

## ORDINANCE 2016-01

An ordinance amending Chapter 15 of the Code of the Town of Warrenton, to add Article VIII, "Business Zones - Tax Incentives".

**BE IT ORDAINED by the Council of the Town of Warrenton, Virginia, in regular session assembled on January 12, 2016, that Article VIII be added as noted:**

### **CHAPTER 15 ARTICLE VIII. - BUSINESS ZONES—TAX INCENTIVES**

#### **DIVISION 1. - TECHNOLOGY ZONES**

##### **Sec. 15-100. - Technology zones.**

In accordance with Code of Virginia § 58.1-3850, the Town of Warrenton is hereby established as a technology zone, as of the date of adoption of the ordinance from which this article derives.

##### **Sec. 15-101. - Qualifying businesses.**

(a) A new or expanded qualified technology business located within a designated technology zone shall be eligible for the economic incentives set forth hereafter in section 15-116.

An existing business located in a technology zone may apply for a determination that it is a qualified technology business if it is expanding its operations.

(b) A qualified technology business is one whose primary purpose is the design, research, development, utilization or production of technology services, software or products. The following businesses are deemed qualified technology businesses:

- (1) Design, or research and development of computer hardware or software, computer network protocols, information systems, internet software, internet data applications, and data centers;
- (2) Production of multimedia products, training in the use of computer hardware or software or computerized mapping systems;
- (3) Development of technology related to health, security, national defense, telecommunications, data warehousing, desktop publishing, wireless technologies or virtual technologies;
- (4) Provision of internet services and business to business exchanges;
- (5) Research, design and manufacture and development of biotechnology, pharmaceutical or medical technologies or products;
- (6) Research, design and manufacture and development of electronics for lease, sale or license, including flexible printed circuits, custom integrated circuits, electronic assemblies, medical electronic displays;
- (7) Research, design, manufacture and development of electric automobiles, buses and other transportation devices that do not use internal combustion engines as the primary means of propulsion;

- (8) Research, design, manufacture and development of alternate energy technology or the energy production from such sources; to including wind turbines, photovoltaic cells, fuel cells;
- (9) Research and development related to computer and electronic systems, computer software, applied sciences, physical sciences.

(c) Mere use of computers or technology in the course of business activity is insufficient to cause a business to be a qualified technology business.

### **Sec. 15-115. - Application.**

Application for designation as a qualifying technology business shall be made to the Manager of the Office of Economic Development. The application shall include the following information:

- (1) Investment:
  - a. New business investment. A capital investment of a minimum of five hundred thousand dollars (\$500,000) in land, building and/or machinery shall be required to qualify for designation unless otherwise authorized by resolution of the Town Council.
  - b. Existing business investment. A capital investment of a minimum of two hundred fifty thousand dollars (\$250,000) in land, building and/or machinery shall be required to qualify for designation unless otherwise authorized by resolution of the Town Council.
- (2) Employment:
  - a. New business investment. Ten (10) new full-time jobs having salaries at least ten (10) percent above the average county wage level as listed by the Virginia Employment Commission for the prior calendar year shall be created within the first calendar year of operation unless otherwise authorized by resolution of the Town Council.
  - b. Existing business investment. Three (3) new full-time jobs having salaries at least ten (10) percent above the average county wage level as listed by the Virginia Employment Commission for the prior calendar year shall be created within the first calendar year of operation unless otherwise authorized by resolution of the Town Council.

The Economic Development Manager, the Town Attorney and the Commissioner of Revenue shall perform the initial review of the project to determine whether the project meets the required criteria for a qualified technology business and is consistent with the town's policy for the consideration of technology zone incentives. If the initial review indicates that the project has merit, the Manager shall forward the request and recommendation to the Town Manager for consideration by the Town Council. The Council shall review the proposed project and accompanying request. The Council shall evaluate the request and make a decision based upon the project's positive impact on the town. The Council retains the sole authority to designate incentives for the implementation of economic development projects.

