



Agenda
Page County Board of Supervisors
Work Session
Board of Supervisors Room – 103 South Court Street, Luray
November 1, 2016 – 7:00 p.m.

5:30 – 6:30 Tour of Health Sciences Building at the Technical Center

7:00 Call to Order

- Pledge of Allegiance
- Invocation

Update from the Chamber of Commerce

Gina Hilliard

Cash Flow Report

Penny Gray

Update on the Schools

Donna Whitley-Smith

Review of Changes to the Labor Laws

Kellie Purdham (p. 2)

Discussion of Cigarette Tax Resolution

Amity Moler (p. 7)

Discussion of Meals Tax Increase

Amity Moler (p. 11)

Festival Ordinance Amendment

Amity Moler (p. 16)

Adjourn

Mission Statement

To provide essential and desired services to all Page County citizens through an open and responsive decision making process that values ethical conduct, fiscal responsibility, professional expertise, regional collaboration and proactive stewardship.



COUNTY OF PAGE

103 South Court Street, Suite F
Luray, Virginia 22835
(540) 743-4142
Fax: (540) 743-4533

Board of Supervisors:

Johnny Woodward – Chairman – At- Large
D. Keith Guzy, Jr. – District 1
David Wiatrowski – District 2
Mark Stroupe – District 3
Larry Foltz – District 4
Dorothy F. Pendley – District 5

TO: Chairman Woodward and Board of Supervisors

FROM: Amity Moler, County Administrator

SUBJECT: FLSA Overtime Final Rule

DATE: November 1, 2016

SUMMARY:

In May 2016, the Department of Labor published a final rule that updates the regulations determining which white collar, salaried employees are entitled to the Fair Labor Standards Acts minimum wage and overtime pay protections. The final rule raises the exempt salary threshold from \$23,660 for a full year worker to \$47,476 for a full year worker. This will go into effect December 1, 2016.

RECOMMENDATION:

BACKGROUND:

Beginning December 1, employees that are currently considered exempt but do not meet the new salary threshold of \$47,476 will be classified as non-exempt and must receive 1 ½ times the regular rate of pay for all hours worked over 40 in a work week. The County provides compensatory time off in lieu of overtime pay. The current ruling affects eight County exempt employees. For workers whose current salary is close to the threshold and who pass the duties test, we may elect to increase these worker's salaries to meet the new threshold.

ISSUES:

This ruling has the potential to create budget challenges and staffing shortages. For those workers that will have a status change from exempt to non-exempt, they may view this new ruling as a demotion. We plan to hold employee meetings to effectively communicate this change.

ALTERNATIVES:

N/A

FISCAL IMPACT:

Using FY16 comp time hours accrued for those eight employees, the projected fiscal impact difference is over \$4000. This is an estimation based on the previous fiscal year.

MOTION:

ATTACHMENTS:

- 1. DOL: Overtime Final Rule and State and Local Governments**



Overtime Final Rule and State and Local Governments

State and local governments: The Fair Labor Standards Act (“FLSA”) has long applied to state and local governments. The FLSA and the Department’s regulations, however, contain some unique provisions applicable only to public sector workers, notably the permitted use of compensatory time off, under certain conditions. These provisions will help state and local governments adapt to the overtime final rule.

Overtime Final Rule: The Department of Labor’s final overtime rule updates the salary level required for the executive, administrative, and professional (“white collar”) exemption to ensure that the FLSA’s intended overtime protections are fully implemented, and it provides greater clarity for white collar workers and their employers, including for state and local governments. The rule also will lead to better work-life balance for many workers, and it can benefit employers by increasing productivity and reducing turnover.

The final rule updates the salary threshold under which most white collar workers are entitled to overtime to equal the 40th percentile of weekly earnings of full-time salaried workers in the lowest wage Census region, currently the South. The final rule raises the salary threshold from \$455 a week (\$23,660 for a full-year worker) to \$913 a week (\$47,476 for a full-year worker) effective December 1, 2016.

The FLSA and State and Local Governments

Neither the FLSA nor the Department’s regulations provide a blanket exemption from overtime requirements for state and local governments, nor for public sector workers. However, the FLSA contains several provisions unique to state and local governments, including compensatory time (“comp time”).

