

ORDINANCE NO. 4395

AN ORDINANCE to amend Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT), of The Code of the City of Alexandria, 1981, as amended, by adding thereto a add a new Article W (ADMISSION TAX).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 2 of Title 3 of The Code of the City of Alexandria, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Article V, to read as follows:

Article W

ADMISSION TAX

Sec. 3-2-382 Definitions.

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

(1) Admission charge. A charge made, directly or indirectly, to a person or group of persons for admission to any event, including a charge made for season tickets, and a cover or other charge made for the use of seats or tables, and excluding any separately stated federal or state tax thereon, or any separately stated service charge made by an agent or party other than the owner or operator for the sale or issuance of a ticket or receipt which entitles the bearer to admission to an event.

(2) Charitable purposes. Any charitable, benevolent, humane, philanthropic, patriotic, eleemosynary, educational, religious, cultural or similar purpose intended to better the condition of society or any considerable portion thereof, including, without limitation,

support for the activities, other than unrelated business income activities, of an organization recognized as exempt from federal income taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

(3) Event. Any amusement, entertainment, performance, exhibition or similar production, open to the general public, including without limitation: circuses, carnivals, motion pictures, fairs, shows and exhibitions of all kinds; dances; tours; sporting events; theatrical, dramatic, operatic and musical and similar performances; lectures, talks, symposia, library readings and performances similar thereto; and such attractions as merry-go-rounds, ferris wheels, roller coasters and the like.

(4) Open to the general public. Available for attendance by any person upon payment of an admission charge, without, in addition to such payment, (i) meeting any duly established requirements or selection criteria for membership in or belonging to a *bona fide* society, club, congregation, organization, party or similar group, or (ii) making or promising to make a donation, subscription or other similarly valuable contribution to the owner or operator, or to the designee thereof, which exceeds a commercially reasonable relationship to the economic value of the event to the person admitted.

(5) Owner or operator. A person who owns, operates, conducts, promotes, produces or provides an event.

(6) Sporting event. Any athletic activity engaged in by one or more individuals, including, without limitation, baseball, basketball, football, wrestling, boxing, swimming, tennis, golf, soccer or hockey.

Sec. 3-2-383 Amount and levy of tax.

Except as provided in section 3-2-384, there is hereby levied an admission tax in the amount of ten percent of any admission charge, not to exceed \$0.50 per person admitted.

Sec. 3-2-384 Exclusions from tax.

There shall be no admission tax on any admission charge:

(1) For any event, the gross receipts of which go wholly to one or more charitable purposes;

(2) For any event, the purpose of which is solely to raise money for one or more charitable purposes, and the net receipts of which are utilized by or transferred to one or more entities that are exempt from sales and use tax pursuant to Section 58.1-609.11 of the Code of Virginia, 1950, as amended;

(3) For any public or private elementary, secondary or college school-sponsored event, whether or not on school property or at a school facility, including events sponsored by school-recognized student organizations;

(4) For entry into museums, botanical and similar gardens, and zoos;

(5) For participation as an entrant in a sporting event.

Sec. 3-2-385 Situs.

The tax imposed by this article shall be levied on admission charges for events which occur within the City of Alexandria, irrespective of the location at which admission to such events may be sold, contracted for or paid.

Sec. 3-2-386 Collection of tax.

(a) Every owner or operator, or the agent thereof, receiving a payment of an admission charge on which an admission tax is levied shall collect the amount of such tax from the person making the payment at the time the payment is made.

(b) The taxes required to be collected under subsection (a) shall be deemed to be held in trust by the owner, operator and agent required to collect the same, jointly and severally, until remitted to the city as provided in this article.

Sec. 3-2-387 Reports and remittances generally.

Every owner or operator collecting admission taxes shall prepare a report for each calendar month, upon such forms and setting forth such information as the director may prescribe, showing the number of persons admitted, the amount of admission charges collected, the amount of the taxes due on such charges under this article, and the amount of taxes being remitted along with the report, and shall sign and deliver the report, and remit the taxes, to the director. The report and the remittance of taxes shall be made to the director on or before the last day of the calendar month next following the month being reported.

Sec. 3-2-388 Reports, remittances and deposits by temporary or transitory events.

