



**TOWN OF ABINGDON, VIRGINIA
TOWN COUNCIL MID-MONTH MEETING
TUESDAY, AUGUST 17, 2021 – 2:30 pm
TOWN HALL - COUNCIL CHAMBERS**

DRAFT AGENDA

Please note there will be an opportunity during the meeting for citizens to address the Town Council when the Mayor declares public comments open. We request that anyone addressing the Council, sign up, approach the podium when called, state your first and last name, and provide your complete mailing address.

A. WELCOME – *Mayor Webb*

B. ROLL CALL – *Kim Kingsley, Clerk*

C. PLEDGE OF ALLEGIANCE – *Council Member Mike Owens*

D. APPROVAL OF AGENDA – *Mayor Webb*

E. PUBLIC COMMENTS – Please place your name on the sign-up sheet provided and comments are limited to three (3) minutes per person.

F. PUBLIC HEARINGS - Please place your name on the sign-up sheet provided and comments are limited to five (5) minutes per person.

G. PROCLAMATIONS

H. NEW BUSINESS

1. Discussion regarding moving the October 6 Council meeting to October 4, 2021 –

James Morani, Town Manager

2. Discussion regarding revisions to Article VI - Peddlers, Vendors and Canvassers

ordinance, Section 18-132 – Exemption from permit requirements – *James Morani, Town Manager*

3. Discussion regarding agreement with Old Glade Antique Tractor Association – *James*

Morani, Town Manager

I. RESOLUTIONS

J. ORDINANCES

K. UNFINISHED BUSINESS

L. MISCELLANEOUS BUSINESS AND COMMUNICATIONS FROM TOWN MANAGER

1. Discussion regarding park and shelter fees – *James Morani, Town Manager*

2. Discussion regarding wastewater contract operations – *James Morani, Town Manager*

3. Update on outdoor refreshment area – *James Morani, Town Manager*

M. COUNCIL MEMBER REPORTS

N. CLOSED SESSION

O. ADJOURN

**AGREEMENT BETWEEN
OLD GLADE ANTIQUE TRACTOR ASSOCIATION, INC. AND
TOWN OF ABINGDON FOR
NONPROFESSIONAL SERVICES**

This Agreement entered into on the 2ND day of April, 2019, by and between Old Glade Antique Tractor Association, Inc. ("OGATA"), and Town of Abingdon, a political subdivision of the Commonwealth of Virginia, having its administrative office at 133 West Main Street, Abingdon, Virginia, 24210, and hereafter called "the Client".

WITNESSETH:

WHEREAS, the parties have entered into a certain Lease for property 910 Hillman Highway, Abingdon, Virginia and being that property shown as Tax Map No. 106-A-2A, consisting of 4.642 acres more or less, and OGATA has permission from James D. Moore, Jr., Family Limited Partnership to use and have access to property being a portion of Tax Map No. 106-A-2, consisting of 8.6 acres more or less ("Property");

WHEREAS, the Client desires to retain the services of OGATA to perform nonprofessional services defined by the Code of Virginia;

WHEREAS, OGATA desires to provide the Client with such services as authorized by the Client, and represents that it is organized and authorized to conduct business within the Commonwealth of Virginia;

WHEREAS, the Client by vote of its Town Council authorized the Client to enter into such agreement;

NOW, THEREFORE, for and in consideration of the promises, the mutual benefits to the parties from entering into this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows.

SECTION 1. STATEMENT/SCOPE OF WORK.

- A. OGATA will provide services to Client as set forth in the attached Scope of Services ("Scope of Services"/"Services") attached hereto as Exhibit A and a part hereof.
- B. OGATA and its Subcontractors, and their respective employees, are and shall remain independent contractors in performing the Services under this Agreement.
- D. Services shall be performed and completed by OGATA within the time frames set forth in the Scope of Services time being of the essence of this provision.

SECTION 2. COMPENSATION, METHOD OF PAYMENT, TIME OF PERFORMANCE AND TERMINATION.

