

PROPOSED ORDINANCE

Chapter 10 FINANCE AND TAXATION

ARTICLE V. ENTERPRISE ZONE

BE IT ORDAINED by the Council of the Town of Tazewell, Virginia, that pursuant to §2-1, et seq. of the Charter of the Town of Tazewell and Virginia Code §§58.1-3220 and 58.1-3220.01 (Repl. Vol. 2013) and §§59.1-279 and 59.1-538 (Repl. Vol. 2014), the Town of Tazewell hereby enacts Chapter 10, Article V. Enterprise Zone, as follows:

Sec. 10-71. Short title. This article shall be know and may be cited as “Town of Tazewell Enterprise Zone Ordinance.” References herein to “this Ordinance” shall mean this Article.

Sec. 10-72. Statement of Purpose. This Enterprise Zone is established pursuant to the Virginia Enterprise Zone Act (“the Act”), §59.1-279 et seq., §59.1-538 et seq., and §§58.1-3220 and 3221 of the Code of Virginia (1950), as amended. The purpose of the Enterprise Zone Act and this Ordinance is to stimulate business and industrial growth within the area so designated as the Town of Tazewell Enterprise Zone, by means of certain tax credits, tax exemptions, and local incentives as more particularly hereinafter set forth.

Sec. 10-73. Boundaries of the Town of Tazewell Enterprise Zone. The boundaries of the Town of Tazewell Enterprise Zone are as set forth on the map entitled, “Map of the Tazewell Enterprise Zone” which hereby is incorporated into this Ordinance and is on file in the office of the Town Manager at Central Avenue, Tazewell, Virginia, and the Tazewell County Circuit Court Clerk’s Office, together with copies of this Ordinance. The acreage shown on said map as “Enterprise Zone” hereby is declared an Enterprise Zone pursuant to the aforesaid statutes for a period of ten (10) years, in accordance with the Act.

Sec. 10-74. Definitions. As used in this Ordinance, the following definitions shall apply:

“Act” or “the Act” shall mean the Virginia Enterprise Zone Act, being §59.1-279, et seq. and §59.1-538 et seq. of the Code of Virginia (1950) as amended.

“Company” shall mean any corporation, or corporations electing small business (Subchapter S) corporation designation by the Internal Revenue Service, partnership, limited liability company, or sole proprietorship, authorized to do business in the Commonwealth of Virginia and subject to State and local taxation as permitted by the Code of Virginia. However, Company does not include organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, §§512 or 501(c); nor does it include homeowners associations as defined in Federal Internal Revenue Code, §528.

“County” shall mean the County of Tazewell, Virginia.

“Enterprise Zone” or “VEZ” shall mean an area declared by the Governor of the Commonwealth of Virginia to be eligible for the benefits accruing under §59.1-538 et seq. of the Code of Virginia and shown on the Town of Tazewell Enterprise Zone Map.

“Equivalent Employment” or “Equivalent Job” shall mean a person or persons employed by Company for at least Forty (40) hours per week at an hourly wage or salaried equivalent as may be required by the Council for the Town of Tazewell as provided in this Ordinance. A single Equivalent Job may mean one employed individual, or multiple employed individuals, whose aggregate hours of employment, at the required wage or salaried equivalent, equals at least Forty (40) hours per week. The Tazewell Town Council may modify the meaning of Equivalent Employment or Equivalent Job by requiring a minimum hourly wage or salaried equivalent. Until such designation is made the required hourly wage shall be the Federal Minimum wage.

“Existing Company” shall mean any Company operating or located within the Town on January 1, 2016 or more than twelve (12) months prior to applying for any grants pursuant to this Ordinance. A Company which retains substantially the same ownership and which operated or was located within the Town on January 1, 2016 shall be considered an Existing Company, even if the name of the Company or the organization of the business entity (corporate or otherwise) has changed.

“I/EDA” shall mean the Town of Tazewell Industrial/Economic Development Authority.

“Mixed use” shall mean a building used for both commercial/office/industrial use and residential use AND in which the first floor is dedicated to commercial use and the upper floor(s) is dedicated in whole or in part to residential use.

“New Company” shall mean a business operating within the Enterprise Zone only after

January 1, 2016, having had no prior business location within the Town.

