

- **ARTICLE II. - CULINARY ARTS AND HOSPITALITY DISTRICT**

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- **Sec. 3-31. - District created.**

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City Council recognizes that the culinary arts is a burgeoning area of the tourism market adding cultural and economic diversity to the City; enhancing the lives of the City's residents and visitors and positively impacting the City's economy by generating jobs and revenue, and retaining a competitive workforce. Thus, in Council's opinion it is important to encourage the culinary arts and related hospitality industry related businesses and organizations within a culinary arts and hospitality district within the City, thereby enhancing those business and organizations to more effectively promote their common interests. Council further believes that the location of the culinary arts and hospitality district will encourage the growth of tourism related industries, as well as complementary businesses, thus increasing the overall economic activity within the district and other neighboring areas. Therefore, in accordance with Code of Virginia, § 58.1-3851, a culinary arts and hospitality district is hereby established in the City of Williamsburg, the purpose of encouraging the location of culinary arts and hospitality businesses to locate in the City especially within the area designated as the Northeast Triangle Culinary Arts and Hospitality District as particularly described in [Section 3-32](#) below.

(Ord. No. 16-19, 10-13-16)

- **Sec. 3-32. - District boundaries and date established.**

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The boundaries of the Williamsburg Arts and Culture District are as set forth on the map entitled "Northeast Triangle Culinary Arts and Hospitality District," dated September 28, 2017, as maintained in the Williamsburg Office of Economic Development, the provisions of which map are incorporated fully herein by reference. The designation of the area as tourism zone shall not in any respect override any applicable city code regulatory requirements including, but not limited to, zoning regulations, fire code, nuisance, and building and property maintenance codes.

(Ord. No. 16-19, 10-13-16; Ord. No. 17-18, 10-12-17)

- **Sec. 3-33. - Definitions.**

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For the purposes of this article, and unless otherwise indicated to the contrary, the following term(s) shall have the following meaning(s):

District Administrator: The City Manager, or another employee of the City of Williamsburg as designated by the City Manager, shall serve as the district administrator for the Williamsburg Culinary Arts and Hospitality District.

Expanded Business shall mean a Qualified Culinary Arts or Hospitality Business that is currently located in the City of Williamsburg and makes a capital investment in the qualified culinary arts or hospitality business of at least \$50,000.00. Capital investments are amounts spent to acquire or upgrade productive fixed assets (such as buildings, machinery and equipment, vehicles) to increase the capacity or efficiency of a firm for more than one accounting period. Capital investments do not include funds spent for working capital or day-to-day operation of the business.

Incentives for an Expanded Business will apply only to the increased amount of BPOL and Sales Tax that the expanded business pays after it qualifies as an expanded business, but will apply to all Zoning and Building Fees for the five years after the business qualifies as an expanded business.

When applying for any benefit afforded under this article, the applicant shall have the burden of proving qualification as a Qualified Culinary Arts and Hospitality Business.

New Business shall mean a Qualified Culinary Arts or Hospitality Business that is not currently located within the City of Williamsburg and makes a capital investment of at least \$250,000.00. Capital investments are amounts spent to acquire or upgrade productive fixed assets (such as buildings, machinery and equipment, vehicles) to increase the capacity or efficiency of a firm for more than one accounting period. Capital investments do not include funds spent for working capital or day-to-day operation of the business.

Qualified Culinary Arts and Hospitality Business shall mean a new or expanded business in a category as listed below, that carries on at least one of the following business activities in the Northeast Triangle Culinary Arts and Hospitality District, has an aim of attracting customers from outside of the Greater Williamsburg region (defined as the City of Williamsburg, James City County, and the Bruton District of York County), and which has been classified by the district administrator as a Qualified Culinary Arts and Hospitality business for the purposes of this article:

(1)

Hotels/motels;

(2)

Timeshares;

(3)

Theatres and assembly halls;

(4)

Museums and art galleries;

(5)

Restaurants;

(6)

Bake shops;

(7)

Micro-breweries, micro-distilleries and/or micro-cideries;

(8)

Schools for the culinary arts;

(9)

Retail;

(10)

Studios or workshops for artists and artisans.

In no case shall an office use such as a bank, real estate office, medical office, attorney's office or any other general office use qualify as a Qualified Culinary Arts or Hospitality Business for the purposes of this article. Additionally, in no case shall a restaurant or retail shop that is a franchise or chain with one or more physical locations within the Greater Williamsburg region qualify as a Qualified Culinary Arts and Hospitality Business for the purposes of this article.

(Ord. No. 16-19, 10-13-16)

- **Sec. 3-34. - Administration.**

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The City Manager or the district administrator if one is so designated by the City Manager, shall be responsible for administration of this chapter and shall determine the procedures for applying for and obtaining the incentives provided herein.

