

ORDINANCE AMENDING AND RE-ENACTING SECTIONS 4-2-89(c)(1), 4-2-89(c)(6) AND 4-2-92

OF THE

HARRISONBURG CITY CODE AND ENACTING SECTIONS 4-2-89(c)(8), 4-2-89(c)(9), 4-2-92(c)

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:

Section 4-2-89(c):

- (c) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:
- (1) Food and beverages furnished by restaurants, as defined in Virginia Code § 35.1-1, to employees as part of their compensation when no charge is made to the employee.
 - (2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.
 - (3) Food and beverages for use or consumption and which are paid for directly by the Commonwealth of Virginia, any political subdivision of the Commonwealth of Virginia or the United States.
 - (4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof.
 - (5) Food and beverages furnished by a public or private non-profit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the Commonwealth of Virginia to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.
 - (6) Food and beverages sold on an occasional basis by volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; or educations, charitable, fraternal, or benevolent organizations, not exceeding the first three (3) times per calendar year, and beginning with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of meals (excluding gross receipts from the first three times) 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.
 - (7) Food and beverages sold through vending machines.
 - (8) Food and beverage furnished by churches that serve meals to their members as a regular part of their religious observances or 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.

- (9) 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.

(Ord. of 6-27-00)

Section 4-2-92. Penalty for violation of article

- (a) Any person willfully failing or refusing to file a return as required by this article shall, upon conviction thereof, be guilty of a class 1 misdemeanor except that any person failing to file such a return shall be guilty of a class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is one thousand dollars (\$1,000.00) or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a class 1 misdemeanor.
- (b) Except as provided in subsection (a) above, any corporate, limited liability company, or partnership officer, as defined in Virginia Code, section 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a class 1 misdemeanor. In addition, any corporate or partnership officer, as defined in section 58.1-3906 of the Code of Virginia, as amended from time to time, or any other person, who wrongfully and fraudulently uses money collected as required by this article, shall be punishable as set forth in section 58.1-3833C of the Code of Virginia, as amended from time to time.
- (c) Any person who willfully utilizes a device or software to falsify the electronic records of cash registers or other point-of-sale systems or otherwise manipulates transaction records that affect any local tax liability shall, in addition to any other penalties provided by law, be guilty of a Class 1 misdemeanor. In addition to the criminal penalty provided for herein and any other civil or criminal penalty provided in this title, any person violating this subsection shall pay a civil penalty of \$20,000, to be assessed by the commissioner of the revenue and collected by the treasurer as other local taxes are collected and deposited into the treasury of the political subdivision of the Commonwealth served by the treasurer.
- (d) Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this article.
- (e) If any person shall fail or refuse to remit to the city treasurer 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 commissioner of the revenue a penalty of ten (10) percent or ten dollars (\$10.00) whichever is greater; and interest at the rate of ten percent per year on the amount of the tax and penalty from the date upon which the tax is due, as provided in this article, until paid.

(Ord. of 6-27-00; Ord. of 11-12-02; Ord. of 9-23-03)

This ordinance shall be effective as of April 1, 2016

ADOPTED AND APPROVED this ____ day of _____, 2016

MAYOR

ATTESTE:

CITY CLERK