

**6:30 to 7:30pm-April 24, 2012 – NCI information session to be held in hallway adjacent to Council Chambers on second floor of City Municipal Building prior to Council meeting.** Displays of the proposed NCI building will be available for viewing and NCI representatives will be available for questions and public input.

AGENDA--CITY COUNCIL MEETING  
CITY OF MARTINSVILLE, VIRGINIA  
Council Chambers – Municipal Building  
**7:30 p.m. – Tuesday, April 24, 2012**

Invocation & Pledge to the American flag– Mayor Kim Adkins

1. [Presentation of proclamation recognizing National Correctional Officers and Employees Week 2012.](#) (2 mins.)
2. [Conduct public hearing to convey Baldwin Block to NCI.](#) (45 mins.)
3. [Hear public comment on Martinsville City Manager search process.](#) (10 mins.)
4. [Hear report from Ray Gibbs, Phoenix CDC, regarding Henry Hotel.](#) (10 mins.)
5. [Hear report from MHC Economic Development Corporation.](#) (10 mins.)
6. [Consider approval on second reading of amendments to the Zoning Ordinance related to pawnshops.](#) (5 mins.)
7. [Consider approval of ordinances on second reading for two organizations requesting local tax exemption:](#)
  - A. Piedmont Youth Soccer League local tax exemption request
  - B. Pregnancy Care Center of MHC local tax exemption request. (5 mins.)
8. [Consider revision of the Farmer's Market BPOL tax and approval of an ordinance on second reading regarding itinerant merchant fee.](#) (10 mins.)
9. [Consider review of Fund Balance Policy.](#) (10 mins.)
10. Business from the Floor  
**This section of the Council meeting provides citizens the opportunity to discuss matters, which are not listed on the printed agenda. In that the Council meetings are broadcast on Martinsville Government Television, the City Council is responsible for the content of the programming. Thus, any person wishing to bring a matter to Council's attention under this Section of the agenda should: (1) come to the podium and state their name and address; (2) state the matter that they wish to discuss and what action they would like for Council to take; (3) limit their remarks to five minutes; and (4) refrain from making any personal references or accusations of a factually false and/or malicious nature. Persons who violate these guidelines will be ruled out of order by the presiding officer and will be asked to leave the podium. Persons who refuse to comply with the direction of the presiding officer may be removed from the chambers.**
11. Comments by City Council members. (5 mins.)
12. Comments by City Manager. (5 mins.)



## City Council Agenda Summary

**Meeting Date:** April 24, 2012

**Item No:** 1,

**Department:** City Council

**Issue:** Presentation of proclamation recognizing National Correctional Officers and Employees Week 2012.

**Summary:** City Sheriff's department representative will accept the proclamation.

**Attachments:** [Proclamation](#)

**Recommendations:** Presentation only.



## **Proclamation**

### **National Correctional Officers and Employees Week**

**WHEREAS, one of the primary goals for the City of Martinsville is to provide its citizens with an effective judicial system that concentrates on quality for all of our citizens; and**

**WHEREAS, the City of Martinsville's dedicated correctional officers are essential to the success of our judicial process, and our correctional officers' work includes daily exposure to a hostile environment with many of the most dangerous individuals in our society; and**

**WHEREAS, Correctional Officers contribute daily to the protection of our citizens by housing dangerous felons in a humane environment, often at great risk to the officers' own protection; and**

**WHEREAS, the City of Martinsville is pleased to join with officials and distinguished correctional officers across America to recognize the achievements of these dedicated individuals. We are indebted to the International Association of Correctional Officers for continuing to emphasize the accomplishments of correctional officers worldwide; now, therefore**

**FOR THESE SIGNIFICANT REASONS, I, KIM ADKINS, Mayor of the City of Martinsville, Virginia, do hereby proclaim May 1<sup>st</sup>-May 7<sup>th</sup>, 2012 to be**

**“NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK”**

in the City of Martinsville and commend this observance to all of our citizens.

Kim Adkins  
Mayor

**Date:** April 24, 2012

**Item No:** 2.

**Department:** City Attorney

**Issue:** Conduct public hearing to convey Baldwin Block to NCI

**Summary:** Pursuant to Code of Virginia § 15.2-1800 a public hearing is required to convey the block bordered by West Church, Market, Fayette and Moss Streets. Barton Street was abandoned June 24, 2008 and is now part of the Block; that same day Council voted to transfer the Block to the Southern Virginia Recreational Authority; this vote should be rescinded if there is to be a transfer to another entity.

**Attachments:** None;  
Draft agreement for transfer to NCI is under negotiation. NCI Board meets April 23. A final version will available at the Council meeting.

**Recommendations:**

1. Conduct public hearing.
2. Consider rescinding council vote of June 24, 2008 to transfer Baldwin Block to the Southern Virginia Recreation Authority, by roll call vote.
3. Consider approval of transfer agreement with NCI, by roll call vote.
4. Consider approval of transfer of Baldwin Block, by roll call vote.