### **Sec. 15-116. - Incentives.**

Incentives shall apply for three (3) years from the later of the: (i) date a business is determined to be a qualified technology business; (ii) the date the business commences operation; or (iii) the date that an existing business completes a qualifying expansion. Rebates shall be made at the end of each tax year on an annual basis. Only those taxes and fees which have actually been paid to the town shall be rebated. No interest shall be paid on any funds rebated. Incentives to qualifying firms are as follows:

- (1) Tax rebates.
  - a. One hundred (100) percent rebate on business, professional and occupational license tax imposed by the town pursuant to Chapter 12 of the Town Code, Section 12-13; and
  - b. One hundred (100) percent rebate on tangible business personal property and machinery and tools tax imposed by the town pursuant to Chapter 8 Article X of the Town Code.

- (2) Permit fee rebates or waivers. Town fees for site plan, building, and zoning permits.
- (3) Tax rebates—Existing businesses. For those qualified technology businesses that are existing technology businesses, rebates shall only be applicable to taxes assessed on the portion of gross receipts or acquired tangible business personal property, machinery and tools directly attributable to the expansion of the business. The amount of each tax rebate shall be a percentage of that portion of taxes paid by the qualified technology business each year of the incentive period that is directly attributable to the expansion of the business.
- (4) Targeted industry status. Qualified technology businesses shall be placed in the town's accelerated review program. Nothing herein shall be construed as limiting the Council's power to grant additional incentives as may be permitted by law to technology businesses on a case-by case basis including, but not limited to, incentives granted pursuant to performance agreements and individualized arrangements with or without the involvement of the Fauquier County Economic Development Authority.

**Sec. 15-117. - Administration.**

- (a) After a technology business has been certified as a qualified technology business, it shall annually submit a technology zone program annual review application to the Commissioner of Revenue on or before March 1st of each year of the incentive period, indicating the number of full-time employees employed by the qualified technology business, an official Virginia Employment Commission report for wage verification, the amount of business personal property and/or machinery and tool taxes paid by the qualified technology business during the incentive period, and any other information as requested by the Commissioner of Revenue or the Office of Economic Development for purposes of administering the technology zone. Applications must be signed by an official representative of the qualified technology business authorized to sign on its behalf. Applications received after March 1st will not be eligible to receive technology zone incentives for that year.
- (b) An existing technology business shall not qualify for technology zone incentives by reorganizing or changing its form in a manner that does not alter the basis of the technology business assets or result in a taxable event.
- (c) If a qualified technology business fails to pay in full the taxes imposed by the town and county by the due date, this will result in the forfeiture of the technology zone incentives for that year.
- (d) If a qualified technology business files for bankruptcy during the three-year incentive period, this will result in disqualification and the business will be ineligible to receive technology zone incentives for the remainder of the incentive period.
- (e) In the event that the technology business ceases to be a qualified technology business, ceases to meet the minimum employment and capital investment criteria, or removes itself from operation from the town during any year within any three-year incentive period, it shall be required to repay the total amount of technology zone incentives received. A technology business must sign an agreement to this effect prior to receiving technology zone incentives.

## DIVISION 2. - TOURISM ZONES

### **Sec. 15-118. - Tourism zones.**

In accordance with Code of Virginia, § 58.1-3851, the Town of Warrenton is hereby established as a tourism zone, as of the date of adoption of the ordinance from which this article derives.

### **Sec. 15-119. - Qualifying businesses.**

(a) A new or expanded qualified tourism business located within a designated tourism zone shall be eligible for the economic incentives set forth hereafter in section 15-121.

An existing business located in a tourism zone may apply for a determination that it is a qualified tourism business if it is expanding its operations.

(b) A qualified tourism business means a business whose primary purpose is to establish a desirable destination to attract tourists from outside and within the community and create an environment for those visitors that will deliver a memorable experience or promote educational opportunities while increasing travel-related revenue.

