



TOWN COUNCIL
Work Session
Town Hall
January 26, 2012
6:00 PM

1. Call to Order: Roll Call

2. Order of Business
 - A. Technology Zone

 - B. National Endowment for the Arts Our Town Grant

3. Motion to Adjourn

 <p>TOWN OF CAPE CHARLES</p>	AGENDA TITLE: Technology Zone		AGENDA DATE: January 26, 2012
	SUBJECT/PROPOSAL/REQUEST: Review and discuss the Technology Zone Ordinance		ITEM NUMBER: 2A
	ATTACHMENTS: Redlined draft ordinance and final draft ordinance		FOR COUNCIL: Action () Information (x)
	STAFF CONTACT (s): Tom Bonadeo – Libby Hume	REVIEWED BY: Heather Arcos, Town Manager	

BACKGROUND:

The Town Council and staff reviewed Technology Zone Ordinances from around the state and selected appropriate features for the Town of Cape Charles. At the last work session discussion centered on the administration of the grants, definition of qualifying businesses and compliance standards. Staff has engaged legal counsel to review and redline the draft ordinance. Staff then held a conference call with counsel and produced the draft documents that are attached.

DISCUSSION:

The Technology Zone Ordinance definitions have been reviewed by counsel and modified to include technologies other than pure computing but still to conform the general description of the state code. We also have a statement that includes any definition used by any other technology zones in the state.

The number of employees and quantity of investments has been adjusted per Council's request from the previous work session. Legal Counsel recommended the use of a Qualified Approval Letter rather than a contract and the ordinance is adjusted to reflect that suggestion. The "violation" section was also strengthened.

The grant amount is also more strictly regulated by percentage relative to the amount of investment and/or jobs created. The statement "increase proportionately" was added to the ordinance. This means that if a business invests half of the required maximum amount they get half of the maximum grant.

RECOMMENDATION:

Review the draft and marked up ordinance changes. The Technology Zone Ordinance could be on the next Town Council agenda and a public hearing could be set for the March meeting. Take a straw poll to on tourism zone development.

Chapter 23. -Technology Zone

Clean Version

Sec. 23-1. Purpose

The Town Council finds that the creation of a local technology zone, with incentives for growth, as authorized by Section 58.1-3850 of the *Code of Virginia*, 1950, as amended, will foster the Town's development, maintenance and expansion of commercial, tourist and industrial businesses engaged in the development and implementation of technology, all of which would benefit the citizens of the Town.

Sec. 23-2. Administration

This Chapter shall be administered by the Town Manager or his or her designee (the "Administrator"). The Administrator shall be responsible for determining if a business qualifies as a Qualified Technology Manufacturing Business or a Qualified Non-Manufacturing Applied Technology Business, and shall determine and publish the procedures for obtaining the benefits created by this Chapter.

Sec. 23-3. Boundary Area

The entire area of the Town of Cape Charles is designated a Technology Zone pursuant to Section 58.1-3850 of the *Code of Virginia*, 1950, as amended.

Sec. 23-4. Definitions

Economic Stimulus Grants means the incentive grants payable to a Qualified Technology Manufacturing Business or a Qualified Non-Manufacturing Applied Technology Business as provided in Section 23-6 of this Chapter.

Existing Business means a corporation, partnership, limited liability company or sole proprietorship authorized to conduct business in the Commonwealth of Virginia, located in and actively engaged in the conduct of trade or business in the Town prior to the adoption of this Chapter.

Full time job means a job that is to be performed by a worker for an average of at least 35 hours per week for a minimum of one year, with reasonable allowances for holidays and vacations.

New Business means a corporation, partnership, limited liability company or sole proprietorship authorized to conduct business in the Commonwealth of Virginia not

previously located in the Town that begins actively conducting business after the adoption of this Chapter.

Qualified Business means either a Qualified Non-manufacturing Applied Technology Business or a Qualified Technology Manufacturing Business.

Qualified Non-manufacturing Applied Technology Business means a New or Existing Business that has met the applicable qualifications set forth in Section 23-5 of this Chapter and that is engaged in the research, application, upgrading, repair or installation of computer hardware or software or other high-technology equipment in any business or research sector including but not limited to transportation, food production, and marine technology or any other similar activity deemed appropriate for a technology zone as defined in another jurisdiction of the Commonwealth, and found as such by the Administrator.

