

Ordinance **12-1700-916**

Date: Approved January 24, 2012

Technical Amendment approved February 7, 2012

AN ORDINANCE TO AMEND CHAPTER 22, TAXATION, OF THE CODE OF THE CITY OF MANASSAS PARK, VIRGINIA, TO PROVIDE FOR INCENTIVES TO ENCOURAGE NON-RESIDENTIAL DEVELOPMENT IN DESIGNATED REDEVELOPMENT DISTRICTS OF THE CITY, TO ENCOURAGE ASSEMBLAGE OF PARCELS FOR NON-RESIDENTIAL DEVELOPMENT IN DESIGNATED ECONOMIC REVITALIZATION ZONES OF THE CITY, AND TO ENCOURAGE BUSINESSES TO LOCATE OR EXPAND IN DESIGNATED TECHNOLOGY AND DEFENSE PRODUCTION ZONES OF THE CITY, PURSUANT TO SECTIONS 58.1-3219.4, 15.2-1129.2, 58.1-3850, AND 58.1-3853, RESPECTIVELY, OF THE CODE OF VIRGINIA

WHEREAS, the long-term goal of the Governing Body of the City of Manassas Park has been and continues to be the diversification of the City's tax base so that governmental operations are not overly dependent upon residential real estate taxes; and

WHEREAS, despite the concerted efforts of City officers and employees, the non-residential tax base within Manassas Park has not increased enough to diversify the City's tax base as desired; and

WHEREAS, in an effort to increase the non-residential portion of the City's tax base, and thereby benefit the welfare of the citizens of Manassas Park, the Governing Body desires to create and establish (i) one or more redevelopment districts in accordance with section 58.1-3219.4 of the Code of Virginia; (ii) one or more local economic revitalization zones in accordance with section 15.2-1129.2 of the Code of Virginia; (iii) one or more local technology zones in accordance with section 58.1-3850 of the Code of Virginia; and (iv) one or more local defense production zones in accordance with section 58.1-3853 of the Code of Virginia.

NOW THEREFORE BE IT ORDAINED by the Governing Body of the City of Manassas Park, Virginia that:

1. Chapter 22, Taxation, of the Code of the City of Manassas Park, Virginia, is hereby amended by adding a new Article XII to read as follows:

“ARTICLE XII. INCENTIVES

DIVISION 1. IN GENERAL

Sec. 22-210. Purpose.

The city finds that the development of its non-residential tax base requires incentives, and has determined that an appropriate method of offering such incentives is to create and establish (i) one or more redevelopment districts in accordance with section 58.1-3219.4 of the Code of

Virginia; (ii) one or more local economic revitalization zones in accordance with section 15.2-1129.2 of the Code of Virginia; (iii) one or more local technology zones in accordance with section 58.1-3850 of the Code of Virginia; and (iv) one or more local defense production zones in accordance with section 58.1-3853 of the Code of Virginia. The city believes that the creation and establishment of such districts and zones will improve the economic conditions of the city, which will in turn benefit the welfare of the citizens of the city.

Sec. 22-211. Administration.

- (a) The administrator of the districts and zones created and described in this article shall be the city manager or his designee(s). The administrator, in consultation with the commissioner of the revenue, shall determine and publish the procedures for obtaining the benefits created by this article and for the administration of this article.
- (b) The administrator shall be the single point-of-contact for qualified businesses to take advantage of the incentives described in this article, and shall provide recommendations as necessary to streamline the processes for a business to qualify for and obtain the incentives. Each business desiring to receive one or more of the incentives described in this article must first submit an application to the administrator describing which incentives are desired and the proposed performance measures.

Sec. 22-212. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

BPOL tax: The business, professional and occupational license tax imposed and collected by the city pursuant to this chapter.

Business: A corporation, limited liability company, partnership, sole proprietorship or other form of entity organized under the relevant provisions of the Code of Virginia or otherwise authorized to conduct business in the Commonwealth of Virginia.

Defense production zone: A zone created to implement the incentives authorized by section 58.1-3853 of the Code of Virginia for defense production businesses, the boundaries of which are defined in the city's comprehensive plan.

Economic revitalization zone: A zone created to implement the incentives authorized by section 15.2-1129.2 of the Code of Virginia for targeted businesses, the boundaries of which are defined in the city's comprehensive plan.

Eligibility date: The first day of the month following the day on which a business has become an eligible business.