Comp time: Pursuant to an agreement with employees or their representatives, state or local government agencies may arrange for their employees to earn comp time instead of cash payment for overtime hours. Any comp time arrangement must be established pursuant to the applicable provisions of a collective bargaining agreement, memorandum of understanding, any other agreement between the public agency and representatives of overtime-protected employees, or an agreement or understanding arrived at between the employer and employee before the performance of the work. This agreement may be evidenced by a notice to the employee that compensatory time off will be given in lieu of overtime pay (for example, providing the employee a copy of the personnel regulations). The comp time must be provided at a rate of one-and-one-half hours for each overtime hour worked. For example, for most state government employees, if they work 44 hours in a single workweek (4 hours of overtime), they would be entitled to 6 hours (1.5 times 4 hours) of compensatory time off. When used, the comp time is paid at the regular rate of pay.

Most state and local government employees may accrue up to 240 hours of comp time. Law enforcement, fire protection, and emergency response personnel, as well as employees engaged in seasonal activities (such as employees processing state tax returns) may accrue up to 480 hours of comp time. An employee must be permitted to use comp time on the date requested unless doing so would “unduly disrupt” the operations of the agency.

Fire and police small-agency exemption: The FLSA also provides an exemption from overtime protection for fire protection or law enforcement employees, if they are employed by an agency that employs fewer than five fire protection or law enforcement employees, respectively.

“Work periods” rather than “workweeks” for fire protection or law enforcement employees: Employees engaged in fire protection or law enforcement may be paid overtime on a “work period” basis, rather than the usual 40-hour workweek of the FLSA. A “work period” may be from 7 consecutive days to 28 consecutive days in length. Overtime compensation is required when an employee’s hours worked in the work period exceed the maximum hours outlined in a formula in the Department’s regulations. For example, for a law enforcement employee who works a 14-day work period, the Department’s regulations provide that she must receive overtime compensation after working 86 hours in the work period. See FLSA [Fact Sheet #7](#) and [Fact Sheet #8](#) for more information.

Impact Is Limited by Other Rules and Exemptions:

Many employees of state and city governments won’t be affected by the final rule:

- *Hourly workers*: The new threshold will have no impact on the pay of workers paid hourly. Generally, all hourly workers—including those employed by state and local government—are entitled to overtime pay or comp time regardless of how much they make if they work more than 40 hours. Nothing in the new rule changes that.
- *Workers with regular workweeks of 40 or fewer hours*: To the extent that many salaried white-collar staff in state and local government have office jobs where they work no more than 40 hours, the changes to the overtime rules will have no effect on their pay. Additionally, for law enforcement and fire protection employees who regularly work hours that conform to the longer work periods permitted for such employees, the changes will also not impact their pay.
- *Workers who fail the duties test*: Salaried workers who do not primarily perform executive, administrative, or professional duties are not eligible for the white collar overtime exemption and therefore are not affected by the final rule. Those employees already should be getting paid overtime for any hours they work over 40 in one week (or the applicable work period maximum for fire protection and law enforcement employees), as long as comp time is not available.
- *Highly compensated workers*: White collar workers who fail the standard duties test but are “highly compensated”—earn more than \$134,004 in a year—are almost all ineligible for overtime under

the highly compensated employee exemption, which has a minimal duties test. This exemption would cover some high-level managers in state and local government. (You can see more information on HCE duties in WHD [Fact Sheet #17H](#).)

- *Police and fire employees in small agencies*: Fire protection or law enforcement employees in public agencies with fewer than five fire protection or law enforcement employees respectively will continue to be exempt from overtime.
- *Elected officials, their policymaking appointees, and their personal staff and legal advisors who are not subject to civil service laws*: These state and local government employees are not covered by the FLSA and will not be impacted by the rule.
- *Legislative branch employees who are not subject to civil service laws*: These state and local government employees are not covered by the FLSA and will not be impacted by the rule.
- *Public employees who have a comp time arrangement*: By agreement, public sector employers can satisfy their overtime obligation by providing comp time rather than paying a cash overtime premium. State and local government employers may continue to use comp time to satisfy their overtime obligations to employees who have not accrued the maximum number of comp time hours.

State and Local Government Employers Have Discretion to Choose Between Several Options for Complying with the Final Rule

The Department does not dictate what option employers should use to comply with the revised regulations. In fact, many options are available to employers for complying with the new salary threshold. These options include:

- *Raise salaries*: For workers whose salaries are close to the new threshold and who pass the duties test, employers may choose to raise these workers’ salaries to meet the new threshold and maintain their exempt status.
- *Pay overtime above a salary*: State and local government employers also can continue to pay newly-eligible employees a salary and pay overtime, or provide comp time for overtime hours in excess of 40 per week. The law does **not** require that newly overtime-eligible workers be converted to hourly pay status. This approach works for employees who

usually do not work overtime, but have occasional “spikes” or periods that require overtime hours. State and local government employers can either plan and budget the extra pay during those periods or provide comp time.