“Qualified Company” shall mean a Company that:

(1) has applied for a grant or refund pursuant to this Ordinance;

and

(2) meets either of the following employment criteria:

(a) is a New Company that employs five (5) new Equivalent Jobs more than the Company employed at the time the Company applied for VEZ grant(s) or refunds; or

(b) an Existing Company that expands its existing operations at a location within the VEZ and maintains its employment levels equal to the number of Equivalent Jobs employed by the Company at the time the Company applied for the grant(s) or refunds;

and

(3) meets either of the following investment criteria:

(a) Company has invested at least Twenty-Five Thousand Dollars (\$25,000.00) in improvements to real property located in the Enterprise Zone, including but not limited to new construction, renovation, rehabilitation, or expansion of a taxable structure, which serve to facilitate the Company’s business operations; or

(b) Company has invested at least Twenty-Five Thousand Dollars (\$25,000.00) in purchasing machinery and tools, not previously assessed by the Town of Tazewell, which will be located in the Enterprise Zone and serve to facilitate the Company’s business operations located in the VEZ.

“Qualifying improvement(s)” shall mean the improvements to real property made by Company which constitute the basis of Company qualifying for grants or refunds pursuant to this Ordinance. No more than fifty percent (50%) of expenditures considered a qualifying improvement may be payments to persons or companies affiliated with or a subsidiary of applicant Company; expenditures made to such affiliated persons or subsidiary companies must be reasonable.

“Qualified Investment” means the investment in improvements to real property or in machines, tools, or other taxable personal business property reported by the applicant company to qualify for grant(s) or refunds pursuant to this Ordinance. No more than fifty percent (50%) of expenditures considered a qualifying investment may be payments to persons or companies affiliated

“New Company” shall mean a business operating within the Enterprise Zone only after with or a subsidiary of applicant Company; expenditures made to such affiliated persons or subsidiary companies must be reasonable.

“Town” shall mean the Town of Tazewell, Virginia.

“VEC” shall mean Virginia Employment Commission.

“VEZ” or “Enterprise Zone” shall mean the Virginia Enterprise Zone located in the Town of Tazewell, Virginia.

“Zone Administrator” shall mean the Town Manager, who shall serve as the Administrator of this Ordinance and the grants, refunds and benefits hereby created. In the event the Town Manager is unable to perform such duties, or is otherwise unavailable, the designee of the Town Manager may act as the Zone Administrator until the Town Manager is able to resume such administrative duties, or until the position has been filled by Council appointment.

Sec. 10-75. Rehabilitated Real Estate Tax Exemption (RRETE).

A. Definition. The Rehabilitated Real Estate Tax Exemption Incentive, hereinafter referred to as “RRETE”, is a three year partial exemption from taxation of the increase in assessed value of rehabilitated real estate, as authorized by §58.1-3221 of the Code of Virginia (1950), as amended, and for the residential portion of any mixed use building, pursuant to §58.1-3220 of the Code of Virginia (1950), as amended.

B. Amount of Incentive. Eighty percent (80%) of the increase in the assessed value of the property resulting from the Qualifying Investment will be exempted from taxation in the first tax year following completion of the Qualifying Investment, sixty percent (60%) in the second tax year; and forty percent (40%) in the third tax year. The exemption shall expire after three (3) tax years.

C. Qualification Requirements for RRETE.

1. The property being improved must be a structure at least fifteen (15) years old, located within the VEZ, and dedicated to commercial, industrial, or mixed use which includes either commercial or industrial;
2. The assessed value of the property improvements after the completion of the rehabilitation must equal or exceed ONE HUNDRED AND TWENTY-FIVE PERCENT (125%) of the assessed value of the property improvements prior to the commencement of the rehabilitation or addition;
3. The Applicant for the RRETE must be a Qualified Company that the Zone Administrator has determined is otherwise qualified;

the control of the Applicant, or an immediate family member of the Applicant, as defined in §2.2-3101 of the Code of Virginia (1950) as amended, or a tenant of Applicant, is receiving, has received, or has applied for another similar benefit pursuant to this Ordinance for the same improvements to the same property; and

5. The Applicant cannot receive the RRETE if the Applicant is delinquent on any tax or fee levied by the Town against any property of the Applicant, or if delinquent on any tax levied against other property of the Applicant by the County or any other incorporated Town in the County.

D. Repairs Do Not Qualify. Increased assessments resulting from rebuilding or repair after a flood, fire, or other natural disaster do not qualify as improvements for the RRETE.