Eligible business: A business that has fully met both the general eligibility requirements set forth in section 22-213 below and the specific eligibility requirements for the desired incentive(s).

Incentive period: The period of time established in a performance agreement during which an eligible business will receive one or more of the tax exemptions described in this article. For real estate property tax exemptions, the incentive period will be based on a fiscal year (*i.e.*, July 1 through June 30); for BPOL tax exemptions, the incentive period will be based on a calendar year (*i.e.*, January 1 through December 31). No real estate property tax incentive period shall extend beyond June 30, 2022; no BPOL tax incentive period shall extend beyond December 31, 2021.

Incentive period commencement date:

- (1) For BPOL tax exemptions – January 1
- (2) For real estate property tax exemptions – July 1

Incentive zoning district: One of the following zoning districts, which have been created for the purpose of providing one or more of the incentives described in this article:

- (1) MU-D Downtown mixed-use district, as defined in section 31-17.A.
- (2) B-3 Gateway business district, as defined in section 31-19.A.
- (3) I-2 Light industrial district, as defined in section 31-20.A.

Non-residential uses: Uses of property that do not include dwellings, as that term is defined in section 31-6.

Performance agreement: An agreement entered into by a business and the city in which the business commits to certain performance measures in order to be eligible for one or more of the incentives described in this article.

Performance measure: An eligibility measure that must be maintained throughout an incentive period by a business to continue receiving the tax exemption(s) described in a performance agreement. Performance measures are as follows:

- (1) The expansion or establishment, and continued operation throughout the incentive period, of a qualifying defense production business;
- (2) The expansion or establishment, and continued operation throughout the incentive period, of a qualifying technology business;
- (3) Each multiple of 10,000 square feet of new construction or improvements dedicated to non-residential uses, and continued operation of the business throughout the incentive period;
- (4) Each multiple of 10 new employees hired for non-residential uses, with continued employment by the business throughout the incentive period;

- (5) Each multiple of \$100,000 in additional assessed value of real estate for the subject real property that is attributed to non-residential uses, maintained throughout the incentive period; and
- (6) Each multiple of \$100,000 in new or additional gross receipts for the business that are attributed to non-residential uses, maintained throughout the incentive period.

Qualifying defense production business: A company or identifiable subdivision of a company that is engaged in, or performs functions ancillary to or in support of, the design, development, or production of materials, components, or equipment required to meet the needs of national defense and that expands or locates in a defense production zone. In no case shall a use be permitted by a defense production business that is likely to be dangerous or offensive because of odor, dust, fire, explosion, or other reasons, or that uses equipment and/or processes that are likely to produce objectionable noise, vibration, explosion, fire, smoke, or other effect.

Qualifying technology business: A company or identifiable subdivision of a company that has fifty percent (50%) or more of its gross receipts derived from research, development, manufacturing or rendering of advanced technological products or services and that expands or locates in a technology zone. In no case shall the use of computers or telecommunication services by a company or identifiable subdivision of a company in its administrative operations qualify such company or subdivision as a technology business.

Real estate property tax: The *ad valorem* tax on real property imposed and collected by the city pursuant to this chapter.

Redevelopment district: A district created to implement the incentives authorized by section 58.1-3219.4 of the Code of Virginia, the boundaries of which are defined in the city's comprehensive plan.

Technology zone. A zone created to implement the incentives authorized by section 58.1-3850 of the Code of Virginia for technology businesses, the boundaries of which are defined in the city's comprehensive plan.

Sec. 22-213. General eligibility requirements.

In addition to the specific eligibility requirements established for each of the districts and zones described in this article, a business applying for one or more of the incentives described in this article must enter into a performance agreement with the city in which it commits to one or more performance measures.

Sec. 22-214. Calculation of tax exemption.

(a) Amount eligible for tax exemption.

- (1) Real estate property tax exemption. Eighty percent (80%) of the additional assessed value of real estate attributed to new construction and/or improvements for non-residential uses on real property within a redevelopment district shall be eligible for exemption from real estate property tax pursuant to the formula described in

subsection (b) below. To determine the additional assessed value, the city assessor will compare (i) the assessed value of the subject real estate attributed to non-residential uses on the July 1 immediately preceding the completion of such construction and/or improvements (the “baseline assessment”) with (ii) the assessed value of the subject real estate attributed to non-residential uses on the subsequent July 1. For each subsequent year, if any, in an incentive period, the city assessor will compare the assessed value of the subject property attributed to non-residential uses to the baseline assessment to determine the additional assessed value that is eligible for the real estate property tax exemption.