- A. **Compensation.** Client shall compensate OGATA for the Services performed based upon the terms described within the Scope of Services.
- B. **Payment to OGATA.** Client shall pay OGATA for the Services performed as set forth in the Payment Schedule included in the Scope of Services. If no Payment Schedule is so included, Client shall make payment within thirty (30) days after receipt of a bill for services from OGATA.
- C. **Term.** This Agreement shall commence on April 1, 2019, and shall continue for a period of one (1) year, and may be extended for a period of time upon mutual agreement by both parties pursuant to Section 6 of this Agreement, but shall remain subject to termination for convenience at any time pursuant to Section 2(D) or for non-appropriation of funding by Client.
- D. **Termination for Convenience.** Either the Client or OGATA may terminate this Agreement at any time, by giving written notice to the other party of such termination and specifying the effective date thereof, but with a minimum of ninety (90) calendar days of such termination.
- (1) In the event of termination, whether for convenience, non-appropriation or default, all finished and unfinished documents and other materials produced by OGATA specifically for the Client shall be delivered to and become the property of the Client.
 - (2) In the event of termination, OGATA shall be paid for the Services performed prior to the effective date of termination. Upon request, OGATA will provide the Client with documentation of the Services performed prior to the effective date of termination.
- E. **Termination for Default [Breach or Cause].** The Client or OGATA may terminate this Agreement for default for failure to comply with the terms of this Agreement or for reasonable cause by giving a written notice to the other party of such termination specifying the effective date thereof. The notice shall set forth the nature of the default of the Agreement.
- (1) In the event of termination by the Client, OGATA shall be paid for Services performed up to the effective date of termination in accordance with the manner of payment set forth in the Agreement. If it is later determined that OGATA had an excusable reason for not performing such as natural disasters or other events which are beyond the control of OGATA, the Parties may, but shall not be required to, agree for OGATA to continue to provide the Services.

- (2) After receipt of written notice from the Client setting forth the nature of said breach or default, OGATA may request, and the Client may, but shall not be required to, agree to provide OGATA time to remedy any breach or default to the satisfaction of Client. If the Client does not agree to allow OGATA to remedy the default, OGATA shall immediately cease providing Services.

SECTION 3. RESPONSIBILITIES OF OGATA.

- A. OGATA agrees to use the records and information gathered or otherwise used pursuant to this Agreement only for the advancement of the interests of Client, and as further provided in Section 5(D) of this Agreement.
- B. OGATA will provide all services under this Agreement in a manner consistent with applicable laws, professional standards and its best efforts.
- C. OGATA shall comply with Client's standards for acceptable workplace conduct and safety, and shall all times conduct themselves in a professional manner.
- D. OGATA shall maintain at least One Million Dollars of commercial general liability insurance to cover their actions or omissions, and Workers' Compensation insurance in the statutory amount to cover work-related injuries to their employees. Upon request, OGATA shall promptly provide the Client with evidence of such insurance.

SECTION 4. RESPONSIBILITIES OF THE CLIENT.

- A. Without charge to OGATA, Client agrees to provide all policies, information, communications, records, data, information and forms which are available to the Client and needed by OGATA in order to perform the Services.
- B. At the Client's discretion, the Client may provide to OGATA the items described in Paragraph 3 of the Scope of Services.
- C. OGATA and its Subcontractors and their respective employees are Independent Contractors (IC), pursuant to Section 1(C) and maintain insurance as set forth in Section 3(E) herein.

The client shall avail OGATA, its subcontractors and their respective employees, of all legal & equitable defenses that may arise out of their performance of duties on behalf of the client.
- D. The Client shall communicate any concerns about OGATA staff or Subcontractor performance to OGATA representative set forth in Section 5, unless otherwise specifically set forth within the Scope of Services.

SECTION 5. ADMINISTRATION OF THE AGREEMENT.