- o For an employee who works a fixed schedule that rarely varies, the employer may simply keep a record of the schedule and indicate the number of hours the worker actually worked only when the worker varies from the schedule.
- o For an employee with a flexible schedule, an employer does not need to require an employee to sign in each time she starts and stops work. The employer must keep an accurate record of the number of daily hours worked by the employee.

So an employer could allow an employee to just provide the total number of hours she worked each day, including the number of overtime hours, by the end of each pay period.

- *Evaluate and realign employee workload:* Employers can limit the need for employees to work overtime by ensuring that workloads are distributed to reduce overtime, that staffing levels are appropriate for the workload, and that workers are managing their time well.
- *Utilize comp time:* State and local government employers—unlike private sector employers—can provide comp time rather than cash overtime payments in appropriate circumstances.

From: [Amity Moler](#)
To: [Regina Miller](#)
Subject: FW: Cigarette Tax Equalization
Date: Friday, October 14, 2016 10:24:46 AM
Attachments: [Resolution 2016-20 Cigarette Tax.pdf](#)

FYI...

From: Jennifer R Druien [mailto:jrdruien@wytheco.org]
Sent: Friday, October 14, 2016 10:01 AM
To: scott@wisecounty.org; wbonham@washcova.com; information@graysoncountyva.gov; kiserjw@montgomerycountyva.gov; trose@co.patrick.va.us; connie.stanley@franklincountyva.gov; administration@roanokecountyva.gov; clay.craigco@tds.net; jlanford@co.alleghany.va.us; glarrowe@botetourtva.gov; cbogges@bedfordcountyva.gov; spencer_suter@co.rockbridge.va.us; administration@campbellcountyva.gov; jwhetzel@co.augusta.va.us; sking@rockinghamcountyva.gov; dmullins@albemarle.org; wbartlett@co.prince-edward.va.us; taylor.harvie@ameliacova.com; jbarkley@gcva.us; Amity Moler <amoler@pagecounty.virginia.gov>; mwalker@co.middlesex.va.us; coadmin@loudoun.gov; apa703fairfax@fairfaxcounty.gov; countymanager@arlingtonva.us; cstewart@pwcgov.org; dbarnes@staffordcountyva.gov; ndickinson@spotsylvania.va.us; ctyadm@hanovercounty.gov; kmassengill@dinwiddieva.us; mjohnson@southamptoncounty.org; admin@isleofwrightus.net; rahathaway@newkent-va.us; neil.morgan@yorkcounty.gov; administration@co.accomack.va.us
Subject: Cigarette Tax Equalization

Please find attached Wythe County Resolution 2016-20 requesting amendment to Code of Virginia Section 58.1-3831 to allow all Virginia Counties the power to levy tax upon the sale or use of cigarettes. Wythe County requests your support of this proposed change to the Code of Virginia. If you have any questions or would like to further discuss the proposed amendment please contact our office.

Thank you

Jennifer Druien
Wythe County Offices
340 South Sixth Street
Wytheville VA 24382
276-223-4503
jrdruien@wytheco.org





**WYTHE COUNTY
RESOLUTION 2016-20**

WHEREAS, the County of Wythe, Virginia request that all Counties in Virginia have equal rights; and,

WHEREAS, the County of Wythe, respectively request that the Code of Virginia be amended to provide equal rights; and,

WHEREAS, the County of Wythe has been required to fund shortfalls in state and federal funding; and,

WHEREAS, the County of Wythe has identified a means to lessen the burden on property taxes by implementing a cigarette tax that has previously been approved for certain counties, and all cities and towns by state legislative action; and,

NOW, THEREFORE, BE IT RESOLVED, the Wythe County Board of Supervisors request that Section 58.1-3831 be amended to allow all Virginia Counties to have the power to levy tax upon the sale or use of cigarettes; and

FURTHER RESOLVED, that a copy of the requested changes be attached to this resolution.

This resolution was adopted by the Wythe County Board of Supervisors on the 27th day of September 2016. Supervisor Hale made the motion for adoption with Supervisor Gary Houseman seconding the motion. The roll call vote was:

Ayes: 7

Nays: 0

Absent: 0

Attest:

Timothy A. Reeves, Sr., Chairman
Wythe County Board of Supervisors

R. Cellell Dalton, County Administrator

CODE OF VIRGINIA

Title 58.1 Taxation

Chapter 38. Miscellaneous Taxes

§ 58.1-3831. Tax in certain counties.