- (2) BPOL tax exemption. Eighty percent (80%) of the additional or new gross receipts attributed to any of the following shall be eligible for exemption from BPOL tax pursuant to the formula described in subsection (b) below:
- a. New development for non-residential uses on assembled parcels of land within an economic revitalization zone;
 - b. A qualifying technology business; or
 - c. A qualifying defense production business.

To determine the additional gross receipts for a business, the commissioner of the revenue will compare (i) the gross receipts of the business attributed to non-residential uses for the year immediately preceding the year in which the business became an eligible business (the “baseline gross receipts”), to the gross receipts of the business attributed to non-residential uses in the first year of the incentive period. For each subsequent year, if any, in an incentive period, the commissioner of the revenue will compare the gross receipts of the business attributed to non-residential uses to the baseline gross receipts to determine the additional gross receipts that are eligible for the BPOL property tax exemption.

- (b) Each eligible business will receive a declining real estate property tax exemption and/or BPOL tax exemption for an incentive period(s) that will be determined using a point system, as follows:

- (1) One point will be awarded for each performance measure achieved by the eligible business. The number of points awarded will correspond to the number of years in the incentive period. A business shall not be awarded more than ten (10) points.

Example: A new technology business has located in a technology zone. It hires 10 new employees, expands an existing structure by 10,000 square feet, increases the assessed value of the real estate by \$100,000, and is awarded 4 points for performance measures. Assuming all eligibility requirements had been met, the length of the incentive periods for a real estate property tax exemption and a BPOL tax exemption would each be 4 years.

- (2) For the first year of an incentive period, the amount exempt from real estate property tax and/or BPOL tax shall be the amount eligible for tax exemption pursuant to subsection (a) above.

Example: The new technology business had \$50,000 in new gross receipts and increased the assessed value of the real estate by \$100,000. In year 1 the amount of new gross receipts exempt from BPOL tax would be \$40,000 (80% of \$50,000) and the amount of new assessed value exempt from real estate property tax \$80,000 (80% of \$100,000).

- (3) For subsequent years, if any, in an incentive period, the amount exempt from real estate property tax and/or BPOL tax shall be incrementally reduced by a pro rata amount each year, said amount to be determined by dividing the amount exempt in the first year by the number of years in the incentive period.

Example: If the incentive period is 4 years in length and the new gross receipts exempt from BPOL tax in the first year is \$40,000, the amount exempt in each subsequent year would be reduced by \$10,000 ($\$40,000 \div 4$), so that in year 2 the amount exempt would be \$30,000; in year 3 the amount exempt would be \$20,000; and in year 4 the amount exempt would be \$10,000. Similarly, if the additional assessed value exempt from real estate tax in the first year is \$80,000, the amount exempt in each subsequent year would be reduced by \$20,000 ($\$80,000 \div 4$), so that in year 2 the amount exempt would be \$60,000; in year 3 the amount exempt would be \$40,000; and in year 4 the amount exempt would be \$20,000. After the expiration of the incentive period, the business would be taxed on the full amount of both the additional assessed value of real estate and the new gross receipts.

Sec. 22-215. Performance agreement.

- (a) Each performance agreement shall include a requirement, throughout the incentive period, that the business annually certify its eligibility for each tax exemption. If the stated performance measures are not maintained throughout the incentive period, the administrator shall review the eligibility for tax exemptions and will either (i) recalculate the exemption if the businesses still meets at least one performance measure, or (ii) terminate the exemption if the business is no longer an eligible business. In cases where the tax exemption is either recalculated or terminated, the administrator is authorized to re-establish the tax exemption for subsequent years at the rate set forth in the performance agreement if the business once again becomes eligible and/or performance measures are once again met.
- (b) Prior to entering into a performance agreement with a business, the administrator shall (i) confirm with the treasurer that no taxes, fees or other moneys, including penalties and interest, owed to the city by the business or any related business are outstanding, and (ii) confirm with the commissioner of the revenue and the city assessor that the business and any related business have complied with all requests for information as needed to develop

initial assessments for real and personal property and as needed to comply with the requirements of this article. For purposes of this article, a related business is a business' full or partial (i) owner, whether a shareholder, partner, member, sole proprietor or other ownership interest; (ii) parent business; (iii) sister business; or (iv) subsidiary, division, branch or other subunit. The city shall not enter into a performance agreement with a business unless and until all such taxes, fees and other moneys, together with any penalties and interest, have been paid in full by the business and all related businesses.