(a) Whenever an admission charge is made to attend an event of a temporary or transitory nature, the director may require the report and remittance of taxes to be made within seven days following the event, or within seven days following the conclusion of a series of events, or at such other reasonable time as the director shall determine.

(b) Before any temporary or transient event shall be held in the city, and before any business license under title 9 of this code, if required, shall be issued therefor, the

owner or operator of the event shall deposit with the director a sum of money, to be determined by the director, sufficient to cover the admission taxes that the director estimates will be required to be collected by such owner or operator, which the director shall hold as security for the collection of taxes and payment thereof to the city. Within seven days of the conclusion of the temporary or transient event, or such other time as set by the director under subsection (a), the owner or operator shall deliver to the director the report and the amount of taxes required by section 3-2-387. Upon such delivery, the director shall refund the deposit made under this section. Should an owner or operator fail timely to deliver such report and taxes, the director may assess the owner or operator the amount of taxes provided by section 3-2-390, in which case the director shall retain the deposit made under this subsection as a credit toward the amount of assessed taxes.

Sec. 3-2-389 Penalty and interest for failure to remit taxes when due.

Any owner or operator who fails or refuses to remit admission taxes to the city, within the time and in the amount required by this article, shall be liable for a penalty equal to ten percent of the amount of the taxes required to be remitted. The owner or operator shall also be liable for interest on the amount of the taxes which remain unpaid, at the rate of ten percent per annum, starting on the date the taxes were initially to be remitted to the city.

Sec. 3-2-390 Procedure upon failure to collect, report or remit taxes.

(a) If any owner or operator shall fail or refuse to collect admission taxes or to make, within the prescribed time, the report and remittance required by this article, the director shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the taxes due. As soon as the director has obtained such facts and information, he shall determine and assess against the owner or operator the taxes that are due, along with any interest and penalties provided for by this article, and shall notify the owner or operator by mail of the total amount of such taxes, interest and penalties. The total amount of taxes, interest and penalties shall be paid within ten days from the date of such notice.

(b) It shall be the duty of the director to ascertain the name of every owner or operator in the city who fails, refuses or neglects to collect admission taxes, or to timely make the report and remittances, required by this article.

Sec. 3-2-391 Preservation of records.

Except as may be provided by the director by regulation, every owner or operator required to collect and remit admission taxes shall keep and preserve, for a period of two years, such records as are necessary to enable the director to determine the amount of

taxes such owner or operator was responsible for collecting and remitting to the city. The director shall have the right to inspect such records at all reasonable times and to make copies of all or any parts thereof.

Sec. 3-2-392 Duty of owner or operator going out of business.

Whenever any owner or operator required to collect and remit admission taxes shall dispose of his business or otherwise cease to operate, any taxes payable to the city under this article shall become immediately due and payable, and such owner or operator shall immediately make a report and pay the taxes due.

Sec. 3-2-393 Authority of director.

The director shall have the power and the duty of enforcing this article, including the authority to adopt reasonable procedures and regulations for the administration of the admissions tax, and shall cause all taxes remitted to the city under this article to be paid into the general treasury of the city.

Sec. 3-2-394 Penalty for violation of article.

Any person violating or failing to comply with any provision of this article shall be guilty of a class 3 misdemeanor and each such violation or failure shall constitute a separate offense. No conviction for violating or failing to comply with a provision of this article shall relieve the convicted person from the payment, collection and remittance of the taxes, interest and penalties as provided in this article.

Section 2. That the several provisions of this ordinance shall be severable in accordance with the following rules: (i) if any court of competent jurisdiction shall adjudge any provision of this ordinance invalid, such judgement shall not affect any other provisions of this ordinance, and (ii) if any court of competent jurisdiction shall adjudge this ordinance or any provision of this ordinance invalid as applied to a particular person, entity, or state

of facts, such judgement shall not affect the application of this ordinance or any provision of this ordinance to any other person, entity, or state of facts.

Section 3. That this ordinance shall become effective on July 1, 2005, and shall apply to all events which occur in the City of Alexandria on and after that date.

WILLIAM D. EUILLE

Mayor

Final Passage: May 2, 2005