- A. All notices and communications with respect to the terms of this Agreement and the performance of the Services shall be through the Party Representatives. The Party Representatives are:

Client's representative shall be:

Title

(276) 628-3167

Phone Number

email

OGATA's representative shall be:

- B. ***Incorporated Provisions.*** This Agreement shall be performed in accordance with the applicable, required contractual provisions set forth in the Client's purchasing or procurement regulations, and the Virginia Public Procurement Act, Virginia Code §§ 2.2-4300, *et seq.*, in effect at the time of this Agreement, pertaining to non-discrimination § 2.2-4310 and - 4311, compliance with immigration laws § 2.2-4311.1, drug-free workplace § 2.2-4312, which provisions are incorporated herein by reference.
- C. ***Contractual.*** Disputes with respect to this Agreement shall be governed by Virginia Code § 2.2-4363 or similar provision in Client's purchasing or procurement ordinances or regulations.
- D. ***Ownership and Status of Documents.***
- (1) All documents prepared by OGATA specifically for the Client shall become the property of the Client upon completion of Services, or the earlier termination of this Agreement. OGATA shall have the right to retain appropriate copies of all such documents for its records upon client' approval, and to reuse any template documents which it prepared for the Client. All materials, including without limitation, documents, drawings, drafts, notes, designs, computer media, electronic files and lists, including all additions to, deletions from, alterations of, and revisions in the foregoing (together the "Materials"), which are furnished to OGATA by Client or which are development in

the process of performing the Services, or embody or relate to the Services, the Client Information or the Innovations (as defined below), are the property of Client, and shall be returned by OGATA to Client promptly at Client's request together with any copies thereof, and in any event promptly upon expiration or termination of this Agreement for any reason.

- (2) All documents prepared by OGATA specifically for the Client shall become the property of the Client upon completion of Services, or the earlier termination of this Agreement. OGATA shall have the right to retain appropriate copies of all such documents for its records, and to reuse any template documents which it prepared for the Client.
- (3) Records provided to OGATA by the Client and records prepared by OGATA specifically for the Client shall be kept confidential by OGATA until released or approved for release by the Client. OGATA will cooperate with the Client in complying with the requirements of Virginia Code § 2.2-4342 and any requirements of the Virginia Freedom of Information Act applicable to such records.
- (4) OGATA shall maintain financial records, supporting documents, statistical records, and other records pertinent to this Agreement for three (3) years from the date of final payment, and make those records available to the Client upon written request.

SECTION 6. CHANGES TO AGREEMENT.

- A. Any modification or change to this Agreement must be set forth in a written Addendum to this Agreement and signed by authorized representatives of both parties.
- B. The parties hereto may, from time to time, propose changes in the attached Scope of services or in OGATA's performance requirements. Such changes must be mutually agreed upon by the parties in writing, signed by the authorized representatives of both parties.

SECTION 7. MISCELLANEOUS PROVISIONS.

- A. Protection of Confidential Information. OGATA agrees that at all times during or subsequent to the performance of the Services, OGATA will keep confidential and not divulge, communicate, or use Client's Information, except for OGATA's own use during the Term of this Agreement to the extent necessary to perform the Services. OGATA further agrees not to cause the transmission, removal or transport of tangible embodiments of, or electronic files containing, Client's Information from Client's principal place of business, without prior written approval of Client.
- B. Liability. The Client shall not be liable for injury or death occurring to OGATA or any of its employees or other assistants in the course of performing this Agreement unless the harm or death is caused by the Client's gross negligence.

- C. **Hold Harmless.** OGATA hereby indemnifies and holds harmless the Client, its subsidiaries, and affiliates, and their officers and employees, from any damages, claims, liabilities, and costs, including reasonable attorney's fees, or losses of any kind or nature whatsoever ("Loss") which may in any way arise from the Services performed by OGATA hereunder, the work of employees of OGATA while performing the Services of OGATA hereunder, or any breach or alleged breach by OGATA of this Agreement, including the warranties set forth herein. The Client shall retain control over the defense of, and any resolution or settlement relating to, such Loss. OGATA will cooperate with the Client and provide reasonable assistance in defending any such claim.
- D. **Taxes.** The Client shall not be liable for taxes, Worker's Compensation, unemployment insurance, employers' liability, employer's FICA, social security, withholding tax, or other taxes or withholding for or on behalf of OGATA or any other person consulted or employed by OGATA in performing Services under this Agreement. All such costs shall be OGATA's responsibility.

