


EXHIBIT NO. 1

16
11-21-09

~~8~~
~~11-10-09~~

City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 28, 2009
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: JAMES K. HARTMANN, CITY MANAGER 
SUBJECT: ORDINANCE TO AMEND AND REORDAIN CITY CODE SECTION 3-2-246
CONCERNING MEALS SALES TAX EXEMPTIONS

ISSUE: An ordinance to amend and reordain City Code Section 3-2-246 concerning meals sales tax exemptions as the result of State code changes.

RECOMMENDATION: That City Council pass the proposed ordinance (Attachment) on first reading and schedule it for public hearing, second reading and final passage on Saturday, November 21. The proposed ordinance would extend the existing meal sales tax exemptions in accordance with General Assembly action.

DISCUSSION: In addition to various limitations imposed on the meal sales tax and in accordance with Virginia Code Sections 58.1-3833 and 58.1-3840, the City currently allows an exemption on meals sold by public or private nonprofit day care centers, elementary or secondary schools, and colleges or universities, to their students or employees as well as meals for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States.

On February 28, 2009, Generally Assembly passed HB 2059, providing numerous exemptions to the meals sales taxes imposed by cities and towns. HB 2059 was subsequently signed into law on March 27, 2009. Under the new law, City Code Section 3-2-246 must be modified to extend the meals sales tax exemption to:

1. All public or private day care centers, elementary or secondary schools, and colleges or universities;
2. Volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; educational, charitable, fraternal, or benevolent organizations, on an occasional basis, not exceeding three times per calendar year as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes;
3. Churches that serve meals for their members as a regular part of their religious observances;

4. Hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof;
5. Homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics;
6. Age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees;
7. Meals provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind handicapped, or needy persons in their homes or at central locations; and
8. Meals provided by private establishments that contract with the appropriate agency of the Commonwealth of Virginia to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

FISCAL IMPACT: This ordinance will have no fiscal impact as the City does not currently tax these entities, but the ordinance change is recommended so that the City's meals sales tax exemption language mirrors the language of the new State law.

ATTACHMENT: Proposed Ordinance

STAFF:

Bruce Johnson, Chief Financial Officer

Laura B. Triggs, Director of Finance

Debbie Kidd, Division Chief, Revenue Administration

1	Introduction and first reading:	11/10/09
2	Public hearing:	11/21/09
3	Second reading and enactment:	11/21/09

INFORMATION ON PROPOSED ORDINANCE

7 Title
8
9 AN ORDINANCE to amend and reordain Section 3-2-246 of Article N (TAX ON
10 MEALS SOLD BY RESTAURANTS) of Chapter 2 (TAXATION) of Title 3
11 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of
12 Alexandria, Virginia, 1981, as amended.

14 Summary
15
16 The ordinance amends and reordains Section 3-2-246 of the City Code concerning
17 meals sales tax exemptions as a result of Virginia Code changes.

19 Sponsor
20
21 Laura B. Triggs, Director, Department of Finance

23 Staff
24
25 Bruce Johnson, Chief Financial Officer
26 Laura B. Triggs, Director, Department of Finance
27 Debbie Kidd, Division Chief, Revenue Administration
28 Christina Zechman Brown, Assistant City Attorney

30 Authority
31
32 § 58.1-3840 of the Virginia Code (1950), as amended

34 Estimated Costs of Implementation
35
36 None

38 Attachments in Addition to Proposed Ordinance and its Attachments (if any)
39
40 None

ORDINANCE NO. _____

AN ORDINANCE to amend and reordain Section 3-2-246 of Article N (TAX ON MEALS SOLD BY RESTAURANTS) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-2-246 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. 3-2-246 Exemptions; limitations on application.

The tax imposed under this article shall not be levied on the following:

(1) Meals furnished by restaurants to employees of the restaurant in the course of or in connection with their employment when no charge is made to the employees.

(2) Meals purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

(3) Meals sold by public or ~~private nonprofit~~ (a) day care centers, (b) elementary or secondary schools, or (c) colleges or universities, to their students or employees.

(4) Meals for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States.