(Ord. No. 16-19, 10-13-16)

- **Sec. 3-35. - Eligibility requirements.**

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Economic incentives and regulatory flexibility may be made available on a one-time basis to any new or expanded Qualified Culinary Arts and Hospitality Business physically located in the district that carries on at least one of the activities described in [Section 3-33](#) above and that to the satisfaction of the district administrator, meets the following criteria:

(1)

The business or organization must advance the City's strategic goals identified in the City's most recently adopted Economic Development Strategic Plan and its current Comprehensive Plan.

(2)

The business or organization must submit a written application that, among other things, provides a description of the principal business activities to be carried on in the district; a description of the location of said business within the district and whether such location is owned by the applicant business or organization or leased and if leased, the name of the landlord and the length of the lease term; details regarding the structure of the business (i.e., type of entity and if other than a sole proprietorship, the names and addresses of all principals of the business); a narrative description of the current and past activities of the business or organization, and in the case of an already operating business or organization, information regarding current and past locations of the business or organization; and a five-year business plan including pro-forma.

(3)

The business or organization must at all times comply with all applicable Federal, State and City laws and regulations.

(4)

Seeks to attract customers from outside the Greater Williamsburg region.

(5)

Enter into a written performance agreement in which economic incentives and regulatory flexibility may be provided for the term of the contract, subject to applicable State law. Said agreement shall provide that, in the case of multi-year incentives, the Qualified Culinary Arts and Hospitality Business shall establish its qualification for the economic incentives and regulatory flexibility on an annual basis.

(Ord. No. 16-19, 10-13-16)

- **Sec. 3-36. - Compliance.**

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Failure of a qualified arts business to pay taxes or to comply with the requirements of this article shall result in loss of qualification as follows:

(1)

The Qualified Culinary Arts and Hospitality business has entered into an agreement as provided in [section 3-35](#) above and fails to pay in full any tax along with any penalty and interest for late payment, imposed by the City by the end of the calendar year for which the tax was due and payable, shall lose its qualification for the year such tax was due and its entitlement to any incentives afforded under this article during such period. Notwithstanding the foregoing, failure to pay any tax due which results in the issuance of criminal charges to enforce the payment of said tax shall result in the loss of the incentive for the year the tax was due, and, if the delinquent tax, along with penalty and interest is not fully paid by end of the calendar year for which the tax was due, shall also result in a loss of the incentive for the remainder of the incentive term as provided in subsection (2) below. This provision is for purposes of determining the qualification of culinary arts and hospitality district incentives only. Nothing in this section shall amend [Chapter 18](#) of the City Code or alter or otherwise amend the obligation of any person or business, including a Qualifying Culinary Arts and Hospitality Business, to pay all taxes when due and owing, or shall relieve any person or business from any other penalty of law imposed for failure to timely pay any tax due pursuant to the laws of the Commonwealth of Virginia and of the City of Williamsburg.

(2)

Except as provided in subsection (1) above, a Qualified Culinary Arts and Hospitality Business receiving incentives under this article that fails to at all times comply with all applicable Federal, State and City laws and regulations or that fails to comply with the terms of the agreement entered into as provided in [section 3-35](#) above, shall in the case of a first offense lose its qualified arts business qualification for the remainder of the current fiscal year. Any second or subsequent failure to comply with applicable law or regulation, including failure to pay taxes in full as provided in subsection (1) above, the Qualifying Culinary Arts and Hospitality Business shall lose its qualification for the duration of the total remaining incentive term.

(3)

A Qualified Culinary Arts and Hospitality Business that loses its qualification under subsections (1) or (2) above, shall be liable to reimburse the City the full amount of all monies that it has received as incentives under this article during the calendar year of the period of noncompliance; such reimbursement to be paid to the City in full within 30 days of the loss of qualification.

(Ord. No. 16-19, 10-13-16)

- **Sec. 3-37. - Available incentives.**

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Upon approval by the district administrator and having entered into an agreement as provided in [Section 3-35](#) above, a Qualified Culinary Arts and Hospitality Business shall be entitled to the incentives provided in Sections [3-38](#) through [3-42](#) below. If a business or organization ceases to be a

Qualified Culinary Arts and Hospitality Business during a year in which rebates, payments or exemptions apply, they shall be prorated for the months the business was a Qualified Culinary Arts and Hospitality Business. The Qualified Culinary Arts and Hospitality Business shall establish its qualification for the incentives on an annual basis.

