

ORDINANCE NO. 2045

AN ORDINANCE to amend Chapter 36 of The Code of the City of Alexandria, Virginia, 1963, as amended, by the addition thereto of a new Article XV; which Chapter 36 relates to TAXATION, and which new Article XV relates to and imposes a TAX ON MEALS SOLD BY RESTAURANTS, establishes RULES AND REGULATIONS FOR COLLECTION OF SUCH TAXES AND PAYMENT OF SAME TO THE CITY, and provides PENALTIES FOR VIOLATIONS OF THIS ARTICLE.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 36 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and it hereby is amended by adding thereto a new Article XV, to read as follows:

Article XV. Tax on meals
sold by restaurants.

Sec. 36-97. Definitions.

The following words when used in this article shall, for the purposes of this article, have the following respective meanings, except where the context clearly indicates a definite meaning:

Director. The director of finance of the City of Alexandria, Virginia.

Meal. All food and drink, except alcoholic beverages, offered or held out for sale for the purpose of being consumed at one time to satisfy the appetite, including, but not limited to, breakfast, lunch, dinner and supper. The term "meal" shall not include food or drink sold by any non-profit or government-subsidized school or institution of learning to its students or employees.

Person. Any individual, corporation, company, association, firm, co-partnership or any group of individuals acting as a unit.

Purchaser. Any person who purchases a meal.

Restaurant. Any place located in the city from or in which meals are sold including but not limited to drugstores, eating houses, public and private clubs, bars, cafeterias, grills, diners, dining rooms, eateries, vending machines and places of business known as restaurants.

Seller. Any person who sells a meal.

Sec. 36-98. Amount and levy of tax.

There is hereby imposed and levied by the city, in addition to all other taxes, fees and charges of every kind now or hereafter imposed by law, a tax upon each and every meal sold in the city in or from a restaurant, whether prepared in such restaurant or not and whether consumed on the premises or not, based upon the amount charged the purchaser by the seller for the meal, of one cent (1¢) when the amount of the charge is more than fourteen cents (14¢) but less than one dollar (\$1.00), and otherwise at the rate of one percent of the total charge when the amount of the charge is greater than one dollar (\$1.00), one-half cent or more being treated as one cent.

Sec. 36-99. Collection of tax.

The tax, in each and every case, shall be collected by the seller from the purchaser at the time that the charge for the meal shall be due and payable, whether such payment shall be made in cash or on credit by means of a credit card or otherwise. The seller shall separately state the amount of the tax and add such tax to the amount charged for the meal, and the tax shall be paid to the city for its use by the seller as hereinafter provided.

Sec. 36-100. Collections held in trust.

All money collected as taxes under this article shall be deemed to be held in trust by the seller collecting the same until remitted to the city as provided in this article.

Sec. 36-101. Reports and remittances.

Every seller shall make a report for each calendar month, showing the amount of meals charges collected and the tax required to be collected, upon such forms setting forth such other information as the director may prescribe and require, and shall sign and deliver such report to the director with remittance of such tax. Such reports and remittances shall be made to the director on or before the last day of the calendar month following the month being reported. The tax required to be collected may be computed by the seller on the basis of one percent of the total amount of meals charges collected for the calendar month, and remitted to the director in that amount.

Sec. 36-102. Meals furnished to employees.

Meals furnished to employees in the course of or in connection with their employment in restaurants shall not be considered sales of meals under this article.

Sec. 36-103. Advertising payment or absorption of tax prohibited.

No person shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this article will be paid or absorbed by him or by anyone else, or that he or anyone else will relieve any purchaser of the payment of all or any part of such tax. Any person who violates this section shall be guilty of a misdemeanor.

Sec. 36-104. Penalty and interest for failure to remit taxes when due.

If any person whose duty it is to do so shall fail or refuse to remit to the director the tax required to be collected under this article within the time and in the amount specified in this article, there shall be added to such tax by the director a penalty in the amount of five percent thereof and interest thereon at the rate of ten percent per annum, which shall be computed upon the taxes and penalty from the date such taxes were due and payable.

Sec. 36-105. Procedure upon failure or refusal to collect, etc., taxes.

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittances required by this article, the director shall proceed in such manner as he may deem best to obtain the facts and information on which to base his estimate of the tax due. As soon as the director procures such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax or to make such report and remittance, he shall proceed to determine and assess against such person such tax and penalty and interest provided for in this article and shall notify such person by registered mail at his last known place of address of the amount of such tax and interest and penalty and the total amount thereof shall be payable within ten days from the date of such notice.

Sec. 36-106. Preservation of records.

It shall be the duty of every person required by this article to pay to the city the taxes imposed by the article to keep and to preserve for a period of two years records showing all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The director of finance or his duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article and all of the provisions of section 2.02 of the Charter of the city, and to make transcripts of all or any parts thereof.

Sec. 36-107. Duty of person going out of business.

Whenever any person required to collect and pay to the city a tax under this article shall cease to operate and shall otherwise dispose of his business, any tax payable under this division to the city shall become immediately due and payable and such person shall immediately make a report and pay the tax due.

Sec. 36-108. Penalty for violation of article.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars. Each such violation or failure and each day's continuance thereof shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of the tax as provided in this article.

Section 2. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction together with a notice containing the time and place for a public hearing. The city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet request. The city clerk shall note the date of introduction and first reading, the date of publication, 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 July 1, 1975.

CHARLES E. BEATLEY, JR.
Mayor

Final Passage: June 24, 1975