SECTION 8. JURISDICTION AND VENUE.

- A. This Agreement has been and shall be construed as having been made and delivered in the Commonwealth of Virginia and shall be governed by laws of the Commonwealth of Virginia, both as to interpretation and performance.
- B. Any action of law, suit of equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in a court of competent jurisdiction in the County of Washington, Virginia.

SECTION 9. SEVERABILITY.

If, for any reason, any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void or unenforceable, the remaining parts, terms, and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be illegal, invalid, void, or unenforceable.

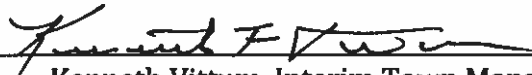
Non-Professional Services Agreement

{{ SIGNATURE PAGES TO FOLLOW }}

Non-Professional Services Agreement

IN WITNESS WHEREOF the parties hereto have caused this AGREEMENT to be executed the day and year first hereinabove written.

THE TOWN OF ABINGDON,
a Virginia municipal corporation

By: 
Kenneth Vittum, Interim Town Manager

APPROVED AS TO FORM:

Town Attorney

Non-Professional Services Agreement

**OLD GLADE ANTIQUE TRACTOR
ASSOCIATION, INC.**

By: 

Non-Professional Services Agreement

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT A
WORK ORDER 1: SCOPE OF SERVICES FOR
TOWN OF ABINGDON, VIRGINIA

OGATA will provide to the Client certain services and conduct certain events, related to the 910 Hillman Highway, Abingdon, Virginia and being that property shown as Tax Map No. 106-A-2A, consisting of 4.642 acres more or less and property being a portion of Tax Map No. 106-A-2, consisting of 8.6 acres more or less ("Property"), as indicated in this Work Order.

1. OGATA Specific Services: Subject to the restrictions of this Agreement and any other budgetary restrictions of the Client, Client will pay \$10,000 annually to OGATA to perform the following general services, events and tasks, with the approximate price per category of the total annual \$10,000 as follows:

- A. Events onsite during Fiscal Year = \$1,500
 - a. Sustain Abingdon Garden Day (onsite presence)
 - b. Fairview Car Show
 - c. FFA Day
- B. Tractor Show = \$2,000
 - a. Conduct 3-day tractor show
 - b. Event costs
- C. Preparation of Land = \$1,500
 - a. Till land for demonstration crops
 - b. Till land for Sustain Abingdon Community Garden
- D. Planting and Harvesting = \$1,500
 - a. Seeds and fertilizer
 - b. Planting of crops for community donations
 - c. Planting of crops as demonstration gardens
 - d. Planting of Heirloom Gardens
 - e. Harvest Crops as required
- E. Equipment = \$1,500
 - a. Fuel Costs
 - b. Use of equipment for planting and harvesting
 - c. Demonstration of antique equipment for public and events
- F. Maintenance/repairs = \$2,000
 - a. Moore Property
 1. As between the Town and OGATA, OGATA shall be fully responsible for the maintenance of the property being a portion of Tax Map No. 106-A-2, consisting of 8.6 acres more or less, owned by James D. Moore, Jr., Family Limited Partnership. The Town shall have no obligation to maintain the property. Maintenance shall include but not be limited to, mowing, clearing, trimming, raking and otherwise maintaining the grounds in good condition, as well as keeping the property clear and unobstructed and that no trash, or other debris shall be allowed to accumulate there.

