

ORDINANCE NO. 18-017

**AN ORDINANCE TO CREATE CHAPTER 188 IN PART ONE OF THE
CODIFIED ORDINANCES OF CANAL WINCHESTER ENACTING AN ADMISSIONS TAX**

WHEREAS, Ohio Revised Code 715.013 authorizes municipalities to enact a tax on admissions to any place;

WHEREAS, with the continued growth and development in the City of Canal Winchester, Council desires to enact an admissions tax for the purpose of raising additional revenue to help support said growth and development; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO:

SECTION 1. That Part 7 of the Codified Ordinances of the City of Canal Winchester, Ohio, which is a part thereof, be and hereby is amended to include Chapter 188, Admissions Tax as follows:

**CHAPTER 188
Admissions Tax**

188.01	Definitions.
188.02	Imposition and Rate of Tax.
188.03	Admissions Exempt from Tax.
188.04	Collection of Tax.
188.05	Certificate of Registration or Exemption.
188.06	Certificate of Registration in Case of Temporary or Transitory Amusement.
188.07	Rules and Regulations.
188.08	Appeals.
188.09	Information Confidential.
188.10	Interest on Unpaid Tax.
188.11	Taxes Made a Lien.
188.12	Severability.
188.13	Disbursement of Funds Collected.
188.99	Penalty.

188.01 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

(a) "Admission Charge" means any charge for the right or privilege to enter a "Place" as defined herein, including a charge made for season tickets or subscriptions, a charge for parking to the extent that it is also a charge for the right to enter a "Place," a minimum service charge, a cover charge or a charge made for use of seats and tables, reserved or otherwise, and similar accommodations (but excluding charges for prepaid food and/or beverage along with a reservation).

(b) "Person" means any individual, receiver, assignee, firm, co-partnership, joint venture, corporation, company, joint stock company, association, society or group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

(c) "Place" shall mean:

1. theaters,
2. cinemas,
3. amphitheatres,
4. auditoriums,
5. golf courses (the actual greens fee paid directly or indirectly by the individual golfer shall be construed to be the "Admission Charge"),
6. bowling alleys,
7. ice-skating rinks,
8. roller-skating rinks,
9. night clubs,
10. circuses,
11. sideshows,
12. outdoor amusement parks,
13. such attractions as merry-go-rounds, Ferris wheels, dodgems, skycoasters, race tracks, roller coasters, observation towers and similar amusement rides,
14. outdoor (open air or enclosed) event venues where a restricted area is designated as the event grounds and a charge is made for admission to the event grounds, and
15. establishments where a charge is made for a tour of the attraction or facility.

188.02 IMPOSITION AND RATE OF TAX.

There is hereby levied and imposed upon every person who pays an Admission Charge to any Place, including a tax on persons who are admitted free of charge or at reduced rates to any Place to or for which other persons pay a charge or a regular higher charge for the same or similar privileges or accommodations:

(a) A tax of three percent (3%) on the amount received as an Admission Charge to any Place. The tax shall apply to every admission within the Municipality.

(b) A tax of three percent (3%) on excess charges received for tickets or other rights to admission to a Place, sold at a location other than the ticket offices of such Places, over and above the amounts representing the established admission charge therefor at such ticket offices, such tax to be returned and paid in the manner provided in Section 188.04 by the person selling the ticket.

188.03 ADMISSIONS EXEMPT FROM TAX.

(a) No tax shall be levied under this chapter with respect to any Admission Charge, all the net proceeds of which inure:

(1) Exclusively to the benefit of religious, educational, charitable, or governmental institutions, societies or organizations, if no part of the net earnings thereof inure to the benefit of any private stockholder or individual.

(2) Exclusively to the benefit of persons in the military or naval forces of the United States, or of National Guard organizations, reserve officer associations or posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations if such posts, organizations, units or societies are organized in the State of Ohio, and if no part of their net earnings inure to the benefit of any private stockholder or individual.

(3) Exclusively to the benefit of persons who serve in the military or naval forces of the United States and are in need.

(b) Immediately after the event for which an exemption from admission tax has been allowed, the treasurer of the institution, society or organization for whose benefit such event was held shall file an itemized statement with the Finance Director setting forth "Net Proceeds" shall mean the amount of money

actually received by such institution, society or organization from Admissions Charges for admission to the event; provided, however, the Finance Director shall be authorized to require the filing of an itemized statement by the treasurer, and if such statement shows a disproportionate expenditure for promoting and conducting such event in relation to the profits, if any, no such exemption shall thereafter be allowed to such institution, society or organization.

(c) The exemption from tax provided in this section shall not be allowed to any institution, society or organization which does not control the sale of admissions to the event for which the exemption is requested.