~~Fairfax and Arlington Counties~~ **All counties in Virginia** shall have the power to levy tax upon the sale or use of cigarettes. Such tax shall be in such amount and on such terms as the governing body may by ordinances prescribe, not to exceed five cents per pack or the amount levied under state law, whichever is greater. The provisions of § 58.1-3830 shall apply to such counties, mutatis mutandis.

Code 1950, § 58-757.28; 1970, c. 512; 1971, Ex. Sess., c. 213; 1984, c. 675.



COUNTY OF PAGE

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Dorothy F. Pendley – District 5

TO: Chairman Woodward and Board of Supervisors
FROM: Amity Moler, County Administrator
SUBJECT: Support of Amendment to Code of Virginia Section 58.1-3831
DATE: October 27, 2016

SUMMARY:

Currently, there are only two counties in Virginia that have the power to levy tax upon the sale or use of cigarettes. Wythe County requests support of all Counties in Virginia in requesting equal taxing rights, not to exceed five cents per pack or the amount levied under state law.

RECOMMENDATION:

Staff recommends support of Wythe County Resolution 2016-20.

BACKGROUND:

Local governments across the Commonwealth have had increased financial burden placed upon them in recent years. We have all been required to fund shortfalls in state and federal funding as well as unfunded mandates. Having the equal right to levy tax upon the sale or use of cigarettes, as allowed by Fairfax and Arlington Counties, would help to lessen these financial burdens.

ISSUES:

N/A

ALTERNATIVES:

N/A

FISCALIMPACT:

Up to five cents per pack of cigarettes purchased in Page County, outside of Town limits.

MOTION:

I move to support Wythe County Resolution 2016-20, requesting amendment to Code of Virginia Section 58.1-3831.

ATTACHMENTS:

1. Wythe County Resolution 2016-20



COUNTY OF PAGE

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TO: Chairman Woodward and Board of Supervisors
FROM: Amity Moler, County Administrator
SUBJECT: Support of Amendment to Code of Virginia Section 58.1-3833
DATE: October 27, 2016

SUMMARY:

York County Administrator, Neil Morgan, has developed a legislative strategy to seek General Assembly approval of amendments to Section 58.1-3833 of the Code of Virginia, equalizing the meals taxation authority among cities, towns and counties.

RECOMMENDATION:

Staff recommends support of the legislative strategy.

BACKGROUND:

Cities and towns throughout the Commonwealth have the meals taxation authority to levy up to 8% on meals purchased in town limits. Counties are authorized to levy a tax up to 4% on meals, but only by referendum. The proposed amendments to Section 58.1-3833 would enable counties, on the initiative and action by their governing bodies (and without referendum), to establish a meals tax rate at a rate determined appropriate by the governing body, not to exceed 8%.

ISSUES:

N/A

ALTERNATIVES:

N/A

FISCALIMPACT:

The fiscal impact will depend on the rate that is set. An increased meals tax levy would create additional revenue.

MOTION:

I move to support the legislative strategy to amend Section 58.1-3833 of the Code of Virginia.

ATTACHMENTS:

1. York County letter
2. Legislative engagement

COUNTY ADMINISTRATOR

Neil A. Morgan



BOARD OF SUPERVISORS

Walter C. Zaremba

District 1

Sheila S. Noll

District 2

W. Chad Green

District 3

Jeffrey D. Wassmer

District 4

Thomas G. Shepperd, Jr.

District 5

August 26, 2016

Ms. Amity N. Moler
County Administrator
Page County
103 S. Court Street, Ste. F
Luray, Virginia 22835

Dear Ms. Moler:

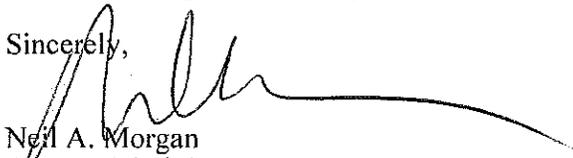
The York County Board of Supervisors has tasked me to develop and implement a legislative engagement strategy to seek General Assembly approval of changes to Section 58.1-3833 of the Code of Virginia that would equalize the meals taxation authority among cities, towns, and counties. We are well aware that requests for broader legislation to equalize all taxing authority of cities, towns, and counties have been proposed in the past and vigorously supported by the Virginia Association of Counties (VACo) and member counties, yet have been soundly defeated. Accordingly, our Board has decided that it wishes to focus on the meals tax authority with the objective of creating a coalition of counties and other constituencies that would support such an initiative. I'm happy to report that our preliminary discussions with the VACo Finance Committee and others concerning a focus on the meals tax alone have been productive and promising.