E. Qualification Process for the RRETE.

1. To qualify for the RRETE, Applicant Company must apply for the RRETE prior to conducting any demolition, rehabilitation or addition to the qualifying property.

2. Applicant, in order to receive consideration and incentives from both Tazewell County and the Town, shall submit a separate application to the Tazewell County Economic Development Director, and also to the Town Manager, in order to be considered for grant or refund incentive qualification from the County as well as from the Town;

3. The Zone Administrator shall evaluate the application pursuant to the procedures set forth herein. Upon a finding by the Zone Administrator that (a) the Company is a Qualified Company, and (b) that the Company's proposed investment would be a Qualifying Investment for purposes of the RRETE, the Zone Administrator shall issue a notice of qualification for the RRETE to the Applicant.

4. Within twelve months of completion of the Qualifying Improvement, the Applicant then must present the notice of qualification to the Treasurer for the Town. If the Treasurer is satisfied that the Applicant has complied with the requirements of this Ordinance and has been qualified by the Zone Administrator, the Treasurer, pursuant to §§58.1-3220, and - 3221 of the Code, may adjust the Qualified Company's assessment for the Town in accordance with this Ordinance, beginning with the first tax year after an exemption has been approved by the Treasurer.

Sec. 10-76. Building Permit and Development Fee Refund Incentive. Where a Qualifying Company has been awarded a RRETE, building permit fees and erosion and sediment control permit fees paid by the Qualifying Company to the Town will be refunded to the Qualifying Company by

4. The Applicant for the RRETE cannot receive the RRETE if Applicant, or a legal entity under the I/EDA after completion of the Qualifying Improvement has been made and completion certified. For Applicants receiving a RRETE, the refund shall be made upon determination by the Building Inspector that rehabilitation construction has been completed and a certificate of occupancy issued. A Qualifying Company cannot receive the Building Permit and RRETE refund if the Qualifying Company is delinquent on any tax or fee levied by the Town.

Sec. 10-77. Lodging Tax Refund Incentive

A. Definition. The Lodging Tax Refund Incentive (“LTRI”) is the amount equal to that portion of the lodging tax collected by the Town from a Qualifying Business that shall be refunded for a three (3) year incentive period.

B. Schedule of refunds.

1. The three (3) year incentive period shall be subject to the following schedule:

- a. Year 1 - 80% refund;
- b. Year 2 - 60% refund;
- c. Year 3 - 40% refund.

2. For a qualifying new business, the entire tax shall be subject to the refund schedule set forth herein.

3. For a qualifying existing business, only the tax paid on the increase in lodging tax calculated from the base year plus five percent (5%) will be subject to the refund schedule set forth herein, with the base year being defined as the year prior to the first incentive year.

C. Qualification Requirements. In order qualify for receipt of the incentive, a Qualifying Business must:

1. be located in the Town of Tazewell Enterprise Zone as described and depicted on the Map of the Tazewell Enterprise Zone;

2. create at least five (5) new full time employment jobs;

3. expand the area occupied by the business by at least twenty percent (20%) (for existing businesses only);

4. be and/or remain current with all taxes or fees paid to the Town and/or to Tazewell County; and

5. sign, by a principal owner or officer designated for such purpose, a release permitting the Town Treasurer to disclose the amount of qualifying lodging taxes paid by the Qualifying Business to Town officials administering the LTRI.

D. Time Frame for Qualification.

1. The LTRI shall be paid out to a Qualifying Business semi-annually, on or about February 1, calculated on lodging taxes collected by or for the Town from July 1 through December 31 of the previous year, and or about August 1 on lodging taxes collected by or for the Town from January 1 to June 30 of the current year (the “payment dates”);

2. Payments shall begin to a Qualifying Business on the first payment date after a business receives a certification of qualification for the LTRI, unless a Qualifying Business chooses, at its option noted in writing to the Town, to begin its LTRI payments on the second payment date after the Qualifying Business receives its certification of qualification for the LTRI;

3. The refund year shall be calculated from the date of the first payment received by a Qualifying Business;

4. A qualifying new business must apply for the LTRI within twelve (12) months of creating the qualifying number of jobs;

5. A qualifying existing business must apply for the LTRI within twenty-four (24) months of the first qualifying event.

Sec. 10-78. Meals Tax Refund Incentive.