188.04 COLLECTION OF TAX.

(a) Every person receiving any payment on which a tax is levied under this chapter shall collect the amount of the tax imposed from the person paying the Admission Charge. The tax required to be collected under this chapter shall be deemed to be held in trust by the person required to collect the same until paid to the Finance Director as herein provided. Any person required to collect the tax imposed under this chapter who fails to collect the same, or having collected the same, fails to remit the same to the Finance Director in the manner prescribed by this chapter, whether such failure be the result of acts or conditions beyond his control, shall nevertheless be personally liable to the Municipality for the amount of such tax, and shall, unless the remittance be made as herein required, be guilty of a violation of this chapter.

(b) The tax imposed hereunder shall be collected at the time the Admission Charge is paid by the person seeking admission to any Place and shall be reported and remitted by the person receiving the tax to the Director in monthly installments (or quarterly installments in the discretion of the Director) and remittances therefor on or before the thirtieth day of the month succeeding the end of the period in which the tax is collected or received. Payment or remittance of the tax collected may be made by check, unless payment or remittance is otherwise required by the Director, but payment by check shall not relieve the person collecting the tax from liability for payment and remittance of the tax to the Director unless the check is honored and is in the full and correct amount.

(c) The person receiving any Admissions Charge shall make out a return upon such forms and setting forth such information as the Director may require, showing the amount of the tax upon admissions for which he is liable for the preceding period, and shall sign and transmit the same to the Director with a remittance for such amount; provided, that the Director may in his or her discretion require verified annual returns from any person receiving Admission Charges setting forth such additional information as he or she may deem necessary to determine correctly the amount of tax collected and payable.

(d) Whenever any theater, circus, show, exhibition, entertainment or amusement makes an Admission Charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature, of which the Director shall be the judge, the Director may require the report and remittance of the admission tax immediately upon the collection of the same, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions or at such other times as the Director shall determine. It shall be the responsibility of the owner, lessee, or custodian of the place where the event or group or series of events is held to report and remit the tax levied and imposed by this chapter to the Finance Director unless a certificate of registration, as provided for in the next succeeding section of this chapter, has been issued to the person conducting the event or group or series of events. The Finance Director, however, may require the person conducting the event or group or series of events to furnish a bond to ensure that each person makes the report and remittance. Failure to comply with any requirement of the Director as to report and remittance of the tax as required shall be a violation of this chapter.

(e) The books, records and accounts of any person collecting a tax herein levied shall, as to the Admission Charges and tax collections, be at all reasonable times subject to examination and audit by the Director. The audit is to be made by the Finance Director or by accountants employed by the City and at its own expense. If required by the Finance Director, a complete audit of a person's gross admission receipts shall be provided at the end of each person's fiscal year by an accountant approved by the Finance Director and at the expense of the City. Notwithstanding the foregoing if, as a result of the audit, the Finance Director determines that there shall be an unpaid tax liability for a person equal to or greater than one thousand dollars (\$1,000.00) per monthly period audited, the Finance Director may require such person to pay the expenses of the audit. If the tax imposed by this chapter is not paid when due there shall be added, as part of the tax, interest at the rate of one percent per month from the time when the tax became due until paid. For good cause shown, the Finance Director may waive the penalty.

188.05 CERTIFICATE OF REGISTRATION OR EXEMPTION.

(a) Certificate of Registration. Any person conducting or operating any Place for which an Admission Charge is made for entrance thereto shall, on the form prescribed by the Finance Director, make application to and procure from the Director a Certificate of Registration, the fee for which shall be twenty dollars (\$20), which Certificate shall continue valid until December 31 of the year in which the same is issued by the Director without additional charge, shall be posted in a conspicuous place in each ticket or box office where tickets of admission are sold.

(b) Certificate of Exemption. Any person conducting or operating any place for which an admission charge is made and who claims an exemption or exclusion under Section 188.03 shall, upon request of the Finance Director, make application to and procure from the Finance Director a certificate of exemption for which there will be no charge and which certificate shall remain valid until the termination of the event or series of events, to which the exemption applies.

188.06 CERTIFICATE OF REGISTRATION IN CASE OF TEMPORARY OR TRANSISTORY AMUSEMENT.

Whenever a Certificate of Registration is obtained for the purpose of operating or conducting a temporary or transitory amusement, entertainment or exhibition by persons who are not the owners, lessees or custodians of the building, lots or place where the amusement is to be conducted, the tax imposed by this chapter shall be reported and remitted as provided in Section 188.04 hereof by such owner, lessee or custodian, unless paid by the person conducting the amusement, entertainment or exhibition. The applicant for a Certificate of Registration for such purpose shall furnish with the application therefor the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted, and such owner, lessee or custodian shall be notified by the Director of Finance of the issuance of such certificate and the joint liability for collection and remittance of such tax.