I am enclosing a short statement describing the current enabling statute, the application of meals taxes by cities, towns, and counties across the Commonwealth, and the specific factors that we believe make this initiative worthy of consideration for York and other counties. Our proposal would cap the opportunity at an 8 percent rate, which is consistent with the maximum rate established by any of the cities currently possessing the meals taxation authority, and would allow the authority to be exercised without need for a referendum.

Please consider identifying this as a potential legislative priority as you work with your Board to prepare for the 2017 General Assembly session. Of course, and as you well know, support for counties being granted such authority does not in any way obligate a governing body to actually adopt a new or increased meals tax, but would simply provide the opportunity to do so should the governing body of a county determine such an action to be an appropriate way to address revenue demands. Gaining that option, and having the opportunity to alleviate pressures on the real estate tax rate, is York's motivation.

Should you agree and wish to be involved or kept abreast of efforts to have this initiative introduced for consideration in the 2017 session of the General Assembly, please let me know either by letter, an email (Neil.Morgan@yorkcounty.gov), or a phone call (757-890-3320). Thanks for your consideration.

Sincerely,



Neil A. Morgan
County Administrator

Enclosure

224 Ballard Street • P.O. Box 532 • Yorktown, Virginia 23690-0532 • (757) 890-3320

Fax: (757) 890-4002 • TDD (757) 890-3621 • Email: bos@yorkcounty.gov

A Hampton Roads Community

Meals Tax Authority – Legislative Engagement

Introduction

Section 58.1-3833 of the Code of Virginia (see attached) authorizes counties to levy a tax on the purchase of all prepared and ready to eat food and beverages, at a rate not to exceed 4%, if approved in a voter referendum. The referendum may be initiated by a resolution adopted by the governing body or by a petition signed by at least 10% of the registered voters in the county. Five counties (Arlington, Roanoke, Rockbridge, Frederick, and Montgomery) have been granted an exemption from the referendum requirement, so their governing bodies can act on their own initiative. Meals taxes are assessed in addition to the retail sales tax, which in Hampton Roads is 6%.

Meals tax applies to:

- Prepared food and beverages (ready-to-eat) at restaurants, lunchrooms, cafeterias, coffee shops, cafes, taverns, delis, food trucks, etc.
- Alcoholic and non-alcoholic beverages served with a meal

Meals tax does not apply to:

- Groceries
- Food sold through vending machines

According to information compiled by the Weldon Cooper Center for Public Service for 2014, 47 of Virginia's 95 counties assessed a meals tax in 2014. Forty-six (46) counties reported a tax rate of between 3.1% and 4%, while one (Dickenson) reported a rate of 2%.¹ There are no restrictions on the use of the revenue generated by the meals tax; however, some localities earmark a portion or all of the revenue for a specific purpose.

It is important to note that towns and cities are not subject to the referendum process or the 4% cap on the meals tax rate. All 38 of Virginia's cities assess a meals tax, with the lowest rate being 4%, the highest 7.5%, and the median being 6%. The median rate assessed by the 104 towns with a meals tax is 5%, with a minimum of 2% and a maximum of 8%.

York County's meals tax rate is 4%, which will generate projected revenues of \$5.9 million in FY17. Each of the jurisdictions bordering York County imposes a meals tax (Hampton-7.5%, Newport News-7.5%, Poquoson-6%, Williamsburg-5%, James City County-4%, Gloucester-4%).

Issue

York County, like other Virginia counties, is heavily dependent on the real estate and personal property tax and, accordingly, has interest in alternative opportunities for revenue growth to meet increasing obligations and demands for County-funded programs and services. The constraint imposed by the current enabling legislation (4% rate cap) prevents the County from doing so and stands in contrast to the opportunities available to the four cities that border York

¹ Two other counties (Henrico and Middlesex) established a meals tax after the 2014 data was compiled, both at 4%.

Meals Tax Authority – Legislative Engagement

County. In a number of locations along those borders, restaurants are located on abutting properties (one in the county, one in the city) with differing meals tax rates. For many, and particularly in the case of the tourists and travelers, there likely is no awareness of the border or the different tax rate and, therefore, no impact (at least from a taxation standpoint) on which restaurant the prospective diner chooses to patronize (i.e., no competitive advantage or disadvantage). Undoubtedly, the same situation exists in many locations across the Commonwealth.

