

## Chapter 7

### ENTERPRISE ZONE

- [Sec. 7-1. Statement of purpose.](#)
- [Sec. 7-2. Boundaries of the James River Enterprise Zone.](#)
- [Sec. 7-3. Definitions.](#)
- [Sec. 7-4. Qualification for incentives.](#)
- [Sec. 7-5. Local enterprise zone incentives.](#)
- [Sec. 7-6. Application.](#)
- [Sec. 7-7. Appeals.](#)
- [Sec. 7-8. Enterprise zone administrator.](#)
- [Sec. 7-9. Administrative regulations.](#)
- [Sec. 7-10. Construction and serviceability.](#)

#### **Sec. 7-1. Statement of purpose.**

In accordance with the Virginia Enterprise Zone Act, sections 59.1-270 et seq. of the Code of Virginia, and the declaration by the governor of the Commonwealth of Virginia declaring a portion of James City County as an enterprise zone, it is the purpose of this chapter to stimulate business and industrial growth and rehabilitate existing residential structures within the area designated as the James River Enterprise Zone by means of tax incentives, fee exemptions and local incentives designed to promote such growth.  
(Ord. No. 192, 5-14-96)

#### **Sec. 7-2. Boundaries of the James River Enterprise Zone.**

The boundaries of the James River Enterprise Zone are as set forth on the map entitled, "James River Enterprise Zone" revised September 28, 1995, which is on file in the office of enterprise zone administrator, the area of which has been declared an enterprise zone by the governor of the Commonwealth of Virginia for a period of 20 years in accordance with the Virginia Enterprise Zone Act.  
(Ord. No. 192, 5-14-96)

#### **Sec. 7-3. Definitions.**

For the purpose of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

*Business firm.* Any business entity authorized to do business in the Commonwealth of Virginia and subject to the state income tax on net corporate rate income (section 58.1-400, et seq.), or a public service company subject to a franchise or license tax on gross receipts, or a bank, mutual savings bank, savings and loan association, or a partnership or sole proprietorship. A business firm includes partnerships and small business corporations electing to be taxed under subchapter 5 of the Federal Internal Revenue Code, and which are not subject to state income taxes as partnerships or corporations, the taxable income of which is passed through to and taxed on individual partners and shareholders. However, a business firm 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, section 512, nor does it include homeowners= associations as defined in Federal Internal Revenue Code, section 528.

*Capital investment.* An investment that results in an increase in the assessed value of real estate and a net gain in the original capital cost of business personal property and machinery and tools which triggers the payment of taxes to the county.

*Employee of a zone establishment.* A person employed by a business firm who is on the payroll of the firm's establishment(s) within the zone. In the case of an employee who is on the payroll of two or more establishments of the firm, both inside and outside of the zone, the term "employee of a zone establishment" refers only to such an employee assigned to the firm's zone establishment(s) for at least one-half of his normally scheduled work days.

*Enterprise zone.* The area known as the James River Enterprise Zone declared by the governor of the Commonwealth of Virginia to be eligible for the benefits accruing under the Virginia Enterprise Zone Act (section 59.1-270, et seq.).

*Existing business.* Any business operating or located within the enterprise zone on January 1, 1996, or within the county prior to its location within the enterprise zone. A business which retains the same ownership and which was operating or located within the enterprise zone on January 1, 1996, or within the county prior to location with the enterprise zone shall not be defined as a new business, even if the name or entity (corporate or otherwise) has changed.

*Full-time employee.* A person employed by a business firm who is normally scheduled to work at least 35 hours per week during the firm's payroll period or two or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one position, provided that each such employee receives the same benefits as full-time employees. The term "full-time employee" does not include unpaid volunteer workers.

*Full-time permanent positions.* Jobs of indefinite duration requiring either (i) a minimum of 35 hours of an employee's time a week for the entire normal year of the business firm's operations, which a normal year@ must consist of at least 48 weeks, (ii) a minimum of 35 hours of an employee's time a week for the portion of the taxable year in which the employee was initially hired for, or transferred to, the business firm, or (iii) a minimum of 1,680 hours per year if the standard fringe benefits are paid by the business firm for the employee.