(5) The following items, as more particularly described in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act:

(a) except as provided in subsection 3-2-241(2), any food or food product for home consumption;

(b) in the case of persons who are 60 years of age or over, persons who receive supplemental security income benefits, disabled persons, or blind persons, and their spouses, meals prepared by and served in senior citizens' centers and other facilities which serve such persons;

(c) in the case of persons who are 60 years of age or over, persons who are physically or mentally handicapped or disabled, or persons who are otherwise so disabled they are unable adequately to prepare all of their meals, and their spouses, meals prepared for and delivered to such persons at their home by a public or private nonprofit organization or by a private establishment under contract with the appropriate government agency to perform such services;

47 (d) in the case of narcotics addicts or alcoholics, and their children, served by drug
48 addiction or alcoholic treatment and rehabilitation programs, meals prepared and served under
49 such programs;

50
51 (e) in the case of persons who are residents in certain public or private nonprofit group
52 living arrangements, meals prepared and served under such arrangements;

53
54 (f) in the case of women and children temporarily residing in public or private nonprofit
55 shelters for battered women and children, meals prepared and served by such shelters; and

56
57 (g) in the case of homeless persons, meals prepared for and served by a public or private
58 nonprofit establishment (approved by an appropriate government agency) that feeds such persons
59 or by a private establishment under contract with an appropriate government agency to offer
60 meals for such persons.

61
62 (6) Alcoholic beverages sold in factory sealed containers and purchased for off-premises
63 consumption.

64
65 (7) Food and beverages sold through vending machines.

66
67 (8) Meals sold by volunteer fire departments and rescue squads; nonprofit churches or
68 other religious bodies; educational, charitable, fraternal, or benevolent organizations, on an
69 occasional basis, not exceeding three times per calendar year as a fundraising activity, the gross
70 proceeds of which are to be used by such church, religious body or organization exclusively for
71 nonprofit educational, charitable, benevolent, or religious purposes.

72
73 (9) Meals provided by churches that serve meals for their members as a regular part of
74 their religious observances.

75
76 (10) Meals provided by hospitals, medical clinics, convalescent homes, nursing homes,
77 or other extended care facilities to patients or residents thereof.

78
79 (11) Meals provided by homes for the aged, infirm, handicapped, battered women,
80 narcotic addicts, or alcoholics.

81
82 (12) Meals provided by age-restricted apartment complexes or residences with
83 restaurants, not open to the public, where meals are served and fees are charged for such food
84 and beverages and are included in rental fees.

85
86 (13) Meals provided by a public or private nonprofit charitable organization or
87 establishment to elderly, infirm, blind, handicapped, or needy persons in their homes or at central
88 locations.

ORDINANCE NO. 4631

AN ORDINANCE to amend and reordain Section 3-2-246 of Article N (TAX ON MEALS SOLD BY RESTAURANTS) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-2-246 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. 3-2-246 Exemptions; limitations on application.

The tax imposed under this article shall not be levied on the following:

- (1) Meals furnished by restaurants to employees of the restaurant in the course of or in connection with their employment when no charge is made to the employees.
- (2) Meals purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.
- (3) Meals sold by public or private (a) day care centers, (b) elementary or secondary schools, or (c) colleges or universities, to their students or employees.
- (4) Meals for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States.
- (5) The following items, as more particularly described in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act:
 - (a) except as provided in subsection 3-2-241(2), any food or food product for home consumption;
 - (b) in the case of persons who are 60 years of age or over, persons who receive supplemental security income benefits, disabled persons, or blind persons, and their spouses, meals prepared by and served in senior citizens' centers and other facilities which serve such persons;
 - (c) in the case of persons who are 60 years of age or over, persons who are physically or mentally handicapped or disabled, or persons who are otherwise so disabled they are unable adequately to prepare all of their meals, and their spouses, meals prepared for and delivered to such persons at their home by a public or private nonprofit organization or by a private establishment under contract with the appropriate government agency to perform such services;

(d) in the case of narcotics addicts or alcoholics, and their children, served by drug addiction or alcoholic treatment and rehabilitation programs, meals prepared and served under such programs;

(e) in the case of persons who are residents in certain public or private nonprofit group living arrangements, meals prepared and served under such arrangements;

(f) in the case of women and children temporarily residing in public or private nonprofit shelters for battered women and children, meals prepared and served by such shelters; and

(g) in the case of homeless persons, meals prepared for and served by a public or private nonprofit establishment (approved by an appropriate government agency) that feeds such persons or by a private establishment under contract with an appropriate government agency to offer meals for such persons.

(6) Alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption.

(7) Food and beverages sold through vending machines.

(8) Meals sold by volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; educational, charitable, fraternal, or benevolent organizations, on an occasional basis, not exceeding three times per calendar year as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes.

(9) Meals provided by churches that serve meals for their members as a regular part of their religious observances.

(10) Meals provided by hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof.

(11) Meals provided by homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics.

(12) Meals provided by age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees.

(13) Meals provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

(14) Meals provided by private establishments that contract with the appropriate agency of the Commonwealth of Virginia to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

Section 2. That this ordinance shall become effective upon the date and at the time of its final passage.

WILLIAM D. EUILLE
Mayor

Final Passage: 11/21/2009