A. Definition. The Meals Tax Refund Incentive (“MTRI”) is the amount equal to that portion of the meals tax collected by the Town from a Qualifying Business that shall be refunded for a three (3) year incentive period.

B. Schedule of refunds.

1. The three (3) year incentive period shall be subject to the following schedule:

- a. Year 1 - 80% refund;
- b. Year 2 - 60% refund;
- c. Year 3 - 40% refund.

2. For a qualifying new business, the entire tax shall be subject to the refund schedule set forth herein.

3. For a qualifying existing business, only the tax paid on the increase in meals tax calculated from the base year plus five percent (5%) will be subject to the refund schedule set forth herein, with the base year being defined as the year prior to the first incentive year.

C. Qualification Requirements. In order qualify for receipt of the incentive, a qualifying business must:

1. be located in the Town of Tazewell Enterprise Zone as described and depicted on the

Map of the Tazewell Enterprise Zone;

2. create at least five (5) new full time employment jobs;
3. expand the area occupied by the business by at least twenty percent (20%) (for existing businesses only);
4. be and/or remain current with all taxes or fees paid to the Town and/or to Tazewell County; and
5. sign, by a principal owner or officer designated for such purpose, a release permitting the Town Treasurer to disclose the amount of qualifying meals taxes paid by the Qualifying Business to Town officials administering the MTRI.

D. Time Frame for Qualification.

1. The MTRI shall be paid out to a Qualifying Business semi-annually, on or about February 1, calculated on lodging taxes collected by or for the Town from July 1 through December 31 of the previous year, and or about August 1 on meals taxes collected by or for the Town from January 1 to June 30 of the current year (the “payment dates”);
2. Payments shall begin to a Qualifying Business on the first payment date after a business receives a certification of qualification for the MTRI, unless a Qualifying Business chooses, at its option noted in writing to the Town, to begin its MTRI payments on the second payment date after the Qualifying Business receives its certification of qualification for the MTRI;
3. The refund year shall be calculated from the date of the first payment received by a qualifying business;
4. A new business must apply for the MTRI within twelve (12) months of creating the qualifying number of jobs;
5. An existing business must apply for the MTRI within twenty-four (24) months of the first qualifying event.

Sec. 10-79. Business License Fee Abatement.

A. Definition. The Business License Fee Abatement (“BLFA”) is the amount equal to that portion of the business license fee collected by the Town from a Qualifying Business that shall be abated (or refunded if already paid) for a three (3) year incentive period.

B. Schedule of refunds.

1. The three (3) year incentive period shall be subject to the following schedule:
 - a. Year 1 - 80% abatement;
 - b. Year 2 - 60% abatement;

c. Year 3 - 40% abatement.

2. For a qualifying new business, the entire fee shall be subject to the abatement schedule;

3. For a qualifying existing business, only the fee levied on the increase in gross receipts calculated from the base year plus five percent (5%) will be subject to the abatement schedule set forth herein, with the base year being defined as the year prior to the first incentive year.

C. Qualification Requirements. In order to qualify for receipt of the incentive, a Qualifying Business must:

1. be located in the Town of Tazewell Enterprise Zone as described and depicted on the Map of the Tazewell Enterprise Zone;

2. create at least five (5) new full time employment jobs;

3. expand the area occupied by the business by at least twenty percent (20%) (for existing businesses only);

4. be a bed and breakfast, restaurant, retail establishment, or a hotel;

5. be and remain current with all taxes or fees paid to the Town and to Tazewell County;

6. sign, by a principal owner or officer designated for such purpose, a release permitting the Town Treasurer to disclose the amount of Qualifying Business license fees paid by the Qualifying Business to Town officials administering the BLFA.

D. Time Frame for Qualification.

1. The BLFA shall be paid out to a Qualifying Business semi-annually, on or about February 1, calculated on lodging taxes collected by or for the Town from July 1 through December 31 of the previous year, and or about August 1 on lodging taxes collected by or for the Town from January 1 to June 30 of the current year (the "payment dates");

2. Payments shall begin to a Qualifying Business on the first payment date after a business receives a certification of qualification for the BLFA, unless a Qualifying Business chooses, at its option noted in writing to the Town, to begin its BLFA payments on the second payment date after the Qualifying Business receives its certification of qualification for the BLFA;

3. The refund year shall be calculated from the date of the first payment received by a Qualifying Business;

4. A new business must apply for the BLFA within twelve (12) months of creating the qualifying number of jobs;

5. An existing business must apply for the BLFA within twenty-four (24) months of the first qualifying event.

Sec. 10-81. Procedures. The following procedures shall determine a Company's eligibility for Incentives provided for in this Ordinance.

