

AN EMERGENCY ORDINANCE to amend and reordain Section 36-52, to amend and reordain the caption of Section 36-53, to amend and reordain the caption of Section 36-54, to amend and reordain Section 36-56, all of Article X, Chapter 36 of The Code of the City of Alexandria, Virginia, 1963, as amended; and to amend said article and chapter by adding thereto new sections numbered 36-53.2, 36-54.1 and 36-54.2; which Chapter 36 relates to TAXATION, which Article X relates to TAX ON THE SALE OF CIGARETTES, which Section 36-52 relates to METHOD OF COLLECTION AND DUTIES OF THE DIRECTOR OF FINANCE AND THE COLLECTOR, which caption of Section 36-53 relates to DUTIES OF DEALERS, AGENTS AND SELLERS WITH RESPECT TO TAX ON SALE OF CIGARETTES WHEN STAMP METHOD USED, which caption of Section 36-54 relates to POWERS OF THE DIRECTOR OF FINANCE, COLLECTOR AND TAX INSPECTOR RELATIVE TO TAX ON CIGARETTES WHEN STAMP METHOD USED, which Section 36-56 relates to VIOLATIONS, which new Section 36-53.2 relates to DUTIES OF DEALERS, AGENTS AND SELLERS WHEN OTHER THAN STAMP METHOD USED, which new Section 36-54.1 relates to POWERS AND DUTIES OF DIRECTOR OF FINANCE AND TAX INSPECTOR WHEN OTHER THAN STAMP METHOD USED and which new Section 36-54.2 relates to NOTICE OF INTENTION BY DEALERS.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 36-52, Article X, Chapter 36 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 36-52. Method of Collection and Duties of the
Director of Finance and the Collector.

The tax imposed by this article shall be paid by a dealer, or other agent under a reporting, stamp, meter, or other method ordered by the Director of Finance to carry out the provisions of Article X.

In the event of the use of a stamp or meter method, such tax shall be administered by affixing a stamp or stamps, or causing a stamp or stamps to be affixed, to each and every package of cigarettes in the manner and at the time or times hereinafter stated. Every dealer in the city shall have the right to buy and affix such stamps as an agent, and the Director of Finance may appoint, in addition to local dealers, such other persons as agents for the purpose of buying and affixing stamps as he may deem necessary; provided, however, that a seller shall not be entitled to be appointed as an agent until such seller shall have filed with the Director of Finance a bond in the penal sum of \$100.00, with surety approved by the Director of Finance, conditioned upon such seller's faithful performance of all duties and obligations imposed upon him as an agent hereunder. Every agent shall at all times have the right to appoint a person in his employ to affix the stamps to any cigarettes under the agent's control. For the purpose of making such stamps available for use by local dealers and other agents, the Director of Finance shall prescribe, prepare and furnish to the Collector, and the Collector shall sell, stamps of such denominations and

quantities as may be necessary for the payment of the tax imposed by this article. In the sale of such stamps to a local dealer or other agent the Collector shall allow a discount of five per centum (5%) of the denominational or face value thereof to cover the cost which will be incurred by such dealer or agent in affixing the stamps to packages of cigarettes. In the event that printing by a meter machine is used in lieu of gummed stamps, there shall be allowed a discount of six and one-half per centum (6 1/2%) of the denominational or face value thereof. The Director of Finance may from time to time, and as often as he deems advisable, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design, and he is hereby empowered to make and carry into effect all such reasonable rules and regulations relating to the preparation, furnishing and sale and redemption of stamps as he may deem necessary; provided, however, that in redeeming stamps or making refund for destroyed stamps, he shall in no case refund more than the cost of the redeemed or destroyed stamps. He is hereby further authorized and empowered to prescribe the method to be employed and the conditions to be observed in the use of meter machines for printing upon packages of any such cigarettes insignia to represent the payment of said tax.

In the event the Director of Finance orders a reporting method or some other method for the administration and enforcement of the provisions of Article X, he is hereby empowered to make and carry into effect reasonable rules and regulations to convert to such method, to credit each dealer or agent for stamps or imprints previously affixed to each package of cigarettes, and to credit each dealer or agent for payment by such other method as may have been used. Furthermore, if a reporting method is utilized, the Director of Finance is empowered to extend the following discounts:

- (a) A discount not greater than two per centum (2%) to dealers or agents who sell cigarettes to retailers in the City;
- (b) A discount not greater than one and one-half per centum (1 1/2%) to dealers or agents who are self-wholesaling chain store companies who distribute cigarettes to retail outlets in the city; and
- (c) A discount of not greater than three and one-half per centum (3 1/2%) to dealers or agents who are coin cigarette machine operators who sell cigarettes by means of coin-operated machines located in the city.

The Director of Finance is hereby further empowered to make and carry into effect reasonable rules and regulations relating to the administration and collection of this tax by means of whatever method is ordered. The Director of Finance is authorized and directed to participate in the joint administration of the cigarette tax with other localities whenever the City Council of Alexandria passes a resolution of participation.