### **Sec. 15-120. - Application.**

Application for designation as a qualifying tourism business shall be made to the Manager of the Office of Economic Development. The application shall include the following information:

(1) Investment.

a. New business investment. A capital investment of a minimum of five hundred thousand dollars (\$250,000) in land, building and/or machinery shall be required to qualify for designation unless otherwise authorized by resolution of the Town Council.

b. Existing business investment. A capital investment of a minimum of two hundred fifty thousand dollars (\$100,000) in land, building and/or machinery shall be required to qualify for designation unless otherwise authorized by resolution of the Town Council.

(2) Employment.

a. New business investment. Five (5) new full-time jobs shall be created within the first calendar year of operation unless otherwise authorized by resolution of the Town Council.

b. Existing business investment. Two (2) new full-time jobs shall be created within the first calendar year of operation unless otherwise authorized by resolution of the Town Council.

The Economic Development Manager, the Town Attorney and the Commissioner of Revenue shall perform the initial review of the project to determine whether the project meets the required criteria for a qualified tourism business and is consistent with the town's policy for the consideration of tourism zone incentives. If the initial review indicates that the project has merit, the Manager shall forward the request and recommendation to the Town Manager for consideration by the Town Council. The Council shall review the proposed project and accompanying request. The Council shall evaluate the request and make a decision based upon the project's positive impact on the town. The Council retains the sole authority to designate incentives for the implementation of economic development projects.

## **Sec. 15-121. - Incentives.**

Incentives shall apply for three (3) years from the later of the: (i) date a business is determined to be a qualified tourism business; (ii) the date the business commences operation; or (iii) the date that an existing business completes a qualifying expansion. Rebates shall be made at the end of each tax year on an annual basis. Only those taxes and fees which have actually been paid to the town shall be rebated. No interest shall be paid on any funds rebated. Incentives to qualifying firms are as follows:

- (1) Tax rebates.
  - a. One hundred (100) percent rebate on business, professional and occupational license tax imposed by the town pursuant to Chapter 12 of the Town Code, Section 12-13; and
  - b. One hundred (100) percent rebate on tangible business personal property and machinery and tools tax imposed by the town pursuant to Chapter 8 Article X of the Town Code.
- (2) Permit fee rebates or waivers. Town fees for site plan, building and zoning permits.
- (3) Tax rebates—Existing businesses. For those qualified tourism businesses that are existing tourism businesses, rebates shall only be applicable to taxes assessed on the portion of gross receipts or acquired tangible business personal property, machinery and tools directly attributable to the expansion of the business. The amount of each tax rebate shall be a percentage of that portion of taxes paid by the qualified tourism business each year of the incentive period that is directly attributable to the expansion of the business.
- (4) Targeted industry status. Qualified tourism businesses shall be placed in the town's accelerated review program. Nothing herein shall be construed as limiting the Council's power to grant additional incentives as may be permitted by law to tourism businesses on a case-by case basis including, but not limited to, incentives granted pursuant to performance agreements and individualized arrangements with or without the involvement of the Fauquier County Economic Development Authority.