## **City Council Agenda Summary**

**Meeting Date:** April 24, 2012

**Item No:** 3.

**Department:** City Council

**Issue:** Hear public comment on Martinsville City Manager search process.

**Summary:** Mayor Adkins will brief citizens on the City Manager search process.

**Attachments:** None

**Recommendations:** No action required



## **City Council Agenda Summary**

**Meeting Date:** April 24, 2012

**Item No:** 4.

**Department:** City Council

**Issue:** Hear update from Ray Gibbs on CDC projects and Henry Hotel.

**Summary:** Ray Gibbs, President of Phoenix CDC, will give an update and answer questions.

**Attachments:**

**Recommendations:** for information only.



## **City Council Agenda Summary**

**Meeting Date:** April 24, 2012

**Item No:** 5.

**Department:** City Council

**Issue:** Hear an update from the Martinsville-Henry County Economic Development Corporation.

**Summary:** Mark Heath of the EDC will give this update and answer any questions.

**Attachments:** None

**Recommendations:** No action required

**Meeting Date:** April 24, 2012  
**Item No:** 6.  
**Department:** Community Development

**Issue:** Consider approval on second reading of ordinance amendments regarding amendments to the Zoning Ordinance related to pawnshops.

**Summary:** At present, the City of Martinsville allows pawnshops as a use permitted by right in the C-1A, C-2, C-3, M-1 and M-2 Districts. Planning Commission submitted a recommendation in July to remove pawnshops as a use permitted by right, which would have banned them from operating in the City. City Council reviewed the amendment and sent it back to the Planning Commission with a suggestion to look at regulating pawnshops through a special use permit. Planning Commission took that suggestion and began to work on conditions for a special use permit. After several work sessions, the Planning Commission has finalized their recommendation on this issue. The new recommendation would remove pawnshops as a use permitted by right in the C-1A, C-2, C-3, M-1, and M-2 Districts and would add pawnshops as a use permitted by special use permit in the C-1, C-1A, C-2, C-3, M-1, and M-2 Districts. It should be noted that the C-1 Commercial District currently does not allow pawnshops as a use permitted by right. However, to establish uniformity in the commercial districts; it is included in the recommendation to add pawnshops as a use permitted by special use permit.

Planning Commission held a duly advertised public hearing on October 4, 2011. No one spoke for or against the issue during the public hearing. Planning Commission voted unanimously (4-0) to send this amendment to City Council for their consideration.

On April 10, Council amended the recommended ordinance change on first reading.

City staff recommends amending the Zoning Ordinance to remove pawnshops as a use permitted by right and to include it as a use permitted by special use permit.

**Attachments:** [Planning Commission Letter](#)  
[Proposed Amendment to the Zoning Ordinance](#)

**Recommendations:** Consider motion to approve ordinance as amended on second reading with roll call vote.



October 27, 2011

Mayor Kim Adkins  
Members of City Council  
City of Martinsville  
P. O. Box 1112  
Martinsville, VA 24114

RE: Amendment to the Zoning Ordinance (Pawnshops)

Dear Mayor and City Council Members:

The Planning Commission, at its meeting on October 4, 2011, conducted a duly advertised Public Hearing on a request by the City of Martinsville, for a proposed amendment to the Martinsville Zoning Ordinance related to pawnshops.

At the public hearing, it was noted that this request would remove pawnshops as a use permitted by right in the C-1A, C-2, C-3, M-1, and M-2 Districts and would add pawnshops as a use permitted by special use permit in the C-1, C-1A, C-2, C-3, M-1, and M-2 Districts. There were no public comments voiced at the public hearing.

Following evidence heard at the public hearing, the Planning Commission voted unanimously (4-0) to recommend the proposed amendment to City Council. The Planning Commission respectfully submits the recommendation for reconsideration.

Yours Truly,

Barbara Cousin, Secretary

Wayne D. P. Knox

Director of Community Development

WDPK

Cc: Timothy D. Martin, Chairperson  
Barbara Cousin, Secretary

# PROPOSED AMENDMENTS – ZONING ORDINANCE, Appendix B, City Code

(Strikethrough indicates deletion; *italicized bold* indicates addition)

## SECTION XII: COMMERCIAL DISTRICTS

### A. C-1 Neighborhood Commercial District

C. Uses permitted by special use permit in the C-1 District.

**7. Pawnshops, potentially subject, but not limited to, the following conditions:**

- a. Establishment must maintain and file a daily report, as specified by the Code of Virginia Sec. 54.1-4009, electronically with local law enforcement;**
- b. All of the items collected must be contained within the confines of the actual pawnshop;**
- c. An approved anti-crime security system must be installed to safeguard the premises;**
- d. Establishment shall not be located within 1000 feet of a similar establishment;**
- e. Establishment must be located at least 1000 feet from churches, schools, playgrounds;**
- f. Establishment cannot open for business prior to 10:00 a.m. and must close by 9:00 p.m.**

### E. C-1A Intermediate Commercial District.

F. Uses permitted by right in the C-1A District.

61. ~~Pawnshops or~~ second hand stores

G. Uses permitted by special use permit in the C-1A District.

**7. Pawnshops, potentially subject, but not limited to, the following conditions:**

- a. Establishment must maintain and file a daily report, as specified by the Code of Virginia Sec. 54.1-4009, electronically with local law enforcement;**
- b. All of the items collected must be contained within the confines of the actual pawnshop;**
- c. An approved anti-crime security system must be installed to safeguard the premises;**
- d. Establishment shall not be located within 1000 feet of a similar establishment;**
- e. Establishment must be located at least 1000 feet from churches, schools, playgrounds;**
- f. Establishment cannot open for business prior to 10:00 a.m. and must close by 9:00 p.m.**