Qualified Technology Manufacturing Business means a New or Existing Business that has met the applicable qualifications set forth in Section 23-5 of this Chapter and that is engaged in technology-driven production of advanced materials or products for high-technology sectors or fields, including, but not limited to, robotics, computer hardware and software, sensors, marine technology, aerospace, or any other similar activity which is deemed appropriate for a technology zone as defined in another jurisdiction of the Commonwealth, and as found as such by the Administrator.

Sec. 23-5. Qualifications

1. Manufacturing. To be eligible for Economic Stimulus Grants, a Qualified Technology Manufacturing Business must:
 - a. Create and maintain a minimum of 5 new full time jobs which are each compensated at one and one half times the wage rate of the currently-defined federal minimum wage.
 - b. Make a new verified capital investment of no less than \$250,000.00 in a building, building improvements, and/or in machinery and tools. A capital investment does not include the cost to acquire real property.
2. Non-manufacturing. To be eligible for Economic Stimulus Grants, a Qualified Non-manufacturing Applied Technology Business must:

- a. Create and maintain a minimum of 3 new full time jobs which are each compensated at one and one half times the wage rate of the currently-defined federal minimum wage.
 - b. Make a new verified capital investment of no less than \$100,000.00 in a building, building improvements, and/or in machinery and tools. A capital investment does not include the cost to acquire real property.
3. Mere use of computers or technology in the course of an otherwise low-technology or traditional business shall not qualify a business as a Qualified Business.

Sec. 23-6. Economic Stimulus Grants and Enforcement

1. A Qualified Technology Manufacturing Business shall be eligible to receive the following Economic Stimulus Grants:
 - a. A grant equal to 25% of the new or increased machinery and tools tax paid to the Town with a verified capital investment of \$250,000.00 that shall increase proportionately up to 100% with a capital investment of \$1,000,000.00 or more.
 - b. A grant of up to 100% of the amount of the net increase in Real Estate Tax paid to the Town.
 - c. A grant of up to 100% of the amount of BPOL Tax paid to the Town.
 - d. For a Qualified Technology Manufacturing Business that maintains at least 25 full time jobs, a grant of up to 100% of the Facility and Connection fees paid to the Town.
 - e. A grant of up to 100% of the Building Permit fee paid to the Town.
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 - d. For a Qualified Non-manufacturing Applied Technology Business that maintains at least 15 full time jobs, a grant of up to 100% of the Facility and Connection fees paid to the Town.
 - e. A grant of up to 100% of the Building Permit fee paid to the Town.
3. The types and amounts of the Economic Stimulus Grants shall be based on the factors that the Town deems relevant, including without limitation the type of business conducted by the Qualified Business and amount of verified capital investment and the number of full time jobs created by the Qualified Business. The types and amounts of Economic Stimulus Grants awarded to a Qualified Business shall be initially determined by the Administrator, subject to approval by the Town Council.
4. No taxes, fees, or other charges shall be deemed waived by this Chapter. All such taxes, fees, and charges shall be paid by the Qualified Business in full as and when due. Economic Stimulus Grants described in subparts (a), (b), and (c) of subsections (1) and (2) above that are awarded to a Qualified Business shall be paid annually, in arrears, for each year that the Qualified Business meets all eligibility criteria up to a maximum of 5 years. If a Qualified Business fails to meet all eligibility criteria in any given year, the Economic Stimulus Grants for that year and all future years shall be forfeited. Economic Stimulus Grants described in subparts (d) and (e) of subsections (1) and (2) above that are awarded to a Qualified Business shall be paid upon verification by the Administrator of the completion of construction of the improvements to which the applicable Facility and Connection fees and/or Building Permit fees relate.
5. As a condition to receiving an Economic Stimulus Grant, a Qualified Business agrees to provide such information and allow such inspections as the Town deems reasonably necessary to verify the eligibility criteria and to ensure the Qualified Business's ongoing compliance therewith.
6. Notwithstanding anything to the contrary in this Chapter:

- a. An otherwise Qualified Business shall lose its eligibility for Economic Stimulus Grants, and shall repay any previously awarded Economic Stimulus Grants, upon any of the following:
 - i. A violation by such business or, to the extent related to the operation of the business, by any of its principals or officers, of any statute, regulation, or order of the United States or the Commonwealth of Virginia or any department or agency thereof; or
 - ii. A violation of any Town ordinance that continues beyond the applicable cure period or, if none, a period of 10 days.
 - b. All Economic Stimulus Grants are subject to the appropriation requirements of the Commonwealth of Virginia and the Town.
7. The Town will issue a Qualified Approval Letter which will specify the amount of the verified capital investment, the number of full time jobs created, the amount of the Economic Stimulus Grant(s), the eligibility criteria for receiving the Economic Stimulus Grant(s), the procedures for verifying compliance therewith, and such other terms as may be appropriate.

