

AT A REGULAR MEETING OF THE
COUNCIL OF THE TOWN OF BOONES MILL
HELD AT THE TOWN HALL

AN ORDINANCE amending the Meals Tax Ordinance effective December 12, 2000 to clarify Meals Tax is required at point of sale within the Town for Mobile Trucks, Booths, Push Carts and Catering businesses.

WHEREAS, Town Council held a public hearing on this matter on May 8, 2018

WHEREAS, legal notice and advertisement has been provided as required by law.

NOW, THEREFORE, BE IT ORDAINED that Town Council amends and re-ordains the Meals Tax ordinance by the amended Section 5 of the Meals Tax Ordinance to read, as follows:

Section 5. Levy of Tax

There is hereby imposed and levied by the Town on each person a tax at the rate of 5% on the amount paid for food and beverages purchased from any food establishment, whether prepared in such food establishment or not and whether consumed on the premises or not. Catering businesses located inside the Town of Boones Mill must collect the tax and remit it to the Town even if the food is delivered to a destination outside of the Town of Boones Mill. When mobile trucks, booths or caterers with businesses located outside the Town of Boones Mill set up to sell in the Town of Boones Mill, they are liable to the Town for the tax. Catering businesses located outside of the Town of Boones Mill are not required to collect and to remit the tax to the Town unless they establish a point of sale within the Town such as a mobile truck, booth, push cart, or they prepare and cook food within the Town.

This Ordinance shall be in full force and effective on and after _____.

On motion of Town Council member _____ and seconded _____ to adopt the ordinance and carried by the following recorded vote:

Ayes: _____

Nays: _____

A COPY TESTE:

Town Clerk, Town of Boones Mill

AT A REGULAR MEETING OF THE
COUNCIL OF THE TOWN OF BOONES MILL
HELD AT THE TOWN HALL
DECEMBER 12, 2000

AN ORDINANCE adopting a meals tax applicable to the sale of food and beverages from food establishments; providing definitions; establishing a tax rate; providing for administrative procedures; and providing for an effective date.

WHEREAS, the Town Council desires to adopt this Meals Tax Ordinance applicable to the sale of food and beverages from food establishments within the Town; and

WHEREAS, the Town Council has held a duly advertised public hearing on December 12, 2000, as to the adoption of this Ordinance;

THEREFORE, BE IT ORDAINED by the Council of the Town of Boones Mill as follows:

MEALS TAX

SECTION 1. DEFINITIONS.

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

Beverage. Alcoholic beverages as defined in Virginia Code § 4.1-100 and nonalcoholic beverages served as a part of a meal and purchased in and from a food establishment or caterer.

Caterer. A person who furnishes food, beverages, or both on the premises of another, for compensation.

Clerk. The Town Clerk and Treasurer of the Town of Boones Mill.

Food. All prepared food, which is ready for immediate consumption, purchased from a caterer or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

Food establishment. Any place where food is prepared for service to the public on or off the premises, or any place where food is served, including but not limited to, restaurants, lunch rooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private corporations, dining accommodations of public and private schools and colleges, mobile points of food service, such as push cart operations, hog dog stands and similar operations, and grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter.

Meal. Meal shall mean any prepared food and beverage as defined herein offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and which is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

SECTION 2. PENALTY FOR VIOLATION OF ORDINANCE.

(a) Any person willfully failing or refusing to file a return as required under this ordinance 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 \$1,000.00 or less. Any person violating or failing to comply with any other provision of this ordinance shall be guilty of a class 1 misdemeanor.

(b) Except as provided in subsection (a) above, any corporate or partnership officer, as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this ordinance, 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.

(c) Each violation of or failure to comply with this ordinance 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 ordinance.

SECTION 3. EXEMPTIONS: LIMITS ON APPLICATION.

(a) The tax imposed under this ordinance shall not be levied on the following items when served exclusively for off-premises consumption:

- (1) Factory-prepackaged candy, gum, nuts and other items of essentially the same nature;
- (2) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and items of essentially the same nature;
- (3) Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any items that would exceed the normal, customary and usual portion sold for on premises consumption (e.g. a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.

- (4) Alcoholic and non-alcoholic beverages sold in factory sealed containers.
- (5) Any food or food product 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.
- (6) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items whether or not purchased for immediate consumption are excluded from the said definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages. This subsection shall not affect provisions set forth in subparagraphs (d) (3), (4) and (5) hereinbelow.

(b) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(c) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:

- (1) Food and beverages furnished by food establishments 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, any political subdivision of the Commonwealth 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 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 a non-profit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for non-profit educational, charitable, benevolent or religious purposes.
- (7) Food and beverages sold through vending machines.