*New business.* A business firm which begins the operation of a trade or business within a zone after January 1, 1996. This shall include a business firm which existed in the designated zone prior to such designation of the zone, but which by bona fide sale becomes owned by another person, firm or corporation in which the previous owner or any member of his immediate family has no interest. "Immediate family," as used herein, shall mean the spouse, brothers, sisters, or children of the owner. (Ord. No. 192, 5-14-96; Ord. No. 192A-2, 7-28-98)

#### **Sec. 7-4. Qualification for incentives.**

(a) *Location and criteria.* In order to qualify for local incentives provided under this chapter, a business firm must locate or be located within the boundaries of the enterprise zone and meet the following criteria:

- (1) *Capital investment criteria.* After adoption of this chapter, make a capital investment of \$1,000,000.00 or more in any 24 month period in a commercial or industrial project within the zone; or

(2) *Job creation criteria.*

- a. Fifty percent of either a new business workforce or existing business workforce expansion is documented as living in James City County for one calendar year; and
- b. Seventy-five percent of business firm's workforce is full-time permanent positions; and
- c. The average annual wage for a business firm's workforce is 90 percent of the county's per capita income, using the most recent census data.

(b) *Eligibility.* Incentives available to a business firm under this chapter depend on which eligibility criteria in subsection (a) (1) or (2) the business meets. Business firms that meet both criteria shall be eligible for incentives available under both of the eligibility criteria.

(c) *Limitations.*

- (1) No incentives shall be available to business firms moving into the enterprise zone from another location within the county unless the move is in conjunction with an expansion of at least a 50 percent increase in facility space (not less than 10,000 additional square feet), or 50 percent increase in workforce (not less than ten new full-time permanent positions).
  - (2) The amount of any tax rebate due a business firm shall not exceed the total local tax liability of the business firm.
  - (3) In the event the Commonwealth of Virginia terminates funding for incentives for all or any business firms within the zone, the county may similarly cease funding local incentives.
- (Ord. No. 192, 5-14-96)

**Sec. 7-5. Local enterprise zone incentives.**

(a) *Business real estate improvement/rehabilitation grant.* Qualified firms located within the enterprise zone may be eligible to receive from the economic development authority a five-year declining grant as an incentive to the firm to invest in the new construction or rehabilitation of commercial and industrial facilities.

(b) *Machinery and tools and/or business personal property investment grant.* Business firms qualifying under the capital investment criteria may apply to the economic development authority for a five-year declining grant to compensate the firm for the amount attributable to the increased capital investment.

(c) *Waiver of permit fees.* The county shall waive permit fees for site plans, subdivisions, erosion and sedimentation control, land disturbing activities, and building, electrical, plumbing and HVAC approvals for the following:

- (1) Capital investments of business firms which meet the capital investment criteria; and
- (2) Rehabilitation of residential structures where the assess value does not exceed the 1991 base value of \$81,500.00 multiplied by the rate of inflation using the Consumer Price Index, not to exceed five percent in any one year.

Supp. No. 20, 6-06

(d) *JCSA sewer transmission fees.* Business firms qualifying under the capital investment criteria shall be eligible for a reduced sewer transmission fee as provided in the James City Service Authority Regulations Governing Utility Services, as amended.

(e) *Use of well water.* Business firms qualifying under the capital investment criteria shall be allowed to use water from permitted wells within the zone as process water.

(f) *Waiver of administrative fees.* Business firms qualifying under the capital investment criteria shall be eligible to apply to the economic development authority for a waiver of administrative fees involved in bond applications with the exception of any legal fees.

(g) *Waiver of consumer utility tax.* Business firms qualifying under the capital investment criteria shall be eligible for a 100 percent waiver of the county's consumer utility tax for five tax years beginning the tax year of application approval.

(h) *Employee-based tax incentive.* Business firms qualifying under the job creation criteria shall be eligible for a grant from the county's economic development authority of \$400.00 per employee who is a resident within the zone and \$200.00 per employee who is a resident of the county outside the zone. This incentive shall be payable for two tax years, at the end of each year, beginning the tax year of application approval. After the two-year period, a business firm shall be eligible for additional incentives per employee in the third year only if the business firm expands its employment 25 percent above its base employment established at the end of second year.