### I. C-2 Central Business District.

J. Uses permitted by right in the C-2 District.

61. ~~Pawnshops or~~ second hand stores

K. Uses permitted by special use permit in the C-2 District.

**7. Pawnshops, potentially subject, but not limited to, the following conditions:**

- a. Establishment must maintain and file a daily report, as specified by the Code of Virginia Sec. 54.1-4009, electronically with local law enforcement;**
- b. All of the items collected must be contained within the confines of the actual pawnshop;**
- c. An approved anti-crime security system must be installed to safeguard the premises;**
- d. Establishment shall not be located within 1000 feet of a similar establishment;**

- e. Establishment must be located at least 1000 feet from churches, schools, playgrounds;*
- f. Establishment cannot open for business prior to 10:00 a.m. and must close by 9:00 p.m.*

M. C-3 General Commercial District.

N. Uses permitted by right in the C-3 District.

58. ~~Pawnshops~~ or second hand stores

O. Uses permitted by special use permit in the C-3 District.

**7. Pawnshops, potentially subject, but not limited to, the following conditions:**

- a. Establishment must maintain and file a daily report, as specified by the Code of Virginia Sec. 54.1-4009, electronically with local law enforcement;*
- b. All of the items collected must be contained within the confines of the actual pawnshop;*
- c. An approved anti-crime security system must be installed to safeguard the premises;*
- d. Establishment shall not be located within 1000 feet of a similar establishment;*
- e. Establishment must be located at least 1000 feet from churches, schools, playgrounds;*
- f. Establishment cannot open for business prior to 10:00 a.m. and must close by 9:00 p.m.*

### SECTION XIII: BUSINESS AND MANUFACTURING DISTRICTS

E. M-1 Light Manufacturing District.

F. Uses permitted by right in the M-1 Light Manufacturing District.

57. ~~Pawnshops~~ or second hand stores.

G. Uses permitted by special use permit in the M-1 District.

**7. Pawnshops, potentially subject, but not limited to, the following conditions:**

- a. Establishment must maintain and file a daily report, as specified by the Code of Virginia Sec. 54.1-4009, electronically with local law enforcement;*
- b. All of the items collected must be contained within the confines of the actual pawnshop;*
- c. An approved anti-crime security system must be installed to safeguard the premises;*
- d. Establishment shall not be located within 1000 feet of a similar establishment;*
- e. Establishment must be located at least 1000 feet from churches, schools, playgrounds;*
- f. Establishment cannot open for business prior to 10:00 a.m. and must close by 9:00 p.m.*

I. M-2 Heavy Manufacturing District.

J. Uses permitted by right in the M-2 Heavy Manufacturing District.

All uses are allowed in the M-2 District with exception of the following:

**25. Pawnshops**

K. Uses permitted by special use permit in the M-2 District.

- 4. Pawnshops, potentially subject, but not limited to, the following conditions:**
- a. Establishment must maintain and file a daily report, as specified by the Code of Virginia Sec. 54.1-4009, electronically with local law enforcement;***
  - b. All of the items collected must be contained within the confines of the actual pawnshop;***
  - c. An approved anti-crime security system must be installed to safeguard the premises;***
  - d. Establishment shall not be located within 1000 feet of a similar establishment;***
  - e. Establishment must be located at least 1000 feet from churches, schools, playgrounds;***
  - f. Establishment cannot open for business prior to 10:00 a.m. and must close by 9:00 p.m.***

**Attest:**

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**Clerk of Council**

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**Date Adopted**

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**Date Effective**

**Meeting Date:** April 24, 2012  
**Item No:** 7.  
**Department:** Interim City Manager, City Attorney, Commissioner of the Revenue  
**Issue:** Consider approval of ordinances on second reading for two organizations requesting local tax exemption.

**Summary:** On April 19, 2012 Council approved exemption from personal property taxes for Piedmont Youth Soccer League Ltd. on grounds of being a benevolent organization, and for Pregnancy Care Center of MHC Inc., on grounds of being a religious and charitable organization.

**Attachments:** [Spreadsheet of Revenue Impact of Applicant](#)  
[Review Committee Recommendation](#)  
[Exemption Definitions](#)  
[Review Criteria](#)  
Ordinances—[Pregnancy Care Center](#)  
[PYSL](#)

**Recommendation:** Consider approval of each exemption ordinance on second reading with a roll call vote. Each ordinance must be addressed separately.