Real estate and personal property tax rate increases apply to all property-owning residents, regardless of their ability to pay. Conversely, dining out is largely a discretionary decision so the meals tax is paid by residents, as well as tourists and travelers, who dine out by choice, convenience, or other considerations.

As noted previously, York County's 4% meals tax is projected to generate \$5.9 million in revenue in FY2017. Increasing the County's rate from 4% to 5% (for example, to match the Williamsburg rate) would generate approximately \$1.4 million annually in additional revenue. If earmarked, for example, to enhance the Capital Improvements Program budget, the funding able to be devoted to County and School projects would be increased by almost 10%. In other words, a modest 5-cent increase in a \$5 fast food meal (20 cents meals tax @ 4% vs. 25 cents @ 5%) would help produce significant gains in the County's ability to address capital project needs.

York County has proposed and supported requests in past legislative sessions to amend the Code of Virginia to give counties the same taxing authority as towns and cities. This all-inclusive approach (which would add authority to tax cigarettes and admissions, and remove limitations on meals and transient occupancy) has not been supported by the General Assembly. Recognizing that opposition, the York County Board of Supervisors has determined that it would be prudent to focus on a proposal to provide counties with additional authority only for the meals tax.

Accordingly, the York County Board of Supervisors wishes to ascertain the interest of other counties and potential advocates in working cooperatively to engage, educate and influence members of the General Assembly regarding the disparity between cities/towns and counties regarding meals taxing authority with the objective of gaining support for legislation to equalize it in the 2017 session of the General Assembly. Specifically, the desired legislation would:

- Enable counties, on the initiative and action by their governing bodies (and without referendum), to establish a meals tax at a rate determined appropriate by the governing body, but not to exceed 8%.

Amity Moler

Town	% Tax	2010	2011	2012	2013	2014	% Tax	2015
Strasburg	5	496,868	534,405	527,138	554,176	553,157	6	583,465.00
Toms Brook	5							
Woodstock	5	887,187	914,462	981,733	1,010,919	1,005,123		
Edinburg	5	37,845	39,337	34,626	37,681	40,486	5	43,913
Mt. Jackson	5	286,249	297,351	268,883	292,255	312,522		
New Market	5	271,193	274,726	288,275	351,658	350,974		
Warren County	4	667,916	690,672	724,799	757,306	824,351	4	871,933
Frederick County	4	3,330,067	3,551,964	3,842,666	4,215,350	4,319,580		
Page County	4	245,978	235,138	237,664	269,595	217,162	4	272,757



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County Administrator:
Amity Moler

TO: Chairman Woodward and Board of Supervisors
FROM: Amity Moler, County Administrator
SUBJECT: Proposed Festival Ordinance Amendment
DATE: September 30, 2016

SUMMARY:

Chapter 55 of the Page County Code addresses Festivals for the purpose of conducting music or entertainment festivals in open spaces. Throughout the past several years, the County has received special entertainment permit applications for various festivals, which the Board has approved. Upon review and working more with the ordinance, staff felt that minor amendments to the existing ordinance would better clarify the permit process to the applicant and staff.

RECOMMENDATION:

Staff recommends the Board adopt the ordinance amendments.

BACKGROUND:

As more and more music and entertainment festivals are occurring in the County, individuals must make application for a special entertainment permit, which requires Board approval. The ordinance currently outlines when the application is to be received by staff in order to be acted on by the Board, within a specified timeframe, as well as how the Board is to receive the application. Staff is recommending amendments to the ordinance as red-lined in Attachment 1 to clarify the process. Entertainment permits have been issued for Doah Fest, Shensara, Town of Luray (End of Summer Luau), Town of Stanley (Labor Day Fest), Marlow Ford (Customer Appreciation Day & Cruise-in/Car Show), and VFW Bluegrass Festival.

UPDATE:

The Board held a public hearing on the proposed amendments at their September 20th meeting. During the hearing, it was suggested that the Towns be exempt from having to obtain a permit as long as the festival is held on Town owned property. In these cases, the Towns are already permitted by the Health Department to provide food. In addition, since it is Town property, the Town Police Department will patrol the premises to ensure public safety, since they have jurisdiction on property they own. Therefore, § 55-3(A) was revised to exempt Towns from having to obtain a permit altogether.

Another issue that was raised during the hearing was the age limit of persons attending the festivals. This Section [55-7] was deleted in its entirety. The remaining highlighted amendments are minor in nature.

As a result of the public hearing, additional draft amendments to the Ordinance have been provided under Attachment 1 and are highlighted in yellow.