Section 2. That the caption of Section 36-53, Article X, Chapter 36 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 36-53. Duties of Dealers, Agents and Sellers with Respect to Tax on Sale of Cigarettes when Stamp Method Used.

Section 3. That Article X, Chapter 36 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto a new section numbered 36-53.2 to read as follows:

Sec. 36-53.2. Duties of Dealers, Agents and Sellers When Other Than Stamp Method Used.

Every dealer in cigarettes and every agent appointed hereunder is hereby required and it shall be his duty to collect the tax imposed under the provisions of this article. It shall also be the duty of every dealer, agent and seller, and they are hereby required, to maintain and to keep for a period of two (2) years such records of cigarettes received and sold by them as may be required by the Director of Finance, to make all of such records available for examination in the city by the Director of Finance upon demand, and to make available the means, facilities and opportunity for making any such examination at all reasonable times.

Section 4. That the caption of Section 36-54, Article X, Chapter 36 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 36-54. Powers of the Director of Finance, Collector, and Tax Inspector Relative to Tax on Cigarettes when Stamp Method Used.

Section 5. That Article X, Chapter 36 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto a new section numbered 36-54.1 to read as follows:

Sec. 36-54.1. Powers and Duties of the Director of Finance and Tax Inspector when Other Than Stamp Method Used.

In addition to the powers granted to him in other sections of this article, the Director of Finance is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the delegation of any of his powers to his representative or representatives or deputies and any other matter pertaining to the administration and enforcement of the provisions of this article. The Director of Finance is also hereby authorized and empowered to examine books, records, invoices, papers and any and all cigarettes in and upon any premises where the same are placed, stored, sold,

offered for sale or displayed for sale by a seller. In the event that the Director of Finance shall discover in any such place any cigarettes which are subject to the tax imposed under the provisions of this article, but upon which provisions for payment of such tax have not been made, the Director of Finance is hereby authorized and empowered to seize and take possession forthwith of such cigarettes, which shall thereupon be deemed to be forfeited to the city. The Director of Finance may, within a reasonable time thereafter, and after written notice posted at the front door of the City Hall, at least five (5) days before the date of sale, sell such forfeited cigarettes at the place designated by him in such notice, and from the proceeds of such sale shall collect the tax due thereon, together with a penalty of fifty per centum (50%) thereof, and the costs incurred in such proceedings, and shall pay the balance, if any, of such proceeds to the seller in whose possession such forfeited cigarettes were found; provided, however, that such seizure and sale shall not be deemed to relieve any person from any of the penalties provided in this article. The Director of Finance or Tax Inspector is further authorized and empowered to administer oaths and to take affidavits in relation to any matter or proceedings in the exercise of their powers and duties relating to such tax, and they shall have power to subpoena and to require the attendance of witnesses and the production of books, papers, and documents, and to examine such witnesses, books, papers and documents, for the purpose of securing information pertinent to the performance of such duties.

Section 6. That Article X, Chapter 36 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto a new section numbered 36-54.2 to read as follows:

Sec. 36-54.2. Notice of Intention by Dealers.

Except as hereinafter provided, it shall be unlawful for any dealer or agent to supply cigarettes to any seller within the city without first notifying the Director of Finance in writing of the name and business address of such seller. A city license obtained, in advance of sale therefrom, for a coin-operated cigarette machine or device shall be considered sufficient notice to the Director of Finance. Every dealer and agent supplying cigarettes to sellers within the city on July 14, 1970, who intend to continue to supply those sellers, shall file the above mentioned written notice as to those sellers on or before August 14, 1970, but such dealers and agents shall fully comply with the first sentence of this section with respect to any new seller.

Section 7. That Section 36-56, Article X, Chapter 36 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 36-56. Violations.

It shall be unlawful and a violation of this article for any person to perform any act, or to fail to perform any act, for the purpose of evading the payment of such tax, or of any part thereof,

or for any dealer, agent or seller, with intent to violate any provision of this article, to fail or refuse to perform any of the duties imposed upon him under the provisions of this article, or to fail or refuse to obey any lawful order which the Director of Finance may issue under the provisions of this article. It shall be unlawful for any person to sell and dispense through a vending machine or other mechanical device any cigarettes upon which such tax has not been paid. It shall be unlawful for any person to sell and dispense through a vending machine or other mechanical device any cigarettes upon which such tax has not been paid and upon which evidence of the payment thereof is not shown on each package of such cigarettes if the stamp method is used.

Section 8. That in the opinion of the city council an emergency exists and this is declared an EMERGENCY ORDINANCE. There is an emergency because neighboring jurisdictions are prepared to go to the reporting method of collecting cigarette taxes. It is believed that this method is more efficient and economical for both the taxing jurisdictions and dealers and its use will result in increased revenue. Any delay in setting up the new method will be to the immediate detriment of the City of Alexandria, cigarette dealers and neighboring jurisdictions.

Section 9. That this emergency ordinance shall not be published. The clerk of the council shall note the date of introduction and first reading, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the moment of its final passage.

Charles E. Beatley, Jr.
Mayor

FINAL PASSAGE: JULY 14, 1970