A. Initial Qualification. To qualify for any grant or incentive set forth in this Ordinance a Company must apply to the Town of Tazewell I/EDA by completing forms prepared by said I/EDA. The application shall include a description of the Qualifying Improvements or Investments the Company intends to make, or has made not less than nine months prior to the application date. The application may include such other pertinent data as the Zone Administrator may find necessary to evaluate the application and verify the statements made on such application. The Zone Administrator shall, within sixty (60) days of receiving the application make a determination of eligibility. If the Zone Administrator determines the Company is eligible, the Company shall be considered a Qualified Company.

B. Continuing Qualification. The Qualified Company must continue to meet the definition of a Qualified Company, comply with the additional requirements herein set forth at the time of each request for a grant distribution, and must comply with additional requirements specific to each grant, refund or incentive requested by the Qualified Company. Once a previously Qualified Company has completed its Qualifying Investment or Improvement and, where applicable, has achieved its Equivalent Jobs requirement, Company must demonstrate to the Zone Administrator the following:

1. The Qualified Company has paid all taxes Company owed to the Town.
2. The Qualified Company must also present copies of their filings with the VEC demonstrating the Qualified Company continues to meet its employment qualifications.
3. That the Qualifying Company or any principal, partner, or member thereof has not failed to pay any other tax due to the Commonwealth of Virginia nor failed to meet the performance obligations of any grant agreement, whether pertaining to this ordinance or not, to which the I/EDA is a party.

Where a particular grant or incentive provides for additional requirements, or upon occasion of multiple distributions of grant or incentive proceeds, the Zone Administrator may require verification of continued qualification.

C. Refunds, Abatements and Distributions. Upon completion of the Qualifying Investments or Improvements, or as soon thereafter as the Company has qualified, the Qualifying Company shall provide proof of the expenditures made to perform the Qualifying Improvements or Investments. If the Zone Administrator determines that the Qualified Company is entitled to the specific refund or

abatement requested pursuant to this Ordinance, the Zone Administrator shall distribute the applicable proceeds to the Qualified Company within thirty (30) days of the Company (1) making its' application, (2) completing the Qualifying Investment or Improvement, and (3) meeting the employment requirements.

Sec. 10-82. Appeal of Decision by the Zone Administrator. The Zone Administrator shall provide written notice of his decision on any application to the affected Company by dated mailing to the address provided on the Company's application.

A. Any applicant Company denied eligibility, or any Qualified Company denied a distribution of refund or abatement proceeds or any portion thereof, may appeal the Zone Administrator's decision to the I/EDA by filing a written notice of appeal with the Town Manager within sixty (60) days of the date of the Zone Administrator's notice, who shall forward a copy of such notice to the I/EDA secretary. The I/EDA shall provide the appellant Company notice of the meeting at which the appeal will be considered, and the I/EDA shall notify the Company of its decision in writing.

1. If the I/EDA overturns the Zone Administrator's decision, the Company's Application and or distribution shall recommence, in accordance with the I/EDA's decision, relative to the date of the Zone Administrator's decision.

2. If the I/EDA does not act on the appeal within sixty (60) days of the appeal being filed, the appeal shall be deemed denied.

B. If the I/EDA denies the Company's appeal, or is deemed to have denied the Company's appeal, or the Company feels the I/EDA's decision is arbitrary, the Company may then appeal the decision to the Tazewell County Circuit Court by certiorari.

Sec. 10-82. Headings. The headings in this Ordinance are not intended to be material to interpretation of the Ordinance.

Secs. 10-83 –10-90. Reserved.

(Ord. of 01-12-16)

First Reading: January 12, 2016

VOTE (passage of Ordinance):

Catron	_____
Brown	_____
Fox	_____
McReynolds	_____
Mullins	_____
Murray	_____

Motion,
pursuant to Town Charter §3-82, to pass as an emergency measure to take effect immediately, made
by: _____; second: _____.

VOTE (2/3rds must approve for passage
as emergency ordinance):

Catron	_____
Brown	_____
Fox	_____
McReynolds	_____
Mullins	_____
Murray	_____

Mayor

Clerk