- b. Grounds
 - c. Structures
 - d. Regular presence maintained on the grounds
 - G. If this Agreement will be renewed for another term, then OGATA shall submit any proposed changes in services or prices to the Client on or before January 1 for the Client's consideration in the Client's discretion. Any changes must be approved in writing by the Client.
 - H. The Client does not make any representations or authorize any access upon the property being a portion of Tax Map No. 106-A-2, consisting of 8.6 acres more or less, owned by James D. Moore, Jr., Family Limited Partnership. Any use of that property by OGATA or others must be obtained from James D. Moore, Jr., Family Limited Partnership.
2. OGATA General Services:
OGATA further agrees to:
- A. Work with Client on approved building repairs and construction on the Property.
 - B. Work with Client on the Master Plan to develop and maintain the Property.
 - C. Open Fairview Homestead in conjunction with the Fairview Farm and Homestead Foundation, Inc., as needed for events and special occasions
3. Client Obligations:
Client agrees to:
- A. Allow OGATA use of the Bunn House for meetings and events.
 - B. Provide tents, tables, chairs, trash cans, portable restroom, cones and other items necessary for conducting events and activities.
4. Contract restrictions:
- A. Failure of OGATA to provide services as specified will result in reduction of funding, which payment may be prorated in the Client's discretion based on the approximate price listed in paragraph 1.
 - B. Any construction on the Property must be approved and procured in accordance with State law and Town ordinances.

We are in agreement with the services and basis for fee determination in this Scope of Services and hereby grant OGATA notice to proceed for the work herein specified.



Ken Vittum, Interim Town Manager

4-2-19



CERTIFICATE OF INSURANCE

— THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY —

DATE ISSUED (MM/DD/YY)
4/2/19

Home Office • 100 Erie Insurance Place • Erie, Pennsylvania 16530 • 814.870.2000
Toll free 1.800.458.0811 • Fax 814.870.3126 • www.erieinsurance.com

NAME AND ADDRESS OF AGENCY
CHILHOWIE INSURANCE AGENCY INC
316 MAIN ST
CHILHOWIE, VA 24319
(276)646-5055

AGENT'S NO.
DD2061

COMPANIES AFFORDING COVERAGE
Co.: C ERIE INSURANCE COMPANY
Co.: D ERIE INSURANCE PROPERTY & CASUALTY COMPANY
Co.: E ERIE INSURANCE EXCHANGE (Not Applicable)
Erie Indemnity Co., Attorney-in-Fact In NY
Co.: F ERIE INSURANCE COMPANY OF NEW YORK
Co.: G FLAGSHIP CITY INSURANCE COMPANY

This certificate is issued for information purposes only and confers no rights on the certificate holder. It does not affirmatively or negatively amend, extend, or otherwise alter the terms, exclusions and conditions of insurance coverage contained in the policy(ies) indicated below. The terms and conditions of the policy(ies) govern the insurance coverage as applied to any given situation. Limits shown may have been reduced by claims paid. This certificate of insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer and the certificate holder.

This is to certify that policies, as indicated by the Policy Number below, are in force for the Named Insured at the time that the Certificate is being issued.

CO. ADD. YR. 12/31/19	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
E	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	Q34 0500684	10/5/18	10/5/19	EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any One Fire) \$ MED EXP (Any One Person) \$ 5,000 PERSONAL & ADV. INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS-COMP/OP AGG \$ 2,000,000
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> "ANY AUTO" (OWNED, HIRED, NON-OWNED) <input type="checkbox"/> OWNED <input type="checkbox"/> HIRED <input type="checkbox"/> NON-OWNED <input type="checkbox"/> GARAGE				BODILY INJURY (EACH PERSON) \$ BODILY INJURY (EACH ACCIDENT) \$ PROPERTY DAMAGE \$ BODILY INJURY AND PROPERTY DAMAGE COMBINED \$
	<input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> OCCURRENCE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION & EMPLOYERS LIABILITY				STATUTORY BODILY INJURY BY ACCIDENT \$ EACH ACCIDENT DISEASE \$ POLICY LIMIT DISEASE \$ EACH EMPLOYEE
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

