

ORDINANCE NO. 4058

AN ORDINANCE to amend and reordain Section 3-2-9 (REFUND OF LOCAL TAXES) of Article A (GENERAL PROVISIONS), Section 3-2-146 (PENALTY AND INTEREST FOR NONPAYMENT) of ARTICLE K (TRANSIENT LODGING TAX), Section 3-2-183 (DELINQUENT TAXES; PENALTY AND INTEREST) of Division 1 (REAL ESTATE) and Section 3-2-230 (WHEN TAXES DUE; DELINQUENT TAXES; PENALTY) of Division 3 (TANGIBLE PERSONAL PROPERTY AND MACHINERY AND TOOLS), Article M (LEVY AND COLLECTION OF PROPERTY TAXES), Section 3-2-248 (PENALTY AND INTEREST FOR FAILURE TO REMIT TAXES WHEN DUE) of ARTICLE N (TAX ON MEALS SOLD BY RESTAURANTS), Section 3-2-363 (PENALTIES AND INTEREST; FAILURE TO FILE RETURN OR PAY OVER TAXES COLLECTED) of Article T (DAILY RENTAL TAX), Section 3-2-369 (PENALTIES AND INTEREST) of Article U (ENHANCED EMERGENCY TELEPHONE SERVICE, E-911, TAX), of Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT), and Section 9-1-46 (INTEREST ON LATE PAYMENTS AND REFUNDS) of Article A (General Provisions), Chapter 1 (BUSINESS LICENSES), Title 9 (LICENSING AND REGULATION), all of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-2-9 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-9 Refund of local taxes.

(a) Except as provided in subsection (b), any person who is aggrieved by an assessment of local taxes may apply to the director for correction of the assessment. Application for correction of the assessment shall be made on a form prepared by the director or as otherwise prescribed by the director. When the director is satisfied that an erroneous assessment has been made, he shall reduce the amount of assessed taxes and refund any taxes that have been paid in excess of that amount, together with any penalties and interest that have been paid on that amount.

(b) Any person who is aggrieved by an assessment of real property taxes may apply to the director of the department of real estate assessments for correction of the assessment. Application for correction of the real property assessment shall be made on a form prepared by the director of the department of real estate assessments or as otherwise prescribed by said director. When the director of the department of real estate assessments is satisfied that an erroneous assessment has been made, he shall certify to the director the amount of the erroneous assessment, and the director shall reduce the amount of assessed taxes and refund

any taxes that have been paid in excess of that amount, together with any penalties and interest that have been paid on that amount.

(c) Beginning on July 1, 1999, interest shall be paid on any refund of taxes which is the result of an erroneous assessment. Interest payable on such a refund shall begin to accrue on the later of the date on which the tax payment giving rise to the refund was due, or the date on which payment was made, and shall continue to accrue until the date the refund is paid. Interest shall be calculated separately for each day during the period interest accrues on the refund, and the daily rate shall equal the rate that would be used on that same day to calculate the interest to be paid on delinquent taxes of the same type which began to accrue interest on the first day following the day such taxes were due. Interest shall not be paid on any refund that is not the result of an erroneous assessment. A refund is the result of an erroneous assessment if the refund is pursuant to (i) an application for correction of an erroneous assessment under this section, (ii) an application for correction of an erroneous assessment under section 58.1-3980 of the Code of Virginia (1950), as amended, (iii) an application for correction of an assessment under section 58.1-3703.1 or 58.1-3983.1 of the Code of Virginia (1950), as amended, or (iv) an application to a court for correction of an erroneous assessment under section 58.1-3984 of the Code of Virginia (1950), as amended.

Refunds which are not the result of an erroneous assessment shall include, but not be limited to, (i) any statutory relief provided in accordance with section 58.1-3516 of the Code of Virginia (1950), as amended, and (ii) any refund of duplicate payments that are not the result of duplicate assessments for the same tax.

(d) In no event may the director reduce an assessment of taxes or refund taxes when the reduction or refund is barred by law.

Section 2. That Section 3-2-146 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-146 Penalty and interest for nonpayment.

If any person shall fail or refuse to remit to the director the tax required to be collected and paid 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 of 10 percent of the tax past due or the sum of \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due. In addition thereto, interest on the taxes and penalty shall commence on the first day following the day such taxes are due and shall continue until all such taxes and penalty are paid. Such interest shall accrue at the rate of 10 percent per annum for the first year such taxes and penalty remain unpaid and thereafter at the rate of five percent per annum.

Section 3. That Section 3-2-183 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-183 Delinquent taxes; penalty and interest.

(a) Whenever any taxpayer shall fail, neglect or refuse to pay the first one-half installment of his taxes on or before June 15 of the current year, the amount of that installment shall be delinquent as of that date, and if the second installment is not paid on or before November 15 of the current year, the amount of the second installment shall be delinquent as of that date. Any payment made on real estate taxes after penalty has accrued on the first one-half installment shall be applied first to the payment of the said first one-half installment.

