

INTRODUCED: July 27, 2015

AN ORDINANCE No. 2015-167-179

To consent to acceptance by the Director of Finance, on behalf of the City, of an offer in compromise from Hardywood Park Craft Brewery, LLC, to settle the entire disputed amount of meals taxes due and owing from Hardywood in the amount of \$61,118.32, which amount includes penalties and interest accrued through June 15, 2015, and any subsequently accrued interest associated with such meals taxes, in accordance with Va. Code § 58.1-3994.

\_\_\_\_\_  
Patron – Mayor Jones

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Approved as to form and legality  
by the City Attorney  
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PUBLIC HEARING: SEPT 28, 2015 AT 6 P.M.

WHEREAS, Hardywood Park Craft Brewery, LLC (“Hardywood”), is a craft brewery located within the city of Richmond that sells its craft beer for on-site consumption; and

WHEREAS, the Director of Finance assessed meals taxes against Hardywood for the sale of its craft beer for on-site consumption, which assessment was not paid; and

WHEREAS, Hardywood disputes the assessment, which together with penalties and interest accrued through June 15, 2015, amounts to \$61,118.32; and

WHEREAS, Hardywood has submitted an offer in compromise of the assessment pursuant to section 58.1-3994 of the Code of Virginia (1950), as amended; and

AYES:           7           NOES:           0           ABSTAIN: \_\_\_\_\_

ADOPTED:    SEPT 28 2015   REJECTED: \_\_\_\_\_   STRICKEN: \_\_\_\_\_

WHEREAS, in accordance with the requirements of subsection (D) of section 58.1-3994 of the Code of Virginia (1950), as amended, the Director of Finance has determined that the collection of the amount due and owing by Hardywood is in substantial doubt and that the best interests of the City will be served by entering into a compromise with Hardywood to settle the entire amount of the meals tax at issue, including penalties and interest accrued through June 15, 2015, and any subsequently accrued interest associated with such meals taxes, all in accordance with section 58.1-3994 of the Code of Virginia (1950), as amended;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That, notwithstanding any other provision of law to the contrary, (i) the Council hereby consents to acceptance by the Director of Finance, on behalf of the City, of an offer in compromise from Hardywood Park Craft Brewery, LLC, to settle the entire disputed amount of meals taxes due and payable to the City by Hardywood Park Craft Brewery, LLC, in the amount of \$61,118.32, which amount includes penalties and interest accrued through June 15, 2015, and any subsequently accrued interest associated with such meals taxes, in accordance with section 58.1-3994 of the Code of Virginia (1950), as amended, and (ii) as of the date on which the Director of Finance submits to Hardywood the Director's written acceptance of such offer in compromise in the manner prescribed by subsection (C) of section 58.1-3994 of the Code of Virginia (1950), as amended, the entire disputed amount of such meals taxes, penalties and interest shall be rendered legally uncollectible as provided by subsection (B) of section 58.1-3994 of the Code of Virginia (1950), as amended.

§ 2. This ordinance shall be in force and effect upon adoption.