## **Sec. 15-122. - Administration.**

- (a) After a tourism business has been certified as a qualified tourism business, it shall annually submit a tourism zone program annual review application to the Commissioner of Revenue on or before March 1st of each year of the incentive period, indicating the number of full-time employees employed by the qualified tourism business, an official Virginia Employment Commission report for wage verification, the amount of business personal property and/or machinery and tool taxes paid by the qualified tourism business during the incentive period, and any other information as requested by the Commissioner of Revenue or the Office of Economic Development for purposes of administering the tourism zone. Applications must be signed by an official representative of the qualified tourism business authorized to sign on its behalf. Applications received after March 1st will not be eligible to receive tourism zone incentives for that year.
- (b) An existing tourism business shall not qualify for tourism zone incentives by reorganizing or changing its form in a manner that does not alter the basis of the tourism business assets or result in a taxable event.
- (c) If a qualified tourism business fails to pay in full the taxes imposed by the town and Fauquier County by the due date, this will result in the forfeiture of the tourism zone incentives for that year.
- (d) If a qualified tourism business files for bankruptcy during the three-year incentive period, this will result in disqualification and the business will be ineligible to receive tourism zone incentives for the remainder of the incentive period.
- (e) In the event that the tourism business ceases to be a qualified tourism business, ceases to meet the minimum employment and capital investment criteria, or removes itself from operation from the town during any year within any three-year incentive period, it shall be required to repay the total amount

of tourism zone incentives received. A tourism business must sign an agreement to this effect prior to receiving tourism zone incentives.

## DIVISION 3 - DEFENSE PRODUCTION INCENTIVE ZONES

### **Sec. 15-123. - Defense production incentive zones.**

In accordance with Code of Virginia, § 58.1-3853, the Town of Warrenton is hereby established as a defense production incentive zone, as of the date of adoption of the ordinance from which this article derives.

### **Sec. 15-124. - Qualifying businesses.**

- (a) A new or expanded defense production business or defense contractor as defined herein located within a designated defense production incentive zone shall be eligible for the economic incentives set forth hereafter in section 15-127.
- (b) An existing business located in a defense production incentive zone may apply for a determination that it is a qualified defense production business or defense contractor if it is expanding its operations.
- (c) An eligible business which relocates to another site or sites within the town shall remain eligible for the incentives provided for herein.

### **Sec. 15-125. - Definitions.**

"Defense contractor" means a business, other than a defense production business, that is primarily engaged in providing services in support of national defense, including but not limited to logistics and technical support.

"Defense production business" means a business engaged in the design, development, or production of materials, components, or equipment required to meet the needs of national defense, including any business that performs functions ancillary to or in support of the design, development, or production of such materials, components or equipment.

### **Sec. 15-126. - Application.**

Application for designation as a qualifying defense production business or a defense contractor shall be made to the Manager of the Department of Economic Development. The application shall include the following information:

- (1) Investment:
  - a. New business investment. A capital investment of a minimum of five hundred thousand dollars (\$500,000) in land, building and/or machinery shall be required to qualify for designation unless otherwise authorized by resolution of the Town Council.
  - b. Existing business investment. A capital investment of a minimum of two hundred fifty thousand dollars (\$250,000) in land, building and/or machinery shall be required to qualify for designation unless otherwise authorized by resolution of the Town Council.
- (2) Employment:
  - a. New business investment. Ten (10) new full-time jobs having salaries at least ten (10) percent above the average county wage level as listed by the Virginia Employment Commission for the prior calendar year shall be created within the first calendar year of operation unless otherwise authorized by resolution of the Town Council.
  - b. Existing business investment. Three (3) new full-time jobs having salaries at least ten (10) percent above the average county wage level as listed by the Virginia Employment Commission for the prior calendar year shall be created within the first calendar year of operation unless otherwise authorized by resolution of the Town Council.

The Manager, the Town Attorney, and the Commissioner of Revenue shall perform the initial review of the project to determine whether the project meets the required criteria for a qualified defense business and is consistent with the town's policy for the consideration of defense production zone incentives. If the initial review indicates that the project is eligible for incentives, the Manager shall have the authority, with the concurrence of the Town Manager, to grant accelerated permit review and authorize permit rebates. The Manager shall forward the request with a recommendation of such other incentives as are appropriate to the Town Manager for consideration by the Town Council. The Council shall review the proposed project and accompanying request. The Council shall evaluate the request and make a decision based upon the project's positive impact on the town. The Council retains the sole authority to designate incentives for the implementation of economic development projects.