UPDATE 2:

The changes to the proposed amendments, exempting the Towns from obtaining a festival permit, if the event was held on Town owned/maintained property, were discussed at the October 4th meeting. Supervisor Guzy wanted to table action again, requiring prior notification from the Towns of any/all events and the details of each, as well as updated rental applications from each.

The rental applications for the Town of Luray and Town of Stanley are attached. The Town of Shenandoah owns no venues outside of the Town limits.

ISSUES:

N/A

MOTION:

I move to adopt the Ordinance to Amend Chapter 55 (Festivals) of the Page County Code.

ATTACHMENTS:

1. Proposed Festival Ordinance Amendments Red-Lined
2. Town of Luray Facilities Use Application

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Chapter 55

Festivals

[HISTORY: Adopted by the Board of Supervisors of the County of Page 2-11-1980 as Ch. 3 of the 1980 Code of the County of Page. Amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. 81.

Peddling and soliciting — See Ch. 91.

§ 55-1 Purpose.

[Amended 12-15-2009]

This chapter is enacted pursuant to § ~~15.2-1200~~~~15.1-510~~ of the Code of Virginia for the purpose of providing necessary regulation for the conducting of musical or entertainment festivals conducted in open spaces not within an enclosed structure and of any gathering or groups of individuals for the purpose of listening to or participating in entertainment conducted in open spaces not within an enclosed structure in the interest of the public health, safety and welfare of the citizens and inhabitants of Page County.

§ 55-2 Definitions.

When used in this chapter, the following words shall have the following meanings:

BOARD

The Board of Supervisors of Page County, Virginia.

ENTERTAINMENT FESTIVAL

Any gathering of groups or individuals for the purpose of observing or participating in entertainment conducted in open spaces not within an enclosed structure.

[Amended 12-15-2009]

§ 55-3 Permit required; application.

- A. No persons, firm, corporation or partnership shall stage, promote or conduct any entertainment festival in the unincorporated areas of Page County unless there shall have been first obtained from the Board a special entertainment permit for said festival. **Any festival held on Town owned and/or maintained property, even if not geographically located in the Town's corporation limits, shall be exempt from this ordinance.** **[Amended 12-15-2009]**
- B. Application for such special entertainment permits shall be in writing on forms provided for the purpose and filed ~~in duplicate~~ with the Clerk of the Board ~~or designee~~ at least ~~45~~~~30~~ days before the date of such festival ~~and 21 days prior to a meeting of said Board~~. Such applications shall have attached thereto and made a part thereof the plans, statements, approvals and other documents required by this chapter. ~~A copy of such applications shall be sent by certified mail by the Clerk to each member of the Board the day such applications are filed.~~
- C. The Board shall act on such applications provided the application meets the conditions set forth herein within 10 days from the filing of the same. If granted, the permit shall be issued, in writing,

on a form for the purpose and mailed by the Clerk to the applicant at the address indicated. If denied, the refusal shall be in writing and the reasons for such denial stated therein and mailed by the Clerk to the applicant at the address indicated.

§ 55-4 Conditions of issuance.

Such permit shall not be issued unless the following conditions are met and the following plans, statements and approvals submitted to the Board with the application:

- A. A copy of the ticket or badge of admission to said festival, containing the date or dates and time or times of said festival, together with a statement by the applicant of the total number of tickets to be offered for sale and the best reasonable estimate by the applicant of the number of persons expected to be in attendance.
- B. A statement of the name and address of the promoters of the festival, ~~the financial backing of the festival~~ and the names of all persons or groups who will perform at said festival.
- C. A statement of the location of the proposed festival, the name and address of the owner of the property on which said festival is to be held and the nature and interest of the applicant therein.
- D. A plan for adequate sanitation facilities and garbage, trash and sewage disposal for persons at the festival. This plan shall meet the requirements of all state and local statutes, ordinances and regulations and shall be approved by the County Health Officer.
- E. A plan for providing food, water and lodging for the persons at the festival. This plan shall meet the requirements of all state and local statutes, ordinances and regulations and shall be approved by the County Health Officer.
- F. A plan for adequate medical facilities for persons at the festival approved by the County Health Officer.
- G. A plan for adequate parking facilities, traffic control and safe access in and around the festival area approved by the Sheriff. **[Amended 12-15-2009]**
- H. A plan for adequate fire protection. This plan shall meet the requirements of all state and local statutes, ordinances and regulations and shall be approved by the County Emergency Manager~~County Forest Warden~~.
- I. A statement specifying whether any outdoor lights or lighting is to be utilized and, if so, a plan showing the location of such lights and shielding devices or other equipment to prevent unreasonable glow beyond the property on which the festival is located.
- J. A statement that no music or other sound shall be created, either by mechanical device or live performance, in such a manner that the sound emanating therefrom shall be unreasonably audible beyond the property on which the festival is located. **[Amended 12-15-2009]**

§ 55-5 Permission for Board to enter premises; revocation.