SECTION 4. REGULATIONS.

The Clerk may issue regulations for the administration and enforcement of this division.

SECTION 5. LEVY OF TAX.

There is hereby imposed and levied by the Town on each person a tax at the rate of 4% on the amount paid for food and beverages purchased from any food establishment, whether prepared in such food establishment or not and whether consumed on the premises or not, or from any caterer.

SECTION 6. PAYMENT AND COLLECTION OF TAX.

Every person receiving any payment for food and beverages with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this ordinance from the person on whom the same is levied or from the person paying for such food and beverages at the time payment for such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

All tax collections shall be deemed to be held in trust for the Town.

SECTION 7. REPORTS AND REMITTANCES.

The Clerk shall require all sellers of meals transacting business in the Town to register for collection of the tax imposed by this division. Every seller shall make a report to the Town for each calendar month, showing the amount of charges collected for meals and the amount of tax required to be collected. The monthly reports shall be made on forms prescribed by the Clerk and shall be signed by the seller. They shall be delivered to the Clerk on or before the twentieth day of the calendar month following the month being reported. Each report shall be accomplished by a remittance of the amount of tax due, made payable to the Town.

SECTION 9. PENALTY AND INTEREST.

If any person whose duty it is to do so shall fail or refuse to make the report or remit the tax required by this division within the time and in the amount required, there shall be added to the tax by the Clerk a penalty in the amount of ten (10) percent of the tax, or ten dollars (\$10.00), whichever is greater, up to the amount of tax due, and interest on the tax at a rate of ten (10) percent per annum, which shall be computed from the first day following the date it is due and payable.

SECTION 10. PROCEDURE WHEN TAX NOT REPORTED OR COLLECTED.

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed under this division and make timely report and remittance thereof, the Clerk shall proceed in such manner as is practicable to obtain facts and information on which to base an estimate of the tax due. As soon as the Clerk has procured whatever facts and information may be obtainable upon which to base the assessment of any tax payable by any persons who has failed to collect, report or remit such tax, the Clerk shall proceed to determine and assess against such persons the tax penalty and interest provided in this division and shall notify the person by certified mail sent to his last known address of the amount of such tax, penalty and interest. The total amount thereof shall be payable ten (10) days after the date such notice is sent.

SECTION 11. PRESERVATION OF RECORDS.

It shall be the duty of every person liable for collection and remittance of the taxes imposed by this division to preserve for a period of five (5) years records showing the total daily purchases under the division, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this division. The clerk shall have the power to examine such records for the purpose of administering and enforcing the provisions of this division, and to make transcripts of all or any parts thereof.

SECTION 12. ADVERTISING PAYMENT OR ABSORPTION OF TAX PROHIBITED.

No seller 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 division will be paid or absorbed by the seller or by anyone else or that the seller or anyone else will relieve any purchaser of the payment of all or any part of the tax.

SECTION 13. TIPS AND SERVICE CHARGES.

Where a purchaser provides a gratuity for an employee of a seller, and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this ordinance, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in this latter case, the full amount of the gratuity is turned over to the employee by the seller.

An amount or percent, whether designated as a gratuity, tip or service charge, that is added to the price of the food and beverages by the seller, and required to be paid by the purchaser, as a part of the selling price of the food and beverages is subject to the tax imposed by this ordinance.

SECTION 14. EFFECTIVE DATE.

This ordinance shall be in full force and effect on and after January 1, 2001.

SECTION 15. TRANSMITTAL.

The Town Clerk shall transmit attested copies of this Ordinance to the Franklin County Commissioner of Revenue.

On motion of Councilmember Robert Hogan to adopt the Ordinance, and carried by the following seconded vote:

Ayes: 6

Nays: 0

A Copy Teste:



Charlotte Pate, Town Clerk
Town of Boones Mill

MINUTES

BOONES MILL TOWN COUNCIL

DECEMBER 12, 2000

THE BOONES MILL TOWN COUNCIL HELD ITS REGULAR MEETING ON DECEMBER 12, 2000, AT 7:30 P.M. AT TOWN HALL. COUNCIL MEMBER PAT HOGAN PRESIDED. THE FOLLOWING COUNCIL MEMBERS WERE PRESENT: SHERRY ANGELL, ROBERT HOGAN, DOUG PARSONS AND PEGGY STEELE.

DOUG PARSONS MADE A MOTION TO PASS THE ITEMS ON THE CONSENT AGENDA. ROBERT HOGAN SECONDED. SHERRY ANGELL, ROBERT HOGAN, DOUG PARSONS AND PEGGY STEELE VOTED YES. MOTION CARRIED.