(b) To all real estate taxes that are delinquent there shall be added and collected as a part thereof a penalty as follows: On the first one-half installment, a penalty of 10 percent of the installment or \$10, whichever is greater, if not paid on or before June 15 of the tax year for which the tax is levied; and on the second one-half installment, a penalty of 10 percent of that installment or \$10, whichever is greater, if not paid on or before November 15 of the tax year; provided, however, that the penalty shall in no case exceed the amount of tax due. In addition thereto, interest on the taxes and penalty shall commence on the first day following the day such taxes are due and shall continue until all such taxes and penalty are paid. Such interest shall accrue at the rate of 10 percent per annum for the first year such taxes and penalty remain unpaid and thereafter at the rate of five percent per annum.

Section 4. That Section 3-2-230 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-230 When taxes due; delinquent taxes; penalty.

(a) The taxes levied on tangible personal property, on machinery and tools, and on mobile homes, motor vehicles, boats and trailers, except those which become subject to said tax after September 5, shall be due and payable to the director on or before October 5 of the year for which they are levied and shall be considered delinquent after that date. To all of said taxes so delinquent there shall be added and collected as a part thereof a penalty of 10 percent or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due. In addition thereto, interest on the taxes and penalty shall commence on the first day following the day such taxes are due and shall continue until all such taxes and penalty are paid. Such interest shall accrue at the rate of 10 percent per annum for the first year such taxes and penalty remain unpaid and thereafter at the rate of five percent per annum. There shall also be due, in addition to all penalties and interest, a

fee for administrative costs incurred in the collection of such taxes, not to exceed the maximum permitted under section 58.1-3958 of the Code of Virginia (1950), as amended.

(b) The taxes levied on motor vehicles, boats and trailers which become subject to taxation between September 6 and December 31 of any given year shall be due and payable not more than 30 days after they become so subject to taxation. These taxes shall be considered delinquent if not paid on or before the thirtieth day from the date any motor vehicle, boat or trailer becomes subject to taxation. To all taxes so delinquent, there shall be added and collected as a part thereof, a penalty of 10 percent or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due. In addition thereto, interest on the taxes and penalty shall commence on the first day following the day such taxes are due and shall continue until all such taxes and penalty are paid. Such interest shall accrue at the rate of 10 percent per annum for the first year such taxes and penalty remain unpaid and thereafter at the rate of five percent per annum. There shall also be due, in addition to all penalties and interest, a fee for administrative costs incurred in the collection of such taxes, not to exceed the maximum permitted under section 58.1-3958 of the Code of Virginia (1950), as amended.

Section 5. That Section 3-2-248 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-248 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 the tax by the director a penalty of 10 percent of the tax past due or the sum of \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due. In addition thereto, interest on the taxes and penalty shall commence on the first day following the day such taxes are due and shall continue until all such taxes and penalty are paid. Such interest shall accrue at the rate of 10 percent per annum for the first year such taxes and penalty remain unpaid and thereafter at the rate of five percent per annum.

Section 6. That Section 3-2-363 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-363 Penalties and interest; failure to file return or pay over taxes collected.

If any person engaging in a certified short-term rental business fails or refuses, within the time specified in this article, to file a return required by section 3-2-361 or to remit to the director the taxes required to be collected, and paid along with said returns, there shall be

added to the taxes past due a penalty equal to 10 percent of such taxes or the sum of \$10, whichever is greater; provided, that the penalty shall in no case exceed the amount of taxes due. In addition, interest on both the overdue taxes and the penalty shall commence on the first day following the day such taxes are due and shall continue until all taxes and penalties are paid. Such interest shall accrue at the rate of 10 percent per annum for the first year such taxes and penalty remain unpaid and thereafter at the rate of five percent per annum. The imposition of a penalty under this section shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this article.

Section 7. That Section 3-2-369 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-369 Penalties and interest.

(a) If a seller required to collect taxes, or a purchaser required to pay taxes, pursuant to this section fails or refuses to remit, pay or report the taxes collected or due within the time and in the amount specified by this section, there shall be added to such delinquent remittance or tax a penalty of ten percent of the remittance or tax due.

(b) In addition to all penalties, interest shall be charged on all taxes and penalties not remitted by a seller or paid by a purchaser when due. Such interest shall accrue at the rate of 10 percent per annum for the first year such taxes and penalties remain unpaid and thereafter at the rate of five percent per annum. Interest shall begin to accrue on the first day following the day on which remittance of taxes was due to the director or on which the payment of taxes was due to the seller.

Section 8. That Section 9-1-46 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 9-1-46 Interest on late payments and refunds.

(a) Interest shall be charged on late payments of the license tax from the thirty-first day following the date payment was due until the date payment is made without regard to fault or other reason for the lateness of the payment. Such interest shall accrue at the rate of 10 percent per annum for the first year such tax remains unpaid and thereafter at the rate of five percent per annum.

(b) Whenever an assessment of additional or omitted tax by the director is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded.

(c) Interest shall be paid on the refund of any license tax, whether attributable to an amended return or other reason, at the rate specified in subsection (a) above for late payments of the license tax. Interest on refunds shall not begin to accrue until 30 days have passed from the date of payment or the due date, whichever is later, and shall otherwise be determined in accordance with section 3-2-9(c).

Section 9. That Section 1 of this ordinance shall become effective on July 1, 1999, and Sections 2 through 8 shall become effective on January 1, 2000.

KERRY J. DONLEY

Mayor

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First Reading: 06/08/99
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