- (c) Failure of a business or a related business to pay in full by the due date any taxes, fees or other moneys owed to the city shall result in the loss of the tax exemption(s) unless and until all such taxes, fees and other moneys, together with any penalties and interest, have been paid in full. The city reserves the right to withdraw tax exempt eligibility from any business that is not compliant, or which has a related business that is not compliant, with any city ordinance, regulation or other legal requirement.

DIVISION 2. REDEVELOPMENT DISTRICTS.

Sec. 22-216. Redevelopment districts created.

There are hereby created three redevelopment districts, the boundaries of which are defined in the city's comprehensive plan, as follows:

- City Center Redevelopment District
- Conner Center Redevelopment District
- Four Corners Redevelopment District

Sec. 22-217. Incentive.

A business shall, upon application and after meeting both general and specific eligibility requirements, receive a limited exemption of real estate property tax on a portion of the additional assessed value of its real estate within a redevelopment district that is attributed to new construction and/or improvements, pursuant to section 22-214 above.

Sec. 22-218. Specific eligibility requirements for tax exemption.

- (a) In addition to the general eligibility requirements set forth in section 22-213 above, to be eligible for the tax exemption described in this division, the following are required:
 - (1) The business must construct new structures on or make other improvements to real estate that is located in one of the redevelopment districts described in section 22-216 above.
 - (2) The subject real estate must be zoned to the appropriate incentive zoning district. **This requirement shall in no way be deemed to obligate or require the planning commission to recommend approval of a rezoning or other land use application or otherwise limit its discretionary advisory authority, or to obligate or require**

the governing body to approve a rezoning or other land use application or otherwise limit its discretionary legislative authority.

- (b) The new construction and/or improvements must be described in the performance agreement and must be completed prior to the business becoming fully eligible for the incentives described in this division.
- (c) An application for a real property tax exemption must be submitted to the administrator. Once the construction and/or improvements have been completed, the business must notify the administrator. Once the administrator has confirmed that all general and specific requirements have been met, he will then instruct the city assessor to determine the new assessed value of the real estate in accordance with paragraph 22-214(a)(1) above, which amount will be used to determine the amount of the tax exemption in accordance with subsection 22-214(b) above.

DIVISION 3. ECONOMIC REVITALIZATION ZONES.

Sec. 22-219. Economic revitalization zones created.

There are hereby created three economic revitalization zones, which are coextensive with the three redevelopment districts described in section 22-216 above.

Sec. 22-220. Incentives

A business shall, upon application and after meeting both general and specific eligibility requirements, receive a limited exemption of BPOL tax on a portion of the additional gross receipts attributed to new development on its assembled parcels of land within an economic revitalization zone, pursuant to section 22-214 above. In addition, once all general and specific eligibility requirements have been met, the following will be refunded to the business upon the city manager's receipt of a written request:

- (a) Fees for rezoning the subject property;
- (b) Fees for site plan review; and
- (c) Site development and building permit fees.

Sec. 22-221. Specific eligibility requirements for incentives.

- (a) In addition to the general eligibility requirements set forth in section 22-213 above, to be eligible for the incentives described in this division, the following are required:
 - (1) The business must assemble one or more parcels suitable for economic development in one of the economic revitalization zones described in section 22-219 above.
 - (2) The subject real estate must be zoned to the appropriate incentive zoning district.
This requirement shall in no way be deemed to obligate or require the planning

commission to recommend approval of a rezoning or other land use application or otherwise limit its discretionary advisory authority, or to obligate or require the governing body to approve a rezoning or other land use application or otherwise limit its discretionary legislative authority.

- (b) A description of the economic development proposed for the assembled parcels of land must be included in the performance agreement and must be completed prior to the business becoming fully eligible for the incentives described in this division.
- (c) An application for incentives must be submitted to the administrator. Once the economic development on the assembled parcels has been completed, the business must notify the administrator. Once the administrator has confirmed that all general and specific requirements have been met, he will then request that the commissioner of the revenue determine the amount of new gross receipts attributable to the new economic development in accordance with paragraph 22-214(a)(2) above, which amount will be used to determine the amount of the tax exemption in accordance with subsection 22-214(b) above.

