

ORDINANCE #17-10

AN ORDINANCE TO ADD ARTICLE XII ADMISSIONS TAX TO CHAPTER 18 OF THE CITY CODE

WHEREAS, City Council has determined that it is in the best interests of the City of Williamsburg to impose and levy a tax on admissions pursuant to Section 33 of the Williamsburg City Charter and §58.1-3840 of the Code of Virginia (1950), as amended; and

NOW THEREFORE, BE IT ORDAINED, that pursuant Section 33 of the Williamsburg City Charter, and §51.1-3840 of the Code of the City of Williamsburg, Article XII is hereby added to Chapter 18 of the Williamsburg City Code as follows:

CHAPTER 18

ARTICLE XII. – ADMISSIONS TAX

Section 18-421. – Definitions.

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

Admissions charge: The charge made for admission to any amusement or entertainment, exclusive of any federal tax thereon, including a charge made for season tickets, whether obtained by contributions or subscription, a cover charge or a charge made for the use of seats or tables, reserved or otherwise, and similar accommodations in the city. When a person is admitted free and a service charge is made, the service charge shall be considered a charge for admission.

Director means the city director of finance or his designee.

Place of amusement or entertainment: Any place in the city wherein or whereat all or any portion of any of the following are located, conducted, performed, exhibited and operated and for which an admissions charge is made: circuses, carnivals, menageries, moving picture shows, fairs, shows and exhibitions of all kinds; dances, baseball, basketball, football, wrestling, boxing and sports of all kinds, swimming pools; concerts, and theatrical, vaudeville, dramatic, operatic and musical performances and performances similar thereto; lectures, talks, library readings and performances similar thereto; such attractions as merry-go-rounds, Ferris wheels, roller coasters, leap-the-dips and the like; and all other public amusements, performances and exhibitions not specifically named herein.

Sporting event: Organized league and tournament play of a game involving athletic activity pursuant to a set form and body of rules.

Section 18-422. – Establishment of classes for taxation purposes.

In accordance with the Virginia Constitution and §58.1-3817 of the Code of Virginia (1950, as amended), events to which admission is charged shall be divided into the following classes for the purposes of taxation.

1. Admissions charged for attendance at any event, the gross receipts of which go wholly to charitable purpose or purposes.
2. Admissions charged for attendance at public and private elementary, secondary and college school sponsored events, including events sponsored by school-recognized student organizations.
3. Admissions charged for entry into museums, botanical or similar gardens and zoos.
4. Admissions charged to participants in order to participate in sporting events.
5. All other admissions.

Section 18-423. – Levied; amount.

(a) There is hereby imposed and levied a tax in the amount of three and one-half (3.5) percent of any admissions charge to any place of amusement or entertainment, which shall be collected from each person who pays an admissions charge to any place of amusement or entertainment at the time of the payment of such, wherever such sale is made. If tickets or cards of admission are issued, the tax shall be collected at the time of the issuance of such tickets or cards. The taxes required to be collected hereunder shall be deemed to be held in trust by the person required to collect the same until emitted as provided in this article.

(b) There shall be no tax on admission charges for any event included within the classes established in section 18-422(1), section 18-422(2) and section 18-422(4).

Sec. 18-424. - Advertising payment or absorption of tax prohibited.

No person shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed under this article will be paid or absorbed by such person or anyone else, or that such person or anyone else will relieve any purchaser of the payment of all or any part of the tax.

Sec. 18-425. - Report of taxes collected; remittance; preservation of records.

It shall be the duty of every person required by this article to pay to the city the taxes imposed by this article and to make a report thereof setting forth such information as the director may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. Such reports shall be delivered to the director of finance along with the tax required to be collected. Such reports and remittances shall be made to the city's

finance department on or before the twentieth day of the calendar month following the month being reported.

Such records shall be kept and preserved for a period of five years. The director or his duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this ordinance, and to make transcripts of all or any parts thereof.

Sec. 18-426. - Failure or refusal to collect and report tax.

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed and levied by this article and to make within the time provided in this article the report and remittances required, the director shall proceed in such manner as he or she may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the director shall procure such facts and information as is reasonably obtainable upon which to base the assessment of any tax due and payable by any person who has failed or refused to collect such tax and to make such report and remittance, the director shall proceed to determine and assess against such person such tax and penalty and interest as are provided for in this article, and shall notify such person by certified or registered mail, sent to such person's last known address, of the amount of such tax, penalties and interest, and the total amount thereof, including penalties and interest, shall be payable within ten days from the date of such notice.

Sec. 18-427. - Interest and penalties for failure to remit tax.

If any person whose duty it is to do so shall fail or refuse to remit the tax required to be collected under this article within the time and in the amount specified in this article, there shall be assessed against such person a penalty in the amount of ten percent of the tax which has not been timely collected and/or remitted to the city. The minimum penalty shall be \$10.00. In addition to the penalties provided for herein, interest at the rate of ten percent per annum shall be computed upon the taxes and penalty beginning on the first day of the calendar month next following the month in which such taxes became due and payable, which interest shall be paid by such person.

Sec. 18-428. - Taxes due upon cessation of business.

Whenever any person required to collect and pay to the city a tax under this article shall cease to operate and shall otherwise dispose of their business, any tax payable under this article to the city shall become immediately due and payable; and such person shall immediately make a report and pay the tax due.

Sec. 18-429. - Penalty for violation of article.

a) Any person willfully failing or refusing to file a return as required under 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 \$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, 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 admission 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.

(c) 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.

(Ord. No. 10-00, 7-13-00)

Sec. 18-430. - Power to collect; disposition of tax monies.

The director shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall be the duty of the director to ascertain the name of every person liable for the collection of the tax imposed by this article who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The director shall have all of the enforcement powers as authorized by Article 1, Chapter 31 of Title 58.1 of the Code of Virginia for purposes of this article and may request the commissioner of the revenue to assist in such enforcement. The taxes collected under this article shall be appropriated and paid into the City Tourism Development Fund.

Except as here amended, the Williamsburg City Code shall remain unchanged.

This ordinance shall become effective July 1, 2018.

Adopted: August 10, 2017

Attest: Donna Scott
Donna Scott, City Council Clerk

Paul T. Freiling
Paul T. Freiling, Mayor