosses ten thousand dollars (\$10,000.00) or less but is subject to business tangibles taxation of greater than fifteen dollars (\$15.00), said person shall file a return even if the gross receipts do not exceed ten thousand dollars (\$10,000.00).

C. No business license under this chapter 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 Arlington County have been paid which have been properly assessed against the applicant by Arlington County.

D. Any person who engages in a business without obtaining a required business license, or after being refused a business license, shall not be relieved of the tax imposed by this chapter and shall be subject to the penalties imposed by this chapter.

E. The Commissioner of the Revenue and the County Treasurer shall reconcile monthly their records with respect to license tax returns filed with the Commissioner of the Revenue and license tax and fee payments received by the Commissioner of the Revenue and the County Treasurer, and a combined report thereon shall be submitted monthly to the County Manager or his designee

2. Section 11-6 of the Arlington County Code is amended as follows:

§ 11-6. Applicants for Licenses to Give Certain Information.

A. Every person filing a business license tax return under the provisions of this chapter shall furnish on the tax return or in writing with the return, the names, and trade names of the business and person or persons responsible for the business, the nature of the business, profession, trade or occupation, the address in the County where the business is being pursued, and its gross receipts for the base year.

B. As to businesses for which a gross receipts tax or fee is levied on persons having a definite place of business in the County as provided in § 11-16 of this chapter, it is the policy of the County to require that all gross receipts derived from the business be included in their license basis; provided, that in cases where their business requires the performance of certain activities outside the County, and they would be liable for a similar tax in another taxing jurisdiction based on gross receipts derived from activities conducted at a definite place of business in that other taxing jurisdiction as provided in § 11-16 of this chapter, they shall deduct such gross receipts taxed or taxable by the other taxing jurisdiction in arriving at their County license tax basis.

C. No business license under this chapter 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 Arlington County have been paid which have been properly assessed against the applicant by Arlington County.

3. Except as amended by 1. and 2., Chapter 11 of the Arlington County Code shall remain as previously enacted.
4. Section 36 of the Arlington County Zoning Ordinance is amended by adding new subsection N as follows:

N. Payment of Delinquent Taxes, Fees, and Other Charges as a Condition of Issuance.

Prior to the initiation of an application by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and sediment control permits, or prior to the issuance of final approval, the applicant shall produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the locality and have been properly assessed against the subject property, have been paid.

5. Except as amended by 4., Section 36 of the Arlington County Zoning Ordinance shall remain as previously enacted.