Organization	Pers Prop Assessed Value	Rev Impact (Pers Prop)	Rev Impact (Real Estate)	Real Estate Assessed Value	Other City Assistance	Exemption Requested	Exemption Category Requested
Piedmont Youth Soccer League Ltd.	\$128	\$2.95	Does not own real property.	\$0		Personal Property	Charitable
Pregnancy Care Center of MHC Inc.	\$4,659	\$107.16	Does not own real property	\$0		Real Property Personal Property	Charitable
The Archaeological Conservancy	\$0	\$0.00		\$602.75	\$59,200	Real Property	Historical & Cultural/Educational
<b>TOTALS</b>	<b>\$4,787</b>	<b>\$110.11</b>		<b>\$602.75</b>	<b>\$59,200</b>	<b>\$0</b>	

Organization	Organization Mission Statement	Answers to Review Criteria	Committee Recommendation
Piedmont Youth Soccer League Ltd.	To provide their players with the opportunity to participate in a spirited soccer environment, and to instill the ideals of good sportsmanship, honesty, loyalty, determination, respect for authority, and self-esteem in the youth of our community.	<p>1. 501 (c ) (3) designation</p> <p>2. The organization does not have an annual special events ABC license</p> <p>3. Employee compensation is not in excess of a reasonable salary for such services provided. Two officers are compensated.</p> <p>4. Net earnings of the organization inures to the benefit of the Director of Operations and the Travel Director.</p> <p>5. A substantial amount of the funding for the organization is through gross receipts from admissions, merchandise sold or services performed related to the organization's exempt</p> <p>6. No substantial part of activities is to influence legislation or campaign on behalf of a political candidate.</p> <p>7 Personal Property Tax Revenue Impact: \$2.95</p> <p>8</p>	The organization provides soccer opportunities that they Parks and Recreation Department is not currently having to provide. The Parks & Rec Department could not provide this service for the tax amount the organization pays annually for their personal property. The committee recommends granting the exemption for personal property taxation.
Pregnancy Care Center of MHC Inc.	To share the Gospel of Jesus Christ by offering practical, emotional, and spiritual support to women, men, and children you are facing pregnancy and abortion related concerns, including the provision of free pregnancy services, peer counseling, information about abortion procedures and risks, information about abortion alternative, abstinence education, post-abortion support, and other related programs and services.	<p>1. 501 (c ) (3) designation</p> <p>2. The organization does not have an annual special events ABC license</p> <p>3. Employee compensation is not in excess of a reasonable salary for such services provided. Officers are not compensated.</p> <p>4. No part of the net earnings of the organization inures to the benefit of any individual.</p> <p>5. A substantial amount of organization funding is through grants, donations and contributions.</p> <p>6. No substantial part of activities is to influence legislation or campaign on behalf of a political candidate.</p> <p>7 Real Estate Tax Revenue Impact: \$0 Personal Property Tax Revenue Impact: \$107.16</p> <p>8</p>	The counseling service is similar to other services provided by other exempt organizations. The city could not provide these services for the tax amount the organization pays annually for their personal property. The committee recommends granting the exemption for the personal property tax. The organization does not own real estate at this time. The Committee does not recommend providing a real estate exemption when no real property is owned.
The Archaeological Conservancy	To preserve historical archaeological sites within the United States of America.	<p>1. 501 (c ) (3) designation</p> <p>2. The organization does not have an annual special events ABC license</p> <p>3. Employee compensation is not in excess of a reasonable salary for such services provided to a national non-profit organization. Board directors and trustees are not</p> <p>4. No part of the net earnings of the organization inures to the benefit of any individual.</p> <p>5. A substantial amount of organization funding is through grants, donations and contributions.</p> <p>6. No substantial part of activities is to influence legislation or campaign on behalf of a political candidate.</p> <p>7 Real Estate Tax Revenue Impact: \$602.75</p> <p>8</p>	The committee did not see that the organization provides a service or purpose to the city that it otherwise would provide. It does not recommend granting an exemption.

## **EXEMPTION CRITERIA TO CONSIDER**

Pursuant to Code of Virginia §58.1-3651, the local governing body shall consider the following questions before granting an exemption from local taxation to any nonprofit organizations:

1. Whether the organization is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code of 1954;
2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to such organization, for use on such property;
3. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders;
4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services;
5. Whether the organization provides services for the common good of the public;
6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;
7. The revenue impact to the locality and its taxpayers of exempting the property; and
8. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such ordinance.

## Exemption Definitions

### As Defined by Va. Courts

**Benevolent** – Philanthropic; humane; having a desire or purpose to do good to men; intended for conferring benefits, rather than for gain or profit. (Manassas Lodge No. 1380, Loyal Order of Moose, Inc. v. County of Prince William, 218 Va. 220, 237 S.E. 2d 102 (1977))

**Charitable** – Liberal in benefactions to the poor; beneficent. (City of Richmond v. United Givers Fund of Richmond, Henrico & Chesterfield, Inc., 205 Va. 432, 137 S.E. 2d 876 (1964))

NOTE: A charitable organization should be organized and conducted to perform some service of public good or welfare based on the above mentioned court cases.

### As Defined by Va. Constitution Article X §6

**Educational Exemption** – Limited to institution of learning operated not for profit, provided the property is used for literary, scientific, or educational purposes or purposes incidental thereto.

### As Defined by Webster's New Collegiate Dictionary

**Cultural** – Of or relating to enlightenment and excellence of taste acquired by intellectual and aesthetic training; acquaintance with and taste in fine arts, humanities, and broad aspects of science as distinguished from vocational and technical skills.

**Educational** – The field of study that deals mainly with methods of teaching and learning in schools.

**Historical** – Of or relating to a branch of knowledge that records and explains past events.

**Museum** – An institution devoted to the procurement, care, study, and display of objects of lasting interest or value; a place where objects are exhibited.

**Patriotic** – Befitting or characteristic of a patriot (one who loves his country and zealously supports its authority and interests.)