188.07 RULES AND REGULATIONS.

The Mayor or Finance Director shall have power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied; and a copy of such rules and regulations shall be published as ordinance of the Municipality are published before they become effective, and copies shall be made available in the office of the Finance Director. Failure or refusal to comply with any such rules and regulations shall be deemed a violation of this chapter.

188.08 APPEALS.

Appeals from any ruling of any official hereunder shall be made to Council within ten days after such ruling has been made, and Council shall have the authority to annul, modify or affirm any such ruling appealed from, in conformity with the intent and purpose of this chapter.

188.09 INFORMATION CONFIDENTIAL.

All returns and information relating to the business of any person required to collect the tax imposed by this chapter and coming into the possession of the Finance Director, his/her agents and employees of the Municipality, shall be held confidential. No disclosures thereof shall be made unless ordered by a court of competent jurisdiction excepting, however, that the Director may furnish the Bureau of Internal Revenue, Treasury Department, of the United States, or the Department of Taxation of the State of Ohio with copies of returns filed.

188.10 INTEREST ON UNPAID TAX.

In addition to the interest as provided in Section 188.04, a penalty of ten percent per year or fraction thereof shall be imposed on any tax not paid when due. For good cause shown, the Finance Director may waive the penalty.

188.11 TAXES MADE A LIEN.

(a) The taxes and other charges imposed by this chapter shall be a lien upon all the property of any person required to collect and pay or to pay the same. If such person shall sell out or quit business, such person shall be required to make out the return provided for in this chapter within thirty (30) days after the date of sale of such business or retirement therefrom, and the successor in business shall be required to withhold a sufficient amount of purchase money to cover the amount of said taxes and other charges collected and unpaid, together with penalties, if any, until such time as the former owner shall produce receipt from the Treasurer showing that the taxes and any other charges have been paid, or a certificate that no taxes are due.

(b) If the purchaser of a business shall fail to withhold purchase money as above provided, and the taxes and other charges so collected shall be due and unpaid after the thirty-day period allowed, the purchaser shall be liable for the payment of the taxes and other charges collected and unpaid on account of the operation of the business by the former owner, together with interest, as provided by this chapter.

(c) The lien for unpaid taxes and other charges imposed herein shall not become effective until such time as the Finance Director certifies to the County Auditor of Franklin or Fairfield County the amount of taxes delinquent, and such certification is placed on record by the County Recorder of said county in a book maintained for that purpose.

188.12 SEVERABILITY.

If any sentence, clause, section or part of this chapter or any tax imposed as specified herein is found to be unconstitutional, illegal or invalid, such constitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter, and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof had not been included herein.

188.13 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provision of this Chapter shall be distributed in the following manner:

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administrating and enforcing the provisions of the Chapter shall be paid.

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund. Funds shall be dedicated first to capital outlay expenditures related to streets or parks. If no such projects exist or such projects are able to be funded with another revenue source, Council may appropriate the funds to another project they deem fit during the budgetary process.

188.99 PENALTY.

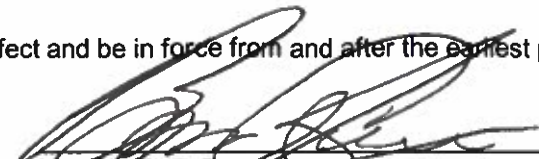
(a) Whoever, being a person charged by the provisions of this chapter with the duty of collecting or paying the taxes imposed by this chapter, willfully fails or refuses to charge and collect or to pay such taxes, or to make return to the Director of Finance as required by this chapter, or to permit the Director or his duly authorized agent to examine his books and other records, in or upon any premises where the same are kept to the extent necessary to verify any return made or to ascertain and assess the tax imposed by this chapter if no return was made, or to maintain and keep his books and other records for three years or such lesser or greater time as may be permitted or required by the Director, is guilty of a minor misdemeanor for a first offense and for a second or other subsequent offense is guilty of a misdemeanor of the first degree.

(b) Whoever violates Section 188.09 is guilty of a misdemeanor of the first degree for each such violation and shall thereafter be disqualified from acting in any official capacity whatsoever in connection with the assessment or collection of taxes under this chapter.

SECTION 2. That all other provisions of Part 1 of the Codified Ordinances shall remain in full force and effect.


SECTION 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED: 9/4/18



PRESIDENT OF COUNCIL

ATTEST Amanda M Jackson
CLERK OF COUNCIL



MAYOR

DATE APPROVED: 9-24-18

APPROVED AS TO FORM:



LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen (15) days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

Amanda M Jackson
Finance Director/Clerk of Council