THE FOLLOWING BILLS WERE PRESENTED TO COUNCIL FOR APPROVAL:

FROM THE GENERAL FUNDS ACCOUNT

BOONES MILL AUTO SERVICE, INC.	\$	10.00
RAINE & PERDUE		50.00
OUT TOWN SOFTWARE		150.00

FROM THE WATER FUNDS ACCOUNT:

HUGHES SUPPLY, INC.	\$	138.62
ROCKY MOUNT SUPPLY CO.		109.82
LOWE'S		674.93
REX ELLIS PLUMBING		1,093.42
JACK GARST AGENCY		227.69
GALLS, INC.		233.44
CONTROL EQUIPMENT CO., INC.		512.40
THE FRANKLIN NEWS-POST		150.88
CHEMICALS AND SOLVENTS, INC.		121.00

ROBERT HOGAN MADE A MOTION TO PAY THE BILLS AS PRESENTED. PEGGY STEELE SECONDED. SHERRY ANGELL, ROBERT HOGAN, DOUG PARSONS AND PEGGY STEELE VOTED YES. MOTION CARRIED.

CITIZENS COMMENTS - NONE

MAYORS REPORT - NONE

ROBERT HOGAN MADE A MOTION TO PAY BENNIE ANGELL \$25.00 FOR HAULING OFF THE DEBRIS FROM THE WATER LEAK AT THE FIRE DEPARTMENT. DOUG PARSONS SECONDED. ROBERT HOGAN, DOUG PARSONS AND PEGGY STEELE VOTED YES. SHERRY ANGELL ABSTAINED. MOTION CARRIED.

COUNCIL DISCUSSED THE COMPUTER SOFTWARE ETC. DOUG PARSONS MADE A MOTION TO BUY A WINDOWS 98 UPGRADE. PEGGY STEELE SECONDED. SHERRY ANGELL, ROBERT HOGAN, DOUG PARSONS AND PEGGY STEELE VOTED YES. MOTION CARRIED

DOUG PARSONS MADE A MOTION TO PURCHASE MICROSOFT WORKS. ROBERT HOGAN SECONDED. SHERRY ANGELL, ROBERT HOGAN, DOUG PARSONS AND PEGGY STEELE VOTED YES. MOTION CARRIED.

PRIOR TO THE COUNCIL MEETING PUBLIC HEARINGS WERE HELD ON THE MEALS TAX AND THE UTILITY TAX. NO ONE WAS PRESENT TO VOICE AN OPINION. ROBERT HOGAN MADE A MOTION TO ADOPT THE MEALS TAX ORDINANCE. DOUG PARSONS SECONDED. SHERRY ANGELL, ROBERT HOGAN, DOUG PARSONS AND PEGGY STEELE VOTED YES. MOTION CARRIED.

ROBERT HOGAN MADE A MOTION TO ADOPT THE UTILITY TAX ORDINANCE. SHERRY ANGELL SECONDED. SHERRY ANGELL, ROBERT HOGAN, DOUG PARSONS AND PEGGY STEELE VOTED YES. MOTION CARRIED.

LT. FRITH IS DOING A COMPARISON STUDY ON THE CELLPHONES. THIS HAS BEEN TABLED UNTIL THE JANUARY MEETING.

NEW BUSINESS - ROBERT HOGAN MADE A MOTION THAT THE TOWN EMPLOYEES BE PAID A \$300.00 EACH CHRISTMAS BONUS. PEGGY STEELE SECONDED. SHERRY ANGELL, ROBERT HOGAN, DOUG PARSONS AND PEGGY STEELE VOTED YES. MOTION CARRIED.

LT. FRITH SUGGESTED THAT SOMEONE ATTEND A MEETING ON APPLYING FOR CDBG GRANTS. LYNN IS GOING TO CHECK INTO THIS.

BOBBY REPORTED TO COUNCIL THAT WE WILL NEED TO BUY NEW TIRES FOR THE TOWN TRUCK IN THE NEAR FUTURE.

BOBBY TOLD COUNCIL THAT THE NEW GATE HAS BEEN INSTALLED GOING UP TO THE WATER SYSTEM.

ADJOURNMENT - PEGGY STEELE MADE A MOTION TO ADJOURN. ROBERT HOGAN SECONDED. SHERRY ANGELL, ROBERT HOGAN, DOUG PARSONS AND PEGGY STEELE VOTED YES. MEETING ADJOURNED AT 8:10 P.M.

RESPECTFULLY SUBMITTED,



CHARLOTTE C. PATE, CLERK

B. KEVIN GOODE, MAYOR