## **ORDINANCE 2012-\_\_\_\_\_**

BE IT ORDAINED by the Council of the City of Martinsville, Virginia, in regular session held on April 10, 2012 and pursuant to Section 58.1-3651 of the Code of Virginia, that Section 21-12 of the City Code be amended to add a subsection **L** as follows:

### **M. Taxation exemption for Piedmont Youth Soccer League Ltd..**

After convening a duly advertised public hearing and considering the factors set forth in Code of Virginia § 58.1-3651(B), the City Council of Martinsville Virginia hereby ordains the following:

1. The Piedmont Youth Soccer League Ltd., a nonprofit organization, is hereby classified and designated as a benevolent organization within the context of Section 6(a)(6) of Article X of the Constitution of Virginia.
  
2. Personal property owned by Piedmont Youth Soccer League Ltd., and used exclusively for benevolent purposes on a nonprofit basis, as set forth in subsection 1 of this section, is hereby determined to be exempt from local personal property taxation.
  
3. Continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated.

**Attest:**

\_\_\_\_\_  
**Clerk of Council**

\_\_\_\_\_  
**Date Adopted**

\_\_\_\_\_  
**Date Effective**

## **ORDINANCE 2012-\_\_\_\_\_**

BE IT ORDAINED by the Council of the City of Martinsville, Virginia, in regular session held on April 10, 2012 and pursuant to Section 58.1-3651 of the Code of Virginia, that Section 21-12 of the City Code be amended to add a subsection M as follows:

### **M. Taxation exemption for Pregnancy Care center of MHC Inc.**

After convening a duly advertised public hearing and considering the factors set forth in Code of Virginia § 58.1-3651(B), the City Council of Martinsville Virginia hereby ordains the following:

1. The Pregnancy Care center of MHC Inc., a nonprofit organization, is hereby classified and designated as a religious and charitable organization within the context of Section 6(a)(6) of Article X of the Constitution of Virginia.
2. Personal property owned by Pregnancy Care center of MHC Inc., and used exclusively for religious and charitable purposes on a nonprofit basis, as set forth in subsection 1 of this section, is hereby determined to be exempt from local personal property taxation.
3. Continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated.

**Attest:**

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**Clerk of Council**

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**Date Adopted**

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**Date Effective**

**Date:** April 24, 2012

**Item No:** 8.

**Department:** City Attorney

**Issue:** Consider revision of Farmers Market BPOL tax and approval of ordinance on second reading regarding itinerant merchant fee.

**Summary:** MURA has requested that the BPOL tax be revised for the Uptown Farmers Market, owned by the City and managed by MURA. Following discussions between MURA, Commissioner of the Revenue Easley, City Manager and City Attorney, a new proposed section 11-32(9)(b) sets the tax at \$5.00 annually.

Also, a typographical error in section 11-22 (in the definition of “itinerant merchant” is corrected.

**Attachments:** [City BPOL ordinance, with draft amendments.](#)

**Recommendations:** Approve ordinance on second reading with roll call vote.

# City of Martinsville, Virginia

## Ordinance No. 2003-\_\_\_\_\_

### (City Code Sections 11-22 and 11-32)

BE IT ORDAINED by the Council of the City of Martinsville, Virginia, in Regular Session held on April 24, 2012, that Sections 11-22 and 11-32 of the Code of the City of Martinsville be, and hereby are, amended to read as follows:

#### **Sec. 11-22. - Definitions.**

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

*Amusement operator* means any person leasing, renting or otherwise furnishing or providing a coin-operated amusement machine in the city, provided, however, that the term "amusement operator" shall not include a person owning less than three (3) such machines and operating such machines on property owned or leased by such person.

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

*Assessor or assessing official* means the commissioner of revenue of the City of Martinsville.

*Base year* means the calendar year, or fiscal year if the business is on a fiscal year basis for federal income tax purposes, immediately preceding the license year, except for contractors subject to the provisions of section 58.1-3715. The base year shall be used as the basis for calculating any license tax measured by gross receipts, subject to the following:

(a)

Every person who during a license year begins a business, trade, profession, occupation or calling which requires a license where the license tax is measured by gross receipts shall estimate the amount of gross receipts which will be received by such business from the commencement of such business until the end of the license year. Such license tax shall be due and payable at the time such business commences. Such estimate shall be subject to correction based upon the actual gross receipts for this initial license year.

(b)

When the license for a full license year is measured by the gross receipts for a base year which does not represent a full twelve (12) months of operation of the business, trade, profession, occupation or calling, then the gross receipts shall be the estimated gross receipts which would result from a full twelve (12) months of operation. Upon the completion of the first base year which reflects a full twelve (12) months of operation such estimate shall be corrected based upon the actual gross receipts for such twelve-month base year.

(c)

Whenever a license tax measured by gross receipts is assessed on the basis of estimated gross receipts, subject to correction based upon the gross receipts actually received, the commissioner of revenue shall assess such additional license tax found to be due after the close of the license year or the commissioner shall credit any overpayment against the next license tax due or shall recommend the refunding of the amount of any excess payment made.

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

*Coin-operated amusement machine* means any machine or device operated by or after the insertion of coins or currency into the machine except weighing machines, change machines, automatic baggage or parcel checking machines or receptacles, vending machines which are so constructed as to do nothing but vend goods, wares and merchandise or postage stamps or provide service only, viewing machines or photomat machines, or devices or machines affording rides to children or for the delivery of newspapers.