NAME AND ADDRESS OF CERTIFICATE HOLDER
Town of Abingdon
P.O. Box 789
Abingdon, VA 24212

AUTHORIZED REPRESENTATIVE

ARTICLE VI
Peddlers, Vendors and Canvassers

§ 18-130. Permit required. [Ord. No. 2-2006, 2-6-2006]

It shall be unlawful for any person to engage in the business of peddler, vendor or canvasser as defined in this article, within the limits of the Town of Abingdon, Virginia, without first obtaining a permit as provided herein.

§ 18-131. Definitions. [Ord. No. 2-2006, 2-6-2006; Ord. of 10-1-2012]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CHARITABLE NONPROFIT ORGANIZATION(S) — Any organization(s) currently recognized by the Internal Revenue Code of the United States of America as a charitable nonprofit organization.

FAIR — A gathering of buyers and/or sellers for the purpose of exhibiting and selling goods, accompanied by amusements, contests, entertainment and the like.

HEALTH DIRECTOR or DIRECTOR — The Director of the County Health District.

HEALTH DIRECTOR or HEALTH OFFICER — The chief health officer of the county health department, its successor agencies, or a qualified person designated by such chief health officer.

PEDDLER — One who moves from place to place within the Town and offers merchandise, goods, food or services for sale or barter.

POLITICAL SUBDIVISION OF THE STATE — The county; the corporation Town of Abingdon; any body politic created under the Constitution of Virginia or by the Act of the General Assembly of Virginia as described by statute; and/or all groups operating on behalf of, under the through the political subdivisions referenced and described in this definition.

SERVICE ROAD (FRONTAGE ROAD) — A roadway contiguous to and generally paralleling a street or highway designed to collect and distribute traffic desiring to cross, enter, or leave such street or highway, and to furnish access to property which would otherwise be isolated due to the controlled access design of the street or highway.

TOWN MANAGER — The Town Manager of Abingdon, Virginia or a duly authorized agent of the Town Manager.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn including any wheeled conveyance.

VENDOR — One who offers merchandise, goods, food or services for sale or barter from a stationary but temporary site within the Town. "Vending" is the act of offering merchandise, goods, food or services for sale or barter from a stationary but temporary site within the Town.

YOUTH ATHLETIC ASSOCIATION — An organization or group thereof whose purpose and function are to schedule, manage and supervise athletic events primarily for the participation of people under the age of 18 years.

§ 18-132. Exemption from permit requirements. [Ord. No. 2-2006, 2-6-2006; Ord. of 10-1-2012]

(a) The following shall be exempt from the permit requirements of this article:

- (1) Persons selling fresh farm products;
- (2) Persons selling newspapers;
- (3) Persons selling for wholesale concerns who only solicit orders from or sell to retail dealers in Abingdon for resale or other commercial purposes or to manufacturers for manufacturing or other commercial purposes; and
- (4) Peddlers or vendors of religious, political or written materials.
- (5) Exemptions. The provisions of Code of Virginia, § 35.1-1 et seq., or any successor statute shall not apply to:
 - a. Food booths at fairs, if such booths are promoted or sponsored by any political subdivision of the commonwealth or by any charitable nonprofit organization or group thereof.
 - b. Concession stands at youth athletic activities, if such stands are promoted or sponsored by either a youth athletic association or by any charitable nonprofit organization or group thereof which has been recognized as being a part of the recreational program of the political subdivision where the association or organization is located by an ordinance or resolution of such political subdivision.
 - c. Organizations that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code that hold occasional fund-raisers for the duration of the event at which food is prepared by such organization and is offered for sale to the public.
- (6) Supervision of food sales. Supervision of the sale of food as contemplated in this article shall be made by the chief health officer of the Town or a qualified person designated by such officer. Such supervision shall include:
 - a. A requirement of notice from the food concessionaire as to the time and place of the sale of food;
 - b. Meetings as necessary with the representatives of such organizations to provide information and assistance, where necessary, to provide a healthy environment for the sale of food;
 - c. Inspections, as necessary, to determine if such operations are being conducted in a healthy environment and to provide assistance in

remediation, if necessary;

- d. Inspections, as necessary, to determine if the authorized organizations are operating such food concessions; and
- e. No other supervision unless directed by future ordinance of the Town Council.