### **Sec. 15-127. - Incentives.**

Incentives shall apply for three (3) years from the later of the: (i) date a business is determined to be a qualified defense business; (ii) the date the business commences operation; or (iii) the date that an existing business completes a qualifying expansion. Rebates shall be made at the end of each tax year on an annual basis. Only those taxes and fees which have actually been paid to the town shall be rebated. No interest shall be paid on any funds rebated. Incentives to qualifying firms are as follows:

- (1) Tax rebates—New businesses.
  - a. One hundred (100) percent rebate on business, professional and occupational license tax imposed by the town pursuant to Chapter 12 of the Town Code, section 12-13; and
  - b. One hundred (100) percent rebate on tangible business personal property and machinery and tools tax imposed by the town pursuant to Chapter 8 Article X of the Town Code.
- (2) Permit fee rebates or waivers. Town fees for site plan, building and zoning permits.
- (3) Tax rebates—Existing businesses. For those qualified defense businesses that are existing defense businesses, rebates shall only be applicable to taxes assessed on the portion of gross receipts or acquired tangible business personal property, machinery and tools directly attributable to the expansion of the business. The amount of each tax rebate shall be a percentage of that portion of taxes paid by the qualified defense business each year of the incentive period that is directly attributable to the expansion of the business.
- (4) Additional incentives for substantial job creation or substantial investment. For businesses which are deemed by the Council to create the potential for substantial job creation or substantial investment, the Council in its discretion may, pursuant to a performance agreement authorized by the Council, grant additional full or partial tax rebates for any tax authorized by Code of Virginia, § 58.1-3853 and the Virginia Constitution for up to twenty (20) years, and may grant any such other incentives as are authorized therein. In granting such additional incentives the Council may consider such factors as the number and quality of jobs to be created, the level of investment and envisioned impact on the local economy, and prospects for growth of the business within the town.
- (5) Targeted industry status. Qualified defense businesses shall be placed in the town's accelerated review program. Nothing herein shall be construed as limiting the Council's power to grant additional incentives as may be permitted by law to defense businesses on a case-by case basis including, but not limited to, incentives granted pursuant to performance agreements and individualized arrangements with or without the involvement of the Fauquier County Economic Development Authority.

### **Sec. 15-128. - Administration.**

- (a) After a defense business has been certified as a qualified defense business, it shall annually submit a defense zone program annual review application to the Commissioner of Revenue on or before March 1st of each year of the incentive period, indicating the number of full-time employees

employed by the qualified defense business, an official Virginia Employment Commission report for wage verification, the amount of business personal property and/or machinery and tool taxes paid by the qualified defense business during the incentive period, and any other information as requested by the Commissioner of Revenue or the Office of Economic Development for purposes of administering the defense zone. Applications must be signed by an official representative of the qualified defense business authorized to sign on its behalf. Applications received after March 1st will not be eligible to receive defense zone incentives for that year.

- (b) An existing defense business shall not qualify for defense zone incentives by reorganizing or changing its form in a manner that does not alter the basis of the defense business assets or result in a taxable event.
- (c) If a qualified defense business fails to pay in full the taxes imposed by the town and county by the due date, this will result in the forfeiture of the defense zone incentives for that year.
- (d) If a qualified defense business files for bankruptcy during the three-year incentive period, this will result in disqualification and the business will be ineligible to receive defense zone incentives for the remainder of the incentive period.
- (e) In the event that the defense business ceases to be a qualified defense business, ceases to meet the minimum employment and capital investment criteria, or removes itself from operation from the town during any year within any three-year incentive period or such longer period as may be authorized herein, it shall be required to repay the total amount of defense zone incentives received. A defense business must sign an agreement to this effect prior to receiving defense zone incentives.

Adopted: January 12, 2016

Voting for: Reynolds, Polster, Wood, Lubowsky, Kravetz, Lewis

Voting against: \_\_\_\_\_

---

Evelyn J. Weimer, Town Recorder