*Commission merchant* means any person, firm, partnership or corporation which is engaged in the business of selling merchandise on commission by sample, circular, or catalog for a regularly established retailer and which has no stock or inventory under their control other than floor samples owned by the principal retailer which are used for demonstration or display purposes.

*Contractor* shall have the meaning prescribed in section 58.1-3714.B of the Code of Virginia, as amended, whether such work is done or offered to be done by day labor, general contract or subcontract.

*Definite place of business* means an office or a location at which occurs a regular and continuous course of dealing for thirty (30) consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis; and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

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

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

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

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

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

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

- Buying installment receivables
- Chattel mortgage financing
- Consumer financing
- Credit card services

Factors

Financing accounts receivable

Industrial loan companies

Installment financing

Inventory financing

Loan or mortgage brokers

Loan or mortgage companies

Safety deposit box companies

Security and commodity brokers and services

Stockbroker

Working capital financing

*Gross receipts* means the whole, entire, total receipts for the base year attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Chapter 37 of Title 58.1 of the Code of Virginia, and the provisions contained in the definition of "base year" in this article.

*Itinerant merchant* means any person who engages in, does, or transacts any temporary or transient business in the city and who, for the purpose of carrying on such business, occupies any location for a period of less than one (1) year.

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

*Peddler* means any person, other than a peddler at wholesale, who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the same or actually sell or barter the same.

*Peddler at wholesale* means any person who sells or offers to sell goods, wares or merchandise to licensed dealers, other than at a definite place of business operated by the seller, and at the time of such sale or exposure for sale delivers, or offers to deliver, the goods, wares or merchandise to the buyer. Any delivery made on the day of sale shall be construed as a delivery at the time of sale.

*Person* means an individual, firm, partnership, or corporation.

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

*Professional services* means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the BPOL guidelines promulgated pursuant to section 58.1-3701 of the Code of Virginia. The Department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study is used by its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

*Purchases* means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesaler or wholesale merchant and sold or offered for sale. Such merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine or chooses not to disclose the cost of manufacture.

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

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

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

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

*The city or this city* means the City of Martinsville.

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

*(Ord. No. 96-13, § 11-1(B), 11-26-96)*

### **Sec. 11-32. - License taxes.**

Every business required to obtain a license under this article shall be assessed and required to pay annually a license tax of thirty dollars (\$30.00) or the tax set forth below, whichever is greater:

- (1)  
For contractors and persons constructing for their own account for sale, ten cents (\$0.10) per one hundred dollars (\$100.00) of gross receipts;
- (2)  
For retailers, twenty cents (\$0.20) per one hundred dollars (\$100.00) of gross receipts;
- (3)  
For real estate and professional services and financial services other than licensees under the Consumer Finance Act, chapter 6 of title 6.1 of the Code of Virginia (section 6.1-244 et seq.), fifty-eight cents (\$0.58) per one hundred dollars (\$100.00) of gross receipts;
- (4)  
For licensees under the Consumer Finance Act, chapter 6 of title 6.1 of the Code of Virginia (section 6.1-244 et seq.), twenty cents (\$0.20) per one hundred dollars (\$100.00) of gross receipts;
- (5)  
For commission merchants and for repair, personal and business services and for all other businesses not specifically listed or exempted in this article or otherwise by law, thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts;
- (6)  
For wholesalers, including peddlers at wholesale, five cents (\$0.05) per one hundred dollars (\$100.00) of purchases;
- (7)  
For carnivals, circuses and speedways, one hundred fifty dollars (\$150.00) for each day a performance is held in this city;

- (8) For fortune-tellers, clairvoyants and practitioners of palmistry or phrenology, one thousand dollars (\$1,000.00) per year;
- (9) a. For itinerant merchants or peddlers, not exempt under [section 11-33](#) or [11-34](#), fifty dollars (\$50.00) per year;  
b. For itinerant merchants or peddlers conducting business at the City of Martinsville Farmers Market, bounded by -West Church, Main, and Moss Streets, on such days and at such hours designated as Market Days by the entity designated by the City as the manager of the Market, five dollars (\$5.00) per year.
- (10) For photographers who have no regularly established place of business in Virginia, as defined in section 58.1-3727 of the Code of Virginia, thirty dollars (\$30.00) per year;
- (11) For savings institutions and state chartered credit unions, which have their main office in the city, fifty dollars (\$50.00) per year;
- (12) For direct sellers, as defined in section 58.1-3719.1 of the Code of Virginia, with total annual sales in excess of four thousand dollars (\$4,000.00), twenty cents (\$0.20) per one hundred dollars (\$100.00) of gross receipts from total annual retail sales or five cents (\$0.05) per one hundred dollars (\$100.00) of gross receipts from total annual wholesale sales, whichever is applicable;
- (13) For any person, firm, partnership or corporation engaged in the business of promoting, managing, or organizing promotional shows or sales, subject to the provisions of [section 11-33](#), twenty cents (\$0.20) per one hundred dollars (\$100.00) of the total gross receipts from all sales of goods or merchandise sold by individuals participating in all such promotional shows or sales;
- (14) For any person, firm, partnership or corporation engaged in the business of furnishing heat, light, and power, whether by means of electricity or gas, in the city, one-half of one per cent of the gross annual receipts accruing from sales to ultimate consumers in the city, provided, however, that there shall be deducted from such gross receipts any sum or sums paid to the city as license taxes except motor vehicle license taxes;
- (15) For any telegraph or telephone company doing business in the city, one-half of one per cent of the gross annual receipts accruing from sales to ultimate

consumers in the city, provided, however, that receipts from charges for long distance telephone calls shall not be considered receipts of such business in the city;