§ 18-133. Application for permit. [Ord. No. 2-2006, 2-6-2006]

- (a) Applicants for permits under this article must file with the Town Manager an application in writing on a form to be furnished by the Town, which shall give the following information:
 - (1) Name, social security number (optional), and description of the applicant.
 - (2) Address.
 - (3) Name and address of Virginia registered agent, if there is a registered agent for the business.
 - (4) A brief description of the nature of the business and the goods to be sold.
 - (5) Proof of all applicable federal, state and local permits or the licenses for the business.
- (b) At the time of the filing of the application, a fee of as authorized from time to time by the Town Council shall be paid to the Town Manager to cover the cost of investigation and processing of the application.

§ 18-134. Investigation and issuance. [Ord. No. 2-2006, 2-6-2006]

Upon receipt of such application, the original shall be referred to the Town Manager, who shall make an investigation of the applicant's business responsibility and character.

- (a) Unless the Town Manager determines otherwise after his investigation, he shall within 45 days following the date of the filing of the application, issue the applicant a license.
- (b) After investigation and finding that the health, safety, and welfare of the public so demands, the Town Manager may refuse to issue a license to an applicant for reasons including, but not limited to, the following:
 - (1) Conviction of any felony or crime of moral turpitude (including, by way of illustration and not limitation, crimes of sexual misconduct and distribution of controlled substances or paraphernalia) within the five years immediately preceding the date of the filing of the application.
 - (2) Fraud, misrepresentation or intentional false statement of material or relevant facts contained in the application.
 - (3) Lack of necessary permits or licenses to conduct the business proposed to be

conducted.

- (c) The Town Manager shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and deliver to the applicant his permit. Such permit shall contain the signature of the issuing officer and shall show the name, address and photograph of said applicant, the kind of goods to be sold thereunder, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such peddling, vending or canvassing. The Town Manager shall keep a permanent record of all permits issued.
- (d) In determining whether the applicant's character and business responsibility is satisfactory, the Town Manager, or his authorized agent, shall consider evidence revealed by the investigation which shows honesty, reliability, and knowledge of the business to be engaged in. A license shall be denied or revoked if the applicant is shown to be dishonest, immoral or substantially lacking in business reliability and responsibility. In the event the result of the initial investigation are unclear as to the nature of the applicant's character and business responsibility, an additional investigation of the applicant shall be made.

§ 18-135. Transfer. [Ord. No. 2-2006, 2-6-2006]

No permit or exemption letter issued under the provisions of this chapter shall be used by any person other than the one to whom it was issued.

§ 18-136. Renewal. [Ord. No. 2-2006, 2-6-2006]

Permits issued under the provisions of this article shall be valid for the period requested, which shall in no event exceed one year. The holder of any permit may seek renewal thereof upon the filing of a written renewal application. The renewal application shall reflect any information changed from the previous year's application and it shall be approved upon verification by the Town Manager that the applicant for renewal has complied with the laws of the Town of Abingdon and the commonwealth.

§ 18-137. Use of the streets and other public places — vending or canvassing from a stationary location. [Ord. No. 2-2006, 2-6-2006]

- (a) No peddler, vendor, or canvasser shall have any exclusive right to any location on public property; nor shall he or she:
 - (1) Operate at any location within the Town until he possesses a license to operate his business which has been approved by the local health department;
 - (2) Be permitted a stationary location on any sidewalk unless at least five feet of the sidewalk remains clear for pedestrian traffic;
 - (3) Be permitted a stationary location closer than 10 feet from any crosswalk, intersection, entrance to a building, taxi stand, or other vendor's stationary location.