(Ord. No. 16-19, 10-13-16)

- **Sec. 3-38. - BPOL tax rebate.**

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A Qualified Arts Business upon entering into an agreement as provided in [Section 3-35](#) above, shall be entitled to a rebate of business, professional and occupational license taxes ("BPOL") imposed by [chapter 18](#), article X of the City Code over a period of five calendar years as follows:

(1)

Year 1 is the first full calendar year in which a business operates as a Qualified Culinary Arts and Hospitality Business. However, if in its first calendar year of doing business in the district, a business operates as a qualified business for a period of less than six months, such qualified business may elect to designate the following calendar year as year 1 for purposes of obtaining the BPOL tax rebate. The rebate shall apply for a period of five calendar years or until such time that the business no longer meets the definition of a Qualified Culinary Arts and Hospitality Business, whichever is the first to occur. If a business ceases to be a Qualified Culinary Arts and Hospitality Business or removes its operation from the district during a year in which the rebate applies, the business shall not be qualified or receive the rebate for that year.

(2)

A Qualified Culinary Arts and Hospitality Business must establish its qualification for the incentives on an annual basis and the percentage of rebate for each year shall be based on criteria established by the district administrator, with a maximum incentive of 100 percent rebate in year 1; 80 percent rebate in year 2; 60 percent rebate in year 3; 40 percent rebate in year 4; and 20 percent rebate in year 5.

To qualify for a business license tax rebate under this article, during the first 12 months of operation within the arts district, a Qualified Culinary Arts and Hospitality Business must apply to the district administrator, who will determine if the business is a Qualified Arts Business. The Qualified Culinary Arts and Hospitality Business shall have the burden of demonstrating, to the satisfaction of the administrator, that it meets the definition of a Qualified Culinary Arts and Hospitality Business and that it meets all applicable criteria for a business license tax rebate. The Qualified Culinary Arts and Hospitality Business shall also file an annual business license application with the commissioner of the revenue and shall provide the director of finance with certification from the administrator that the business is a Qualified Culinary Arts and Hospitality Business. The Qualified Culinary Arts and Hospitality Business shall also provide the director with proof that no local taxes or fees are delinquent at the time of application for the business license tax rebate.

If more than one-half of the gross receipts of a Qualified Culinary Arts and Hospitality Business are derived from a licensable activity that qualifies the business, the business license tax assessed on all gross receipts of such licensable activity shall be subject to the graduated rebates described above. If one-half or less of the gross receipts of a particular licensable activity of a Qualified Culinary Arts and Hospitality Business is derived from qualifying operations, the graduated rebates shall be applied only to the amount of tax attributable to the gross receipts earned from the qualifying business activity. The determinations required by this subsection shall be performed by the finance director, and the Qualified Culinary Arts and Hospitality Business must submit business and financial records sufficient for the finance director to make said determination, within a reasonable time and upon the request of the district administrator.

All business license tax rebates are subject to adjustment by the commissioner of the revenue based on actual gross receipts earned from qualifying arts business activities. Any additional business license tax assessed due to such adjustments, or due to revocation of the tax rebate, shall be subject to collection and delinquency provisions set out in [chapter 18](#) of the City Code.

(Ord. No. 16-19, 10-13-16)

- **Sec. 3-39. - Sales tax incentive.**

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(a)

During its first five calendar years of operation in the district, a Qualified Culinary Arts and Hospitality Businesses shall be entitled to an annual payment equal to all or a portion of the one percent of sales tax attributed to the operations of that particular Qualified Culinary Arts and Hospitality Business from its location in the district that is returned to the city by the state for up to five consecutive calendar years. Year 1 is the first full calendar year in which a Qualified Arts Business operates in the district. However, if a business operates as a Qualified Culinary Arts and Hospitality Business for a period of less than six months of the first calendar year, such qualified business may elect to designate the following calendar year as year 1 for purposes of obtaining the sales tax payment.

(b)

To qualify for the sales tax incentive under this article, during the first 12 months of operation within the district, a Qualified Culinary Arts and Hospitality Business must apply to the district administrator, who will determine if the business is a Qualified Culinary Arts and Hospitality Business. The Qualified Culinary Arts and Hospitality Business shall have the burden of demonstrating, to the satisfaction of the district administrator, that it meets the definition of a Qualified Culinary Arts and Hospitality Business and that it meets all applicable criteria for the sale tax incentive. Such Qualified Culinary Arts and Hospitality Business must establish its qualification for the incentives on an annual basis and the percentage of rebate for each year shall be based on criteria established by the district administrator, with a maximum incentive the percentage of sales tax incentive received by it hereunder during each calendar year shall

be as follows: 100 percent in year 1; 80 percent in year 2; 60 percent in year 3; 40 percent in year 4; and 20 percent in year 5.

