



Agenda Memorandum
Town Council Meeting Item Number: #5.
Town of Warrenton, Virginia
Submitted by: Heather Stinson, Economic Development Manager
January 12, 2016

Issue: Consideration of Establishing Technology, Tourism, and Defense Production Zones for Business Incentives

Background:

- Fauquier County offers three incentive zone programs to support economic development: Technology Zones; Tourism Zones; and Defense Production Zones.
- These programs offer rebates to qualified businesses for 100% of business personal property taxes and Business Professional and Occupational License (BPOL) taxes for three years; as well as rebate or waiver of development fees (site plan, permits, etc.).
- Businesses that locate or expand within Town limits however, pay BPOL taxes to the Town rather than the County and pay additional business personal property taxes levied by the Town.

Discussion:

- The proposed programs would allow existing and new businesses that make new capital investment and create new jobs eligible for rebate of taxes and fees as outlined in Attachment 1.
- Adopting the same incentive zone programs that the County offers will remove the disincentive from locating in the Town and allow economic development staff to provide a seamless experience to business prospects. The proposed text amendment is drafted to mirror the County's ordinance, including proposed updates that will be brought to the Board of Supervisors for approval January 14, 2016.
- The Town Council has the authority to designate business incentives at its discretion. Adopting incentive programs creates structure, consistency of application and continuity for considering incentives. Furthermore, it demonstrates a community's commitment to economic development and transparency.
- Each application will be vetted by Economic Development Manager, the Town Manager, the Town Attorney, and the Commissioner of the Revenue. If a business meets the program criteria, its application will be brought to the Town Council for final approval.
- The proposed programs do not include cash incentives. All of the proposed incentives take the form of forgone revenue—that is, new tax revenue generated by that business is rebated or 'forgone' during the three-year incentive period. These are tax revenues the Town would not receive if the business did not locate or expand in the Town.
- At the December 2015 meeting of the Town Council, staff proposed the town establish Technology, Tourism, and Defense Production Zones for business incentives. The Town Council set January 12, 2016 as the Public Hearing date for citizen input on the proposed programs.

Financial Impact:

- The type of industries, level of investment and jobs required to be eligible for incentives under the proposed programs are such that the anticipated value of the combined fiscal and economic

benefits would be greater than the direct costs.

- Each application will be reviewed for its individual impacts. The specific impact of each award will vary based on the type of business, its capital investment, and annual gross-receipts; as well as the amount and value of staff time required.
- The impact of the tax revenue proposed for rebate is minimal, as those revenues would be new and unforeseen in the Town's annual budget. The revenues rebated would not otherwise be received by the Town if the business did not locate or expand in Warrenton.
- The impact of rebating or waiving development fees will vary based on the amount and value of staff time needed.

Recommended Action:

- The Town Council adopt the proposed amendment to the Town Code, as shown in Attachment 3, to establish Technology, Tourism, and Defense Production Zones for Business Incentives.

Attachments:

1. Overview Chart of Proposed Incentive Zone Programs
2. Comparison of Published Programs for Business Incentives
3. Draft Text Amendment for Incentive Zones
4. Authorizing State Code Sections: 58.1-3850, 58.1-3851, and 58.1-3853


Town Manager

COMPARISON OF PUBLISHED PROGRAMS FOR LOCAL BUSINESS INCENTIVES

Regional Localities; December 2015 (Staff)

Locality	Program	Requirements	Benefit Description
Front Royal, Town	Tourism Zone	<u>New or Existing:</u> 1 (new) job AND \$25,000 capital investment.	Reduction in BPOL tax, permit fees, and tap fees. Three tier award based on number of jobs and capital investment.
Front Royal, Town	Technology Zone	<u>New or Existing:</u> 2 FT jobs (new) paying 2x minimum wage AND \$3,000 capital investment.	BPOL waiver for first 5 years; and declining reduction for subsequent 5 years. Permit Fee waivers.
Warren County	Technology Zone	<u>New or Existing:</u> 2 FT jobs (new) paying 2x minimum wage AND \$10,000 capital investment.	BPOL waiver for first 5 years; and declining reduction for subsequent 5 years. Permit Fee waivers.
Manassas, City	Tourism & Arts District	Variable. Scored based on relevance to the City's strategic goals.	Variable reduction in BPOL tax and permit fees; sales tax rebates and cash grants. Award based on scoring.
Manassas, City	Technology Zone	Variable. Scored for capital investment, jobs, gross receipts, local taxes generated, and priority location.	Variable reduction in BPOL tax and permit fees; cash grants. Award based on scoring.
Fredericksburg, City	Tourism Zone	<u>Existing:</u> 5 FT jobs (new) OR \$125,000 capital investment. <u>New:</u> 10 FT jobs OR \$250,000 capital investment.	Variable reduction in BPOL tax, permit fees, tap fees, and business property tax. Award based on scoring system.
Fredericksburg, City	Technology Zone	<u>Existing:</u> 5 FT jobs (new) OR \$125,000 capital investment. <u>New:</u> 10 FT jobs OR \$250,000 capital investment.	Variable reduction in BPOL tax, permit fees, tap fees, and business property tax. Award based on scoring system.
Fredericksburg, City	Arts & Cultural District	<u>Existing:</u> Expansion of 30% in area. <u>New:</u> Establish qualifying business type.	BPOL tax and permit fee reduction.