DIVISION 4. TECHNOLOGY ZONE.

Sec. 22-222. Technology zone created.

There is hereby created a technology zone, which is coextensive with the City Center Redevelopment District and the Conner Center Redevelopment District described in section 22-216 above.

Sec. 22-223. Incentives

A qualifying technology business shall, upon application and after meeting both general and specific eligibility requirements, receive a limited exemption of BPOL tax on a portion of the new or additional gross receipts attributed to the qualifying technology business, pursuant to section 22-214 above. In addition, once all general and specific eligibility requirements have been met, the following will be refunded to the business upon the city manager's receipt of a written request:

- (a) Fees for rezoning the subject property;
- (b) Fees for site plan review; and
- (c) Site development and building permit fees.

Sec. 22-224. Specific eligibility requirements for incentives.

- (a) In addition to the general eligibility requirements set forth in section 22-213 above, to be eligible for the incentives described in this division, the following are required:

- (1) The business must expand or establish a qualifying technology business in the technology zone described in section 22-222 above.
 - (2) The subject real estate must be zoned to the appropriate incentive zoning district. **This requirement shall in no way be deemed to obligate or require the planning commission to recommend approval of a rezoning or other land use application or otherwise limit its discretionary advisory authority, or to obligate or require the governing body to approve a rezoning or other land use application or otherwise limit its discretionary legislative authority.**
- (b) A description of the qualifying technology business proposed must be included in the performance agreement. The expansion or establishment of the qualifying technology business must be completed prior to the business becoming fully eligible for the incentives described in this division.
 - (c) An application for incentives must be submitted to the administrator. Once the expansion or establishment of the qualifying technology business has been completed, the business must notify the administrator. Once the administrator has confirmed that all general and specific requirements have been met, he will then request that the commissioner of the revenue determine the amount of new gross receipts attributable to the expanded or newly established qualifying technology business in accordance with paragraph 22-214(a)(2) above, which amount will be used to determine the amount of the tax exemption in accordance with subsection 22-214(b) above.

DIVISION 5. DEFENSE PRODUCTION ZONE.

Sec. 22-225. Defense production zone created.

There is hereby created a defense production zone, which is coextensive with the Conner Center Redevelopment District described in section 22-216 above.

Sec. 22-226. Incentives

A qualifying defense production business shall, upon application and after meeting both general and specific eligibility requirements, receive a limited exemption of BPOL tax on a portion of the new or additional gross receipts attributed to the qualifying defense production business, pursuant to section 22-214 above. In addition, once all general and specific eligibility requirements have been met, the following will be refunded to the business upon the city manager's receipt of a written request:

- (a) Fees for rezoning the subject property;
- (b) Fees for site plan review; and
- (c) Site development and building permit fees.

Sec. 22-227. Specific eligibility requirements for incentives.

- (a) In addition to the general eligibility requirements set forth in section 22-213 above, to be eligible for the incentives described in this division, the following are required:
- (1) The business must expand or establish a qualifying defense production business in the defense production zone described in section 22-225 above.
 - (2) The subject real estate must be zoned to the appropriate incentive zoning district. **This requirement shall in no way be deemed to obligate or require the planning commission to recommend approval of a rezoning or other land use application or otherwise limit its discretionary advisory authority, or to obligate or require the governing body to approve a rezoning or other land use application or otherwise limit its discretionary legislative authority.**
- (b) A description of the qualifying defense production business proposed must be included in the performance agreement. The expansion or establishment of the qualifying defense production business must be completed prior to the business becoming fully eligible for the incentives described in this division.
- (c) An application for incentives must be submitted to the administrator. Once the expansion or establishment of the qualifying defense production business has been completed, the business must notify the administrator. Once the administrator has confirmed that all general and specific requirements have been met, he will then request that the commissioner of the revenue determine the amount of new gross receipts attributable to the expanded or newly established qualifying defense production business in accordance with paragraph 22-214(a)(2) above, which amount will be used to determine the amount of the tax exemption in accordance with subsection 22-214(b) above.”

2. All sections of the Code of the City of Manassas Park, Virginia that are inconsistent with and/or in conflict with this Ordinance are hereby repealed.
3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.
4. This Ordinance shall be effective upon its adoption.

Technical Amendment Approved February 7, 2012

Frank Jones, Mayor

Lana A Conner, City Clerk

Ayes
Nays
Absent
Abstain