TOWN OF HERNDON, VIRGINIA

ORDINANCE

OCTOBER 27, 2026

Ordinance- **to amend Chapter 30 (Finance and Taxation), Article IX (Meals Tax), Section 30-403 (Report of Collections and Remittance of Tax) and Section 30-407 (Violations; Liability of Officers; Penalties and Interest) to clarify due dates, payment deadlines and current practices for penalties and interest calculation.**

BE IT ORDAINED by the Town Council of the Town of Herndon, Virginia that:

1. The following sections or provisions of the Herndon Town Code (2000), as amended, are repealed, replaced and re-ordained as follows:

CHAPTER 30 (Finance and Taxation)

Article IX. Meals Tax

Sec. 30 - 403 Report of Collections and Remittance of tax

(a) The director shall prescribe a meals tax collection return form, which shall show the amount of charges collected for meals and the tax required to be collected. The form shall contain an appropriate signature block and shall call for such other information as the director may require.

(b) Every person collecting the meals tax shall complete a meals tax collection return and submit it and the ~~remittance~~ **payment** of the tax as follows: ~~to the director on or before the close of business on the twentieth day of each month or on the next business day, if the former day is not a business day. Each return shall cover the amount of tax due and collected during the preceding month.~~

1. Electronic/email filings must be completed by 3:00 pm on the 20th day of each month. Payments must be submitted by 11:59 pm on the 20th day of each month.

2. In-person filings and payments must be completed by 5:00 pm on the 20th day of each month.

3. Drop-box and mailed filings and payments must be received or post-marked by 11:59 pm on the 20th day each month.

4. If the 20th day of the month falls on a holiday, weekend or other day the town is officially closed, the due date is extended to the next business day.

(c) Every collector shall be allowed six percent of the amount of the tax due and accounted for in the form of a deduction on his or her monthly return, provided the amount due is not delinquent at the time of payment.

Sec. 30 - 407 Violations; liability of officers; penalties and interest

(a) Any corporate, partnership, or limited liability company 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 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.

(b) The town may collect delinquent meals taxes by civil action or other authorized judicial, administrative, or statutory tax or debt collection procedure.

~~(c) If any person shall fail to file a tax return, required by this article, when due, the director shall assess a penalty of ten percent of the tax assessable on such return, or $10.00, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable. The penalty shall be assessed on the day after such return is due. Any such penalty shall become a part of the tax.~~

~~(d)~~ **(c)** If any person shall fail to pay a tax, imposed by this article, when due, the director shall assess a penalty of ten percent of the tax past due or ten dollars, whichever is greater; provided, that the penalty shall in no case exceed the amount of the tax assessable. The penalty for failure to pay any tax shall be assessed on the day after the tax is due. Any such penalty shall become a part of the tax.

~~(e)~~ **(d)** In addition to the penalty on delinquent taxes imposed under this article, there shall be added to such tax by the director interest at the rate of ten percent per annum on the taxes and penalty. The interest shall commence on the first day following the day such taxes are due and shall continue until all such taxes and penalty are paid. The town shall pay to the taxpayer interest on overpayments due to erroneously assessed taxes imposed under this chapter at the same rate as is assessed in this section on delinquent taxes, provided that no interest shall be required to be paid on a refund of $10.00 or less.

~~(f)~~ **(e)** Penalty and interest for failure to file a return or to pay a tax imposed under this article shall not be imposed if such failure was not the fault of the taxpayer, or was the fault of the director, as the case may be. The failure to file a return or to pay a tax due to the death of the taxpayer or a medically determinable physical or mental impairment on the date the return or tax is due shall be presumptive proof of lack of fault on the taxpayer's part, provided the return is filed or the taxes are paid within thirty days of the due date; however, if there is a committee, legal guardian, conservator or other fiduciary handling the individual's affairs, such return shall be filed or such taxes paid

within 120 days after the fiduciary qualifies or begins to act on behalf of the taxpayer. Interest on such taxes shall accrue until paid in full. Any such fiduciary shall, on behalf of the taxpayer, by the due date, file any required returns and pay any taxes which come due after the 120-day period. The director shall make determinations of fault relating exclusively to failure to pay a tax, and of fault relating exclusively to failure to file a return.

2. This ordinance shall be effective on and after the date of its adoption.