COMPARISON OF PUBLISHED PROGRAMS FOR LOCAL BUSINESS INCENTIVES

Regional Localities: December 2015 (Staff)

Locality	Require Governing Body Approval		Incentive Duration	BPOL Tax Reduction/Waiver		Permit Fees Reduction/Waiver		Tap (Availability) Fees Reduction/Waiver		Business Personal Property Tax Reduction/Waiver		Machinery & Tools Tax Reduction/Waiver		Other Incentives/Notes
	Yes	4, 7, or 10 years		X	X	X	X	X	X	X	X	X	X	
Front Royal, Town	Yes	4, 7, or 10 years	X	X	X	X	X	X	X	X	X	X		
Front Royal, Town	EDA only	10 years	X	X	X	X	X	X	X	X	X	X	Cash grants.	
Warren County	EDA only	10 years	X	X	X	X	X	X	X	X	X	X	Cash grants.	
Manassas, City	No	5 years	X	X	X	X	X	Unknown	X	X	X	X	Cash grants.	
Manassas, City	No	5 years	X	X	X	X	X	Unknown	X	X	X	X	Sales tax rebates.	
Fredericksburg, City	Yes	Up to 10 years	X	X	X	X	X	X	X	X	X	X	Performance grants based on tax revenue generation.	
Fredericksburg, City	Yes	5 years	X	X	X	X	X	X	X	X	X	X		
Fredericksburg, City	No	5 years	X	X	X	X	X	X	X	X	X	X	- 2011-2015 universal reduction in BPOL tax of \$250 per year for existing businesses. - Non-Art Businesses that host year-round art exhibits eligible for up to \$250 BPOL reduction per year.	

COMPARISON OF PUBLISHED PROGRAMS FOR LOCAL BUSINESS INCENTIVES

Regional Localities; December 2015 (Staff)

Locality	Program	Requirements	Benefit Description
Culpeper County	Technology Zone	Variable. Any non-retail business in zone eligible. Applicants scored based on number and salary of jobs, amount of private investment, and size of building occupied.	Variable. Grants equivalent to 20% to 80% of total taxes paid to the County and cost of permit fees.
Culpeper County	General	None.	No business license or BPOL taxes required for any business.
Stafford County	Technology Zone	Variable.	Variable reduction in BPOL tax, fees, and business property tax; cash grants.
Stafford County	General	None.	No business license or BPOL taxes required for any business.

COMPARISON OF PUBLISHED PROGRAMS FOR LOCAL BUSINESS INCENTIVES

Regional Localities; December 2015 (Staff)

Locality	Require Governing Body Approval	Incentive Duration	BPOL Tax Reduction/Waiver	Permit Fees Reduction/Waiver	Tip (Availability) Fees Reduction/Waiver	Business Personal Property Tax Reduction/Waiver	Machinery & Tools Tax Reduction/Waiver	Other Incentives/Notes
Culpeper County	No	3 years	X	X	Unknown	X	X	- Accelerated depreciation schedule for computers and machinery and tools. - Grants may include additional taxes.
Culpeper County	No	Indefinite	X					Culpeper County does not collect BPOL taxes nor require a business license.
Stafford County	Yes	5 years	X	X		X		Cash grants.
Stafford County	No	Indefinite	X					Stafford County does not collect BPOL taxes nor require a business license.

Overview of Proposed Incentive Zone Programs

The proposed text amendment would establish the following three incentive zones. The types of businesses that would be eligible to apply for incentives in each zone are described below, followed by a table outlining the incentives to be offered, required capital investment and jobs, and the process for the review and approval of applications.

- **Technology Zone:** New or existing business whose primary purpose is the design, research, development, utilization or production of technology services, software or products. *See draft text amendment for full definition.*
- **Defense Production Zone:** New or existing business engaged in the design, development, or production of materials, components, or equipment for national defense, and those that perform functions ancillary to or in support of these; or a business primarily engaged in providing services in support of national defense, including logistics and technical support. *See draft text amendment for full definition.*
- **Tourism Zone:** New or existing business whose primary purpose is to establish a desirable destination to attract tourists from outside and within the community that will increase travel-related revenue and create an environment for those visitors a memorable experience or promote educational opportunities. *See draft text amendment for full definition.*

Program Component	Description						
Incentives*	<ul style="list-style-type: none"> ▪ Permit Fee Rebates or Waivers ▪ 100% Rebate for 3 years on the following taxes (<i>for expanding businesses, the portion attributable to new investment</i>): <ul style="list-style-type: none"> ○ BPOL Tax ○ Business Personal Property Tax ▪ Accelerated Permit Review/Target Industry Status** 						
New Capital Investment Required*	<table border="0"> <tr> <td>Technology Zone & Defense Production Zone</td> <td>Tourism Zone</td> </tr> <tr> <td>New Business: \$500,000</td> <td>New Business: \$250,000</td> </tr> <tr> <td>Expanding Business: \$250,000</td> <td>Expanding Business: \$100,000</td> </tr> </table> <p><i>New capital investment must be in land, building and/or machinery</i></p>	Technology Zone & Defense Production Zone	Tourism Zone	New Business: \$500,000	New Business: \$250,000	Expanding Business: \$250,000	Expanding Business: \$100,000
Technology Zone & Defense Production Zone	Tourism Zone						
New Business: \$500,000	New Business: \$250,000						
Expanding Business: \$250,000	Expanding Business: \$100,000						
New Jobs Investment Required*	<table border="0"> <tr> <td>Technology Zone & Defense Production Zone</td> <td>Tourism Zone</td> </tr> <tr> <td>New Business: 10 FT Jobs</td> <td>New Business: 5 FT Jobs</td> </tr> <tr> <td>Expanding Business: 3 FT Jobs</td> <td>Expanding Business: 2 FT Jobs</td> </tr> </table> <p><i>Salaries must be 10% above the average local wage</i> <i>No salary level requirement</i></p>	Technology Zone & Defense Production Zone	Tourism Zone	New Business: 10 FT Jobs	New Business: 5 FT Jobs	Expanding Business: 3 FT Jobs	Expanding Business: 2 FT