- (4) Be permitted to occupy a space greater than 10 feet long, five feet wide, and eight feet high on a sidewalk, excluding umbrellas;
 - (5) Display any sign visible to vehicular traffic if operating from a stationary location on a street, sidewalk, or other public place, except for signs that are actually imprinted on the exterior body of a licensed motor vehicle;
 - (6) Make any sale or delivery to any person while such person is standing in the roadway;
 - (7) Make any sale, offer or delivery to any driver or passenger in a motor vehicle while the motor vehicle is stopped at a red light or while in a moving traffic lane;
 - (8) Conduct business from any highway service road or center median strip of any street;
 - (9) Restrict access to any legally parked vehicle;
 - (10) Operate in any other way that would restrict the flow of pedestrian or vehicular traffic;
 - (11) Conduct any business on any public street or sidewalk between the hours of 8:00 p.m. and 7:00 a.m.; or
 - (12) Leave any cart or table unattended on any public street or sidewalk between the hours of 8:00 p.m. and 7:00 a.m.
- (b) Each peddler, vendor, or canvasser shall provide receptacles for the disposal of waste materials or other litter created in the immediate area of any stationary location from which sales, offers of sales or deliveries are taking place, and they shall request customers to place all waste and litter in the receptacles and they shall remove and dispose of the waste materials and litter.

§ 18-138. Exhibition of permit or exemption letter. [Ord. No. 2-2006, 2-6-2006]

Peddlers, vendors, or canvassers are required to conspicuously display their permits at their vehicles or temporary stands or if they have none, to exhibit their permits or exemption letter upon request.

§ 18-139. Records. [Ord. No. 2-2006, 2-6-2006]

The Town Manager shall maintain a record for each permit issued, and record the reports of violation thereon.

§ 18-140. Revocation of permit. [Ord. No. 2-2006, 2-6-2006]

- (a) Permits issued under the provision of this article may be revoked by the Town Manager after notice and hearing of any of the following causes:
 - (1) Fraud, misrepresentation or intentional false statement contained in the

application for permit.

- (2) Conviction of a felony or crime of moral turpitude (including, by way of illustration and not limitation, crimes of sexual misconduct and distribution of controlled substances or paraphernalia).
 - (3) Conviction of any crime involving fraud in the conduct of his or her business.
 - (4) Any violation of this article or of Article II of this chapter.
- (b) Notice for revocation of a permit shall be given in writing, setting forth specifically the grounds for the revocation. Such notice shall be mailed, certified mail return receipt requested, to the permit holder at his last known address.

§ 18-141. Appeal. [Ord. No. 2-2006, 2-6-2006]

- (a) Any person aggrieved by the action of the Town Manager, or his authorized agent, in the denial of an application for a permit or in the decision with reference to the revocation of a permit shall have the right of appeal. Such appeal shall be taken by filing with the clerk of the Town Council within 10 days after the notice of the denial of an application has been mailed to such person's last known address, a written statement setting forth fully the grounds of appeal.
- (b) Upon receipt of such notice of appeal, the clerk shall schedule a public hearing before the Town Council at a time not more than 30 days after the receipt of the notice. Such hearing shall be advertised at the expense of the appellant and notice given once a week for two successive weeks in some newspaper published or having general circulation in the Town, specifying the time and place of hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement appears in such newspaper.

§ 18-142. Penalty for violation of chapter. [Ord. No. 2-2006, 2-6-06]

Any person violating any provision of this article shall be guilty of a Class 1 misdemeanor.

§ 18-143. Severance clause. [Ord. No. 2-2006, 2-6-2006]

The provisions of this article are hereby declared to be severable, and if any section, sentence, clause or phrase of this article shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this article, but they shall remain in effect, it being the legislative intent that this article shall stand, notwithstanding the invalidity of any part.