No permits which are not assignable or transferable shall be issued under this chapter unless the applicant shall furnish to the Board written permission for the Board, its lawful agents or duly constituted law enforcement officers to go upon the property at any time for the purpose of determining compliance with the provisions of this chapter. The Board shall have the right to revoke any permit issued under this chapter upon noncompliance with any of its provisions and conditions.

§ 55-6 Time limit.

Music shall not be rendered nor entertainment provided for more than eight hours in any twenty-four-hour period, such twenty-four-hour periods to be measured from the beginning of the first performance at said festival.

§ 55-7 Age limit.

~~No person under the age of 18 years of age shall be admitted to any festival unless accompanied by a parent or guardian, the parent or guardian to remain with said person at all times.~~

§ 55-78 Violations and penalties.

[Amended 12-12-1994]

Any person, firm, ~~or~~ corporation **or partnership** who or which violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding \$2,500 or by confinement in jail not exceeding 12 months, or by both such fine and imprisonment. Each violation shall constitute a separate offense. The Board may bring suit in the Circuit Court of Page County to restrain, enjoin or otherwise prevent violation of this chapter.

§ 55-89 Construal of provisions.

The provisions of this chapter shall be liberally construed in order to effectively carry out the purpose of this chapter in the interest of the public health, welfare and safety of the citizens and residents of Page County.

TOWN OF LURAY
45 East Main Street Luray, Virginia 22835
(540) 743-5511 (540) 743-1486 - FAX
www.townofluray.com

APPLICATION FOR USE OF FACILITIES

(Please Print Clearly in Ink)

Date of Application: _____ Name of Applicant: _____

1.) Name/Location of the Requested Facility: _____

2.) Dates and Times of Requested Use: _____

3.) Activity/Event for which this Use is Requested: _____

4.) Name & Address of the Sponsoring Organization: _____

5.) Title of Applicant within the Organization: _____

6.) Address of Applicant/Organization: _____

7.) Phone Number: _____ FAX Number: _____ Cell Phone Number: _____

8.) Is this a Public _____ or Private _____ event? Approximate Number of Users/Attendees: _____

9.) **General Notes:**

- a.) It is understood that the applicant and all users will comply with all rules and regulations of the Town of Luray. If approval is granted, the applicant and users agree to be responsible for any and all damages that occur to the facilities used.
- b.) All final arrangements must be worked out with the Parks & Recreation Director and staff.
- c.) Absolutely no alcoholic beverages are allowed on Town property. Certain areas are designated to be tobacco-free zones, and must be adhered to at all times.
- d.) All users must exhibit responsible behavior and use appropriate language.
- e.) Town Staff have the final say in Facility Usage.
- f.) ***Failure to abide by all rules and regulations may result in forfeiture of facility usage, and on occasion, more serious penalties may apply.***

Facilities Use Agreement and General Release

In consideration for being permitted to use the facilities of the Town of Luray, the applicant expressly exempts and releases the Town, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from property loss or damage, bodily injury, personal injury, sickness, disease, or death, that the user may incur as a result of such use, whether any such liability, claims, and demands result from the act, omission, negligence, or other fault on the part of the Town of Luray, Virginia, its officers, or its employees, or from any other cause whatsoever. It is agreed and understood that use of the facilities shall be in compliance with all rules and regulations of the Town, and any event sponsor if applicable, and that any failure to do so shall result in the loss of the privilege to use the facilities of the Town, without refund.

Signature of Applicant: _____ *Version Date: 08/09/2011*

***ALL APPLICATIONS ARE DUE TO THE TOWN OFFICE AT LEAST FIVE (5) WORK DAYS PRIOR TO THE EVENT**

Administrative Use Only Fees Due: \$ _____ Fees Waived _____ Date Fees Paid _____
Deposit Due: \$ _____ Deposit Waived _____ Date Deposit Paid _____

Indemnification/Release Executed _____ Certificate of Insurance Provided _____ List of Teams/Users Provided _____

Approval by Parks Director: _____ Date: _____

Approval by Town Manager: _____ Date: _____