(16)

For amusement operators operating ten (10) or more coin-operated amusement machines located in the city, two hundred dollars (\$200.00) per year; for amusement operators operating less than ten (10) coin-operated amusement machines located in the city, one hundred seventy-five dollars (\$175.00) per year; and in addition, amusement operators shall also pay thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts only on the share of the receipts actually received by such operator from such machines operated in the city, or thirty dollars (\$30.00), whichever is greater; and in addition, each amusement operator shall furnish to the commissioner of revenue a complete list of all machines on location and the address of each location on or before January 31 of each year; and each machine shall have conspicuously located thereon a decal, sticker, or other adhesive label, no less than one by two (1 X 2) inches in size, clearly denoting the operator's name and address.

*(Ord. No. 96-13, § 11-1(L), 11-26-96; Ord. No. 97-2, 1-28-97)*

**Meeting Date:** April 24, 2012  
**Item No:** 9.  
**Department:** Finance  
**Issue:** Consider review of Fund Balance Policy  
**Summary:**

### **FUND BALANCE POLICY**

The City Council is dedicated to maintaining an appropriate level of fund balance sufficient to mitigate current and future financial risks and to ensure stable tax rates; and, therefore, formally establishes this policy for the City's Fund Balance. This policy also authorizes and directs the Finance director to prepare financial reports which accurately categorize fund balance as required by Governmental Accounting Standards Board Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*.

Adoption of this policy enhances the usefulness of fund balance information through clearer fund balance classifications that can be more consistently applied and by clarifying existing governmental fund type designations. There are some differences between fund balance and liquidity (cash-on-hand) because some assets reported in the governmental funds inherently cannot be spent – the nonspendable portion of fund balance. If resources are limited in how they can be spent due to externally enforceable legal restrictions, they roll into fund balance as restricted. If the governing body limits the use of fund balance and that limitation can only be removed by that same governing through similar action, those fund balance resources are considered committed. If a government has intentions for certain resources, but they are not externally restricted or committed through formal governing body action, those resources are considered assigned fund balance. If the general fund has net resources in excess of the other four categories that surplus is considered unassigned. Examples for each category are provided on the annotated version attached.

**Attachments:** [Fund Balance Policy.doc](#)  
[Fund Balance Policy annotated version for discussion.doc](#)

**Recommendations:** Review and discussion.

# **City of Martinsville, Virginia**

## **Fund Balance Policy**

### **I. Purpose**

The City Council of the City of Martinsville, Virginia is dedicated to maintaining an appropriate level of fund balance sufficient to mitigate current and future financial risks and to ensure stable tax rates; and, therefore, formally establishes this policy for the City's Fund Balance. This policy also authorizes and directs the Finance Director to prepare financial reports which accurately categorize fund balance as required by GASB Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*.

### **II. Components of Fund Balance**

Fund balance is the difference between the assets and liabilities reported in a governmental fund; it is not to be confused with cash-on-hand. The following five fund balance classifications describe the relative strength of the spending constraints placed on the purposes for which the resources can be used:

- Nonspendable Fund Balance – amounts that are not in spendable form (such as inventory, prepaids, and long-term receivables) or are required to be maintained intact (endowment type funds);
- Restricted Fund Balance – amounts constrained to specific purposes by their providers (such as grantors, creditors, and higher levels of government), through constitutional provisions, or by enabling legislation;
- Committed Fund Balance – amounts constrained to specific purposes by a government itself, using its highest level of decision-making authority; to be reported as committed, amounts cannot be used for any other purpose unless the government takes the same highest level action to remove or change the constraint;
- Assigned Fund Balance – amounts a government intends to use for a specific purpose; intent can be expressed by the governing body or by an official or body to which the governing body delegates the authority; residual amounts in governmental funds other than the general fund; appropriation of existing fund balance;
- Unassigned Fund Balance – amounts that are available for any purpose; positive amounts are only reported in the general fund.

### **III. Committed Fund Balance Policy**

The City Council is the City's highest level of decision-making authority and the formal action that is required to be taken to establish, modify, or rescind a fund balance commitment is a motion approved by the City Council. The resolution must either be approved or rescinded, as applicable, prior to the last day of the fiscal year for which the commitment is made. The amount subject to the constraint may be determined in the subsequent period.

**IV. Assigned Fund Balance Policy**

The City Council has authorized the Finance Director as the official authorized to assign fund balance to a specific purpose as approved by this fund balance policy.

**V. Minimum Unassigned Fund Balance Policy**

The City will attempt to maintain an unassigned General fund balance in the general fund equal to or greater than 10% of operating expenditures.

**VI. Resource Flow Policy**

When fund balance resources are available for a specific purpose in more than one classification, it is the City's policy to use the most restrictive funds first in the following order: restricted, committed, assigned, and unassigned as they are needed.