**CITY OF RICHMOND**  
INTRACITY CORRESPONDENCE

**RECEIVED**

JUL 27 2015

OFFICE OF CITY ATTORNEY

**O&R REQUEST**

**DATE:** July 20, 2015 **EDITION:** 2

**TO:** THE HONORABLE MEMBERS OF CITY COUNCIL

**THROUGH:** DWIGHT C. JONES, MAYOR *[Signature]*

**THROUGH:** SELENA CUFFEE-GLENN, CHIEF ADMINISTRATIVE OFFICER *[Signature]*

**THROUGH:** LENORA REID, DEPUTY CHIEF ADMINISTRATIVE OFFICER *[Signature]*

**FROM:** PAUL JEZ, DIRECTOR OF FINANCE

**RE:** Settlement and Compromise of Meals Tax Assessed against Hardywood Park Craft Brewery, LLC

**ORD. OR RES. No.** \_\_\_\_\_

**PURPOSE:** AN ORDINANCE TO CONSENT TO AN OFFER IN COMPROMISE BETWEEN THE DIRECTOR OF FINANCE, ON BEHALF OF THE CITY, AND HARDYWOOD PARK CRAFT BREWERY, LLC ("HARDYWOOD") TO SETTLE THE ENTIRE DISPUTED AMOUNT OF MEALS TAXES DUE AND OWING FROM HARDYWOOD IN THE AMOUNT OF \$61,118.32, WHICH AMOUNT INCLUDES PENALTIES AND INTEREST ACCRUED THROUGH JUNE 15, 2015, AND ANY SUBSEQUENTLY ACCRUED INTEREST ASSOCIATED WITH SUCH MEALS TAXES, IN ACCORDANCE WITH CODE OF VIRGINIA §58.1-3994.

**REASON:** Pursuant to Code of Virginia §58.1-3994B, the Director of Finance, in his capacity as the official responsible for the collection of local taxes, including without limitation meals taxes, has determined that (i) the collection of the entire disputed amount of meals tax assessed against Hardywood is in substantial doubt, and (ii) the best interests of the City of Richmond will be served by a settlement and compromise of such entire disputed amount as legally uncollectible.

**RECOMMENDATION:** The City Administration, including the Director of Finance, recommends approval.

## O & R Request

**BACKGROUND:** The General Assembly of Virginia passed legislation, Senate Bill 604, in April 2012 to allow breweries across the Commonwealth of Virginia to sell customers full glasses of beer on site, even if there is not a restaurant on site. The City of Richmond adopted an ordinance No. 2013-196-180 on September 23, 2013 to amend and reordain City Code Section 98-361 for the purpose of adding the term "brewery" to the definition of "food establishment" in order to clarify that the City's meals tax is applicable to breweries selling glasses of beer to customers on site. Upon the changes in State law, but prior to the clarification in the City Code, Hardywood, a brewery located in the City of Richmond with no restaurant on site, initiated sales of beer by the glass to customers but did not collect meals tax due to the ambiguity in application of the City Code. At the request of the City, Hardywood began collecting and remitting meals tax for sales of beer by the glass sold to customers on premises and has continued to collect and remit consistent with City Code requirements.

In early 2014, the City assessed Hardywood for the meals tax for the period in which it had not collected such tax. Hardywood has consistently disputed such assessment, and Hardywood, its counsel, and various City representatives have met multiple times to negotiate a compromise. In November 2014, counsel for Hardywood again appealed the City's assessment for the period prior to Hardywood's collection and remittance of the meals tax.

The Director of Finance has reviewed the file in full based on Hardywood's appeal and has determined in his discretion pursuant to Code of Virginia §58.1-3994B that due to the clarifying change in City Code Sec. 98-361 with respect to the term "brewery," the applicability of the meals tax to breweries solely selling beer by the glass to customers on site was ambiguous, the City's meals tax assessment attributable for Hardywood prior to the time Hardywood collected and remitted such tax is in substantial doubt, and that because of such substantial doubt, it is in the best interest of the City that any meals tax assessed against and disputed by Hardywood be deemed legally uncollectible.

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**FISCAL IMPACT/COST TO CITY:** The entire disputed amount of meals tax assessed against Hardywood, which amount includes penalty and interest, is \$61,118.32, as of June 15, 2015, and such entire amount, including any interest accruing after June 15, 2015, shall be rendered legally uncollectible as of the date on which the Director of Finance submits to Hardywood the Director's written acceptance of such offer in compromise in the manner prescribed by subsection (c) of §58.1-3994 of the Code of Virginia.

**REVENUE TO CITY:** N/A

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** July 27, 2015

**CITY COUNCIL PUBLIC HEARING DATE:** September 14, 2015

O & R Request

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** N/A

**AFFECTED AGENCIES:** Finance

**RELATIONSHIP TO EXISTING ORD. OR RES.:** N/A

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

**ATTACHMENTS:** None

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**STAFF:** Paul Jez, Director of Finance

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