Sec. 23-7 Non-Waiver

Unless expressly stated herein, this Chapter shall not be construed to waive the requirement of any ordinances, regulations, and policies that require permits and approvals for land use, construction, and business operation. Additionally, unless stated otherwise herein, nothing in this chapter shall be construed as waiving the right of the Town to enforce its ordinances, regulations, or policies or to collect taxes, fees, fines, penalties, or interest imposed by law or by ordinance.

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 - b. Make a new verified capital investment of no less than \$250,000.00 in a building, building improvements, and/or in machinery and tools. A capital investment does not include the cost to acquire real property.
2. **Non-manufacturing.** To be eligible for Economic Stimulus Grants, a Qualified Non-manufacturing Applied Technology Business must:

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- a. Create and maintain a minimum of ~~3~~ new full time jobs which are each compensated at one and one half times the wage rate of the currently-defined federal minimum wage.
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~~[Does the Town want to distinguish between new and existing businesses? Other jurisdictions establish different qualification criteria for existing business vs. new business. For example, in Roanoke, an existing business must increase full time jobs by 10% over the previous year, and make a capital investment at least 20% greater than the value of its real estate or personal property. In contrast, a new business must create 3 jobs with a capital investment of \$30,000.]~~

~~The formula is simplified in the Town of Ashland, where an existing business must increase by 2 employees and demonstrate a capital investment of at least \$100,000. In contrast, a new business must create 5 jobs and make a capital investment of \$500,000.~~

~~If the Town does not want separate standards, then we can probably consolidate the new/existing business language.]~~

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given year, the Economic Stimulus Grants for that year and all future years shall be forfeited. Economic Stimulus Grants described in subparts (d) and (e) of subsections (1) and (2) above that are awarded to a Qualified Business shall be paid upon verification by the Administrator of the completion of construction of the improvements to which the applicable Facility and Connection fees and/or Building Permit fees relate.

5. As a condition to receiving an Economic Stimulus Grant, a Qualified Business agrees to provide such information and allow such inspections as the Town deems reasonably necessary to verify the eligibility criteria and to ensure the Qualified Business's ongoing compliance therewith.
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 - i. A violation by such business or, to the extent related to the operation of the business, by any of its principals or officers, of any statute, regulation, or order of the United States or the Commonwealth of Virginia or any department or agency thereof; or
 - ii. A violation of any Town ordinance that continues beyond the applicable cure period or, if none, a period of 10 days.
 - b. All Economic Stimulus Grants are subject to the appropriation requirements of the Commonwealth of Virginia and the Town.
7. The Town will issue a Qualified Approval Letter which will specify the amount of the verified capital investment, the number of full time jobs created, the amount of the Economic Stimulus Grant(s), the eligibility criteria for receiving the Economic Stimulus Grant(s), the procedures for verifying compliance therewith, and such other terms as may be appropriate.

~~We recommend deleting the notion of a separate contract with each business in favor of a Qualified Approval Letter that (i) approves a business and classifies the business based on the categories discussed above and (ii) sets forth all of the compliance requirements and reporting obligations. We are~~

~~happy to prepare a template, pending the resolution and clarification of the issues discussed here and in our separate, written correspondence.]~~

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~~[Based on our review of existing technology zone ordinances in other localities, we are concerned with the delegation of authority to the Town Manager to subjectively develop an incentive package for each qualified business. Increased subjectivity increases the risk that a business will claim a similarly-situated competitor received preferential treatment. The ordinance is less subject to a challenge to the extent it sets forth an objective calculation so that all businesses receive equal treatment under this local law. Accordingly, note that subpart (a) in each section above has been modified to that effect.]~~

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Notes:

- ~~1. The incentives are described as grants. This means the applicant pays the actual cost at the time the fee is due and once the criteria have been satisfied, a credit is given to the account.~~
- ~~2. When a business plans to locate in Cape Charles, an application would be made for the Technology Zone grant and the business applicant would specify how the business plans to meet the criteria and an agreement is made with the Zoning Administrator or Town Manager. If the incentive is real estate tax abatement, depending on the timing the tax may be paid and the grant given in the year following the review in item #1.~~
- ~~3. Both Cape Charles and Northampton County have existing programs for tax relief on rehabilitated buildings. The incentives for Technology could be handled in a similar fashion.~~

~~4.~~

~~5.1. 4839-6278-8366, v. 1~~