(i) *Day care grant.* Business firms qualifying under the job creation criteria shall be eligible for a one-time matching grant from the county's economic development authority of up to \$25,000.00 to be used with funds of an equal or greater amount from the business firm to establish or enhance a day care/preschool facility within the enterprise zone.

(j) *Residential real property rehabilitation tax exemption.* An owner of a residential structure within the zone shall be eligible for a five-year declining tax on the increased assessed real property value resulting from rehabilitation of the residential structure which qualifies under the provisions of Virginia Code section 58.1-3220, as amended. In the tax year after completion of rehabilitation, renovation or replacement, the property owner shall be eligible for a 50 percent exemption from the real property tax increase due to the increased assessed value. The exemption shall be 40 percent, 30 percent, 20 percent, and ten percent for each successive tax year. In order to be eligible for this tax exemption, the initial assessed value of the residential structure must not exceed the 1991 base value of \$81,500.00 multiplied by the rate of inflation using the Consumer Price Index, not to exceed five percent in any one year.

(Ord. No. 192, 5-14-96; Ord. No. 192A-1, 2-25-97; Ord. No. 192A-3, 6-27-06)

## **Sec. 7-6. Application.**

Any business firm seeking to receive local enterprise zone incentives shall make application to the enterprise zone administrator on forms provided by the enterprise zone administrator. The enterprise zone administrator shall then forward the application with a recommendation to the economic development authority which will then determine whether the applicant will be awarded a grant or grants from the economic development authority. The enterprise zone administrator may require the business firm to provide documentation establishing that said business firm has met the requirements for the receipt of local enterprise zone incentives.

Failure to provide requested documentation shall result in a denial of the business firm's application for local incentives. In the event that any business firm shall fail to make timely application as outlined in paragraph (b) and/or fails to maintain the requisite qualifications for the receipt of local enterprise zone incentives, the enterprise zone administrator shall inform the business firm in writing that it is no longer qualified for the receipt of local incentives and shall send a copy of said notice to the county administrator and economic development authority chairman.

(b) Effective July 1, 2006, applications must be submitted to the enterprise zone administrator within the first two years of said business firm achieving the qualification standards set forth in county code section 7-4. Any business firm which has been operating or located within the enterprise zone for two years or more, as of July 1, 2006 and has achieved the qualification standards set forth in county code section 7-4, but has not applied for the local enterprise zone incentives must make an application to the enterprise zone administrator no later than December 31, 2006, to remain eligible for the local enterprise zone incentives. Once a business firm is awarded a grant or grants from the economic development authority, the business firm shall then provide yearly documentation to the enterprise zone administrator, no later than March 31 of each successive year after the awarded grant or grants, to assure that said business firm has retained the requisite qualifications for the receipt of local enterprise zone incentives.

(Ord. No. 192, 5-14-96; Ord. No. 192A-1, 2-25-97; Ord. No. 192A-3, 6-27-06)

#### **Sec. 7-7. Appeals.**

An applicant may appeal the decision of the enterprise zone administrator within 30 days from the date the decision was rendered. The notice of appeal shall be in writing, delivered to the county administrator and specify with particularity the basis for the appeal. The county administrator shall set a hearing for the appeal and provide the applicant and enterprise zone administrator at least five days' notice prior to such hearing. The decision of the county administrator or his designee shall be final.

(Ord. No. 192, 5-14-96)

#### **Sec. 7-8. Enterprise zone administrator.**

The enterprise zone administrator shall be the county's assistant manager for community services.

(Ord. No. 192, 5-14-96)

#### **Sec. 7-9. Administrative regulations.**

The county administrator may prescribe rules and regulations for the application of this chapter and approval of any incentives. Such rules and regulations shall guide the enterprise zone administrator in applying this chapter.

(Ord. No. 192, 5-14-96)

**Sec. 7-10. Construction and severability.**

This chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that is contrary to the constitution of the Commonwealth or of the United States, or if the application thereof to any government agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government agency, person or circumstance.

(Ord. No. 192, 5-14-96)