(Ord. No. 16-19, 10-13-16)

- **Sec. 3-40. - Food and beverage tax incentive.**

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(a)

During its first five calendar years of operation in the district, a Qualified Culinary Arts and Hospitality Businesses shall be entitled to an annual payment equal to all or a portion of the food and beverage tax attributed to the operations of that particular Qualified Culinary Arts and Hospitality Business from its location in the district for up to five consecutive calendar years. Year 1 is the first full calendar year in which a Qualified Arts Business operates in the district. However, if a business operates as a Qualified Culinary Arts and Hospitality Business for a period of less than six months of the first calendar year, such qualified business may elect to designate the following calendar year as year 1 for purposes of obtaining the sales tax payment.

(b)

To qualify for the food and beverage tax incentive under this article, during the first 12 months of operation within the district, a Qualified Culinary Arts and Hospitality Business must apply to the district administrator, who will determine if the business is a Qualified Culinary Arts and Hospitality Business. The Qualified Culinary Arts and Hospitality Business shall have the burden of demonstrating, to the satisfaction of the district administrator, that it meets the definition of a Qualified Culinary Arts and Hospitality Business and that it meets all applicable criteria for the food and beverage tax incentive. Such Qualified Culinary Arts and Hospitality Business must establish its qualification for the incentives on an annual basis and the percentage of rebate for each year shall be based on criteria established by the district administrator, with a maximum incentive the percentage of sales tax incentive received by it hereunder during each calendar year shall be as follows: 100 percent in year 1; 80 percent in year 2; 60 percent in year 3; 40 percent in year 4; and 20 percent in year 5.

(Ord. No. 16-19, 10-13-16)

- **Sec. 3-41. - Transient lodging tax incentive.**

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(a)

During its first five calendar years of operation in the district, a Qualified Culinary Arts and Hospitality Business shall be entitled to an annual payment equal to all or a portion of the transient lodging tax attributed to the operations of that particular Qualified Culinary Arts and Hospitality Business from its location in the district for up to five consecutive calendar years. Year 1 is the first full calendar year in

which a Qualified Arts Business operates in the district. However, if a business operates as a Qualified Culinary Arts and Hospitality Business for a period of less than six months of the first calendar year, such qualified business may elect to designate the following calendar year as year 1 for purposes of obtaining the sales tax payment.

(b)

To qualify for the transient lodging tax incentive under this article, during the first 12 months of operation within the district, a Qualified Culinary Arts and Hospitality Business must apply to the district administrator, who will determine if the business is a Qualified Culinary Arts and Hospitality Business. The Qualified Culinary Arts and Hospitality Business shall have the burden of demonstrating, to the satisfaction of the district administrator, that it meets the definition of a Qualified Culinary Arts and Hospitality Business and that it meets all applicable criteria for the transient lodging tax incentive. Such Qualified Culinary Arts and Hospitality Business must establish its qualification for the incentives on an annual basis and the percentage of rebate for each year shall be based on criteria established by the district administrator, with a maximum incentive the percentage of sales tax incentive received by it hereunder during each calendar year shall be as follows: 100 percent in year 1; 80 percent in year 2; 60 percent in year 3; 40 percent in year 4; and 20 percent in year 5.

(c)

The transient lodging tax incentive applies only to those transient occupancy taxes collected pursuant to Subsection [18-237\(a\)](#) and does not apply to those taxes collected pursuant to Subsection [18-237\(b\)](#).

(Ord. No. 16-19, 10-13-16)

- **Sec. 3-42. - Zoning and building fee exemption.**

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For a period of 60 months from qualifying as a Qualified Culinary Arts and Hospitality Business entering into the agreement required by [Section 3-35](#) above and for so long as such qualification continues during such period, such business or organization shall be exempt from fees that would otherwise be imposed on such Qualified Culinary Arts and Hospitality Business under Chapters 5 (Buildings and Building Regulations) and 21 (Zoning) of the Williamsburg Code arising out of the establishment or expansion of its business facility within the district. The exemption only applies to the owners of the Qualifying Culinary Arts and Hospitality Business and not to the fee simple or any other beneficial owner of the real property at which the business is located if the property is leased from a third party who is not the owner or a principal of the Qualified Culinary Arts and Hospitality Business. To qualify for a fee exemption under this article, a Qualified Culinary Arts and Hospitality Business must apply to the district administrator, who will determine if the business is a Qualified Culinary Arts and Hospitality Business. The Qualified Culinary Arts and Hospitality Business shall have the burden of demonstrating, to the satisfaction of the district administrator, that it meets the definition of a Qualified Culinary Arts and Hospitality Business and that it meets all applicable criteria for the fee exemption.