

Town of Kilmarnock

VICE MAYOR - DR. CURTIS H. SMITH
COUNCIL MEMBER- KYLIE ABBOTT
COUNCIL MEMBER- MICHAEL BEDELL
COUNCIL MEMBER-EMERSON GRAVATT
COUNCIL MEMBER-DON LEE
COUNCIL MEMBER- LES SPIVEY

MAYOR -MAE P. UMPHLETT



TOWN MANAGER- SUSAN COCKRELL
TOWN ATTORNEY -NANCYELLEN KEANE
TOWN PLANNER - MARSHALL SEBRA
TOWN CLERK -CINDY BALDERSON
TOWN TREASURER - JUDY G. STEVENS
POLICE CHIEF - CLIFF DAWSON

ORDINANCE 2021 – 004

Repeal and Re-enact Certain Sections of Town Code Chapter 42 on Taxes

WHEREAS, the Town Council of the Town of Kilmarnock desires to repeal and re-enact certain sections of the Kilmarnock Town Code Chapter 42 pertaining to certain taxes to make the Town Code consistent with the VA Code 2018 changes; and

WHEREAS, the Town advertised its desire to adopt Ordinance 2021-004 in the Rappahannock Record on December 9 and 16, 2021; and

WHEREAS, a public hearing about Ordinance 2021-004 was held on December 20, 2021; and

WHEREAS, the Council read Ordinance 2021-004 at two meetings on November 15 and December 20, 2021 prior to taking a vote on its passage.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF KILMARNOCK, VIRGINIA that:

1. The following Town Code Sections under Article VI. Prepared Food Tax are hereby repealed: §42-162 (a), Collection Procedure; §42-162.1, Exemptions; limits on application.
2. The following Town Code Section under Article VII. – Cigarette Tax is hereby repealed: §42-176 (a), Obligations of dealers, agents regarding stamps.
3. The following Town Code Section under Article VIII. – Lodging Tax is hereby repealed: §42-192, Violations and penalties.
4. The following Town Code Sections are hereby re-enacted as follows:

ARTICLE VI. – PREPARED FOODS TAX

Sec. 42-162. Collection Procedure.

- (a) Every person receiving any payment for food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made; provided, however, that no blind person operating a vending stand or other business enterprise under the jurisdiction of the department for the blind and visually impaired 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.

Sec. 42-162.1. – Exemptions; limits on application.

- (a) The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:
 - (1) Reserved.
 - (2) Reserved.
 - (3) Reserved.
 - (4) Alcoholic beverages sold in factory sealed containers, and purchased for off premises consumption.
 - (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 purchased for human consumption as “food” is defined in the Federal Food Stamp Act of 1977, 7 USC 2012, as amended, and federal regulations adopted pursuant to that act except the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.
- (b) Reserved.
- (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 or beverages for use or consumption which are paid for directly by the commonwealth, any political subdivision of the commonwealth or the United States.
 - (4) Food and beverages furnished by hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients and residents thereof.
 - (5) Food and beverages furnished 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, or a private establishment that contracts with the appropriate agency of the commonwealth to offer food, food products or beverages for immediate consumption at concession process 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 nonprofit 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 nonprofit, educational, charitable, benevolent, or religious purposes or provided by churches that serve meals for their members as a regular part of their religious observances.
 - (7) Food and beverages sold through vending machines.

- (8) Meals sold or provided by volunteer fire departments and volunteer medical emergency services agencies; non-profit churches or other religious bodies; or educational charitable or fraternal or benevolent organizations, the first three 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 organization exclusively for non-profit educational, charitable, benevolent, or religious purposes.
- (9) Meals sold or provided by homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics.
- (10) Meals sold or 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.

ARTICLE VII. – CIGARETTE TAX

Sec. 42 – 176. – Obligation of dealers, agents regarding stamps.

- (a) Every local dealer in cigarettes and every agent appointed under this section shall purchase necessary stamps from the treasurer of the town to pay the tax imposed under this article and shall affix or cause to be affixed a stamp of the monetary value provided by this article to each package of cigarettes prior to delivering or furnishing such cigarettes to any seller who is not also an agent. The purchase price of any tax stamps purchased under this section shall be refunded without penalties or additional fees, upon verification by the town that the stamps have been returned to the town.

ARTICLE VIII. – LODGING TAX

Sec. 42-192. – Violations and penalties.

Any person who shall violate or fail to comply with any of the provisions of this article, or who shall file a false or misleading monthly report hereunder, shall be guilty of a class 3 misdemeanor and fined an amount not more than \$500.

5. This Ordinance 2021- 004 is effective upon passage.

Certification

I, Mae P. Umphlett, do hereby certify that the foregoing Ordinance 2021-004 was adopted at a Town Council Meeting held December 20, 2021 at which a quorum was present and voting. The vote was as follows:

FOR AGAINST ABSTAIN ABSENT

Vice Mayor Dr. Curtis H. Smith
Council Member Kylie Abbott
Council Member Michael Bedell
Council Member Emerson Gravatt
Council Member Don Lee
Council Member Les Spivey

Attest:

Cindy Balderson, Clerk

Mae P. Umphlett, Mayor