**VII. Consolidation of Component Unit Year-End Fund Balance**

Based on Budget Code in the Code of Virginia under section 15.2-2506 stating, "No money shall be paid out or become available to be paid out for any contemplated expenditure unless and until there has first been made an annual, semiannual, quarterly, or monthly appropriation for such contemplated expenditure by the governing body...", all appropriations lapse as of June 30 of each fiscal year. Prior to the completion of the annual audit, unspent funds remaining in the Component Unit – School Fund shall revert back to the General Fund. As with all City Funds, these funds may be re-appropriated for the following year, as approved by City Council.

# City of Martinsville, Virginia

## Fund Balance Policy

**\*\*\* ANNOTATED VERSION FOR DISCUSSION PURPOSES \*\*\***

### I. Purpose

The City Council of the City of Martinsville, Virginia is dedicated to maintaining an appropriate level of fund balance sufficient to mitigate current and future financial risks and to ensure stable tax rates; and, therefore, formally establishes this policy for the City's Fund Balance. This policy also authorizes and directs the Finance Director to prepare financial reports which accurately categorize fund balance as required by GASB Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*.

### II. Components of Fund Balance

Fund balance is the difference between the assets and liabilities reported in a governmental fund; it is not to be confused with cash-on-hand. The following five fund balance classifications describe the relative strength of the spending constraints placed on the purposes for which the resources can be used:

- Nonspendable Fund Balance – amounts that are not in spendable form (such as inventory, prepaids, and long-term receivables); or are required to be maintained intact (endowment type funds); **\*\*\*examples: pre-paid real estate taxes; the value of items held in the inventory at the shop; long-term loans/notes receivable\*\*\***
- Restricted Fund Balance – amounts constrained to specific purposes by their providers (such as grantors, creditors, and higher levels of government), through constitutional provisions, or by enabling legislation; **\*\*\*examples: Bonds for School Construction; most grant proceeds; meals taxes; voter-approved constraints\*\*\***
- Committed Fund Balance – amounts constrained to specific purposes by a government itself, using its highest level of decision-making authority; to be reported as committed, amounts cannot be used for any other purpose unless the government takes the same highest level action to remove or change the constraint; **\*\*\*example: funds committed to the Commonwealth Crossing Business Center – authorized by an act of City Council; encumbrances for contracts approved by Council\*\*\***
- Assigned Fund Balance – amounts a government intends to use for a specific purpose; intent can be expressed by the governing body or by an official or high-level body to which the governing body delegates the authority; residual amounts in governmental funds other than the general fund; appropriation of existing fund balance; **\*\*\*examples: budgeted use of fund balance in order to balance the budget; mid-year adjustments to budget: unanticipated vehicle replacement; re-appropriations; purchase order encumbrances. Essentially what is now designated.\*\*\***
- Unassigned Fund Balance – amounts that are available for any purpose; positive amounts are only reported in the general fund. **\*\*\* serves as a measure of current available resources, and is essential to mitigate current and future risks\*\*\***

### III. Committed Fund Balance Policy

The City Council is the City's highest level of decision-making authority and the formal action that is required to be taken to establish, modify, or rescind a fund balance commitment is a motion approved by the City Council. The resolution must either be approved or rescinded, as applicable, prior to the last day of the fiscal year for which the commitment is made. The amount subject to the constraint may be determined in the subsequent period.

### IV. Assigned Fund Balance Policy

The City Council has authorized the Finance Director as the official authorized to assign fund balance to a specific purpose as approved by this fund balance policy.

## V. Minimum Unassigned Fund Balance Policy

The City will attempt to maintain an unassigned General fund balance in the general fund equal to or greater than 10% of operating expenditures.

\*\*\* 10% has been inserted for discussion purposes. City Council would determine the actual figure to be inserted here. Based on the year-end FY11 budget, 10% of General Fund operating expenses would be \$3,001,002 (30,010,023 X 10%); 5% = \$1,500,501; 15% = \$4,501,503; should be no less than one to two months of regular general fund operating expenditures. Monthly average for FY11 = \$2,320,981.

## VI. Resource Flow Policy

When fund balance resources are available for a specific purpose in more than one classification, it is the City's policy to use the most restrictive funds first in the following order: restricted, committed, assigned, and unassigned as they are needed.

## VII. Consolidation of Component Unit Year-End Fund Balance

Based on Budget Code in the Code of Virginia under section 15.2-2506 stating, "No money shall be paid out or become available to be paid out for any contemplated expenditure unless and until there has first been made an annual, semiannual, quarterly, or monthly appropriation for such contemplated expenditure by the governing body...", all appropriations lapse as of June 30 of each fiscal year. Prior to the completion of the annual audit, unspent funds remaining in the Component Unit – School Fund shall revert back to the General Fund. As with all City Funds, these funds may be re-appropriated for the following year, as approved by City Council.

\*\*\* These funds have not been reverting back to the City general fund for years and the School has not exceeded spending of the annual appropriations; the result is the fund balance is growing. Under 15.2-2506, the School's operating fund balance should be essentially reverted back to the City at the end of each fiscal year. City Council could establish a balance to remain designated specifically for the School's fund balance, such as \$250,000 for future school expenditures, or could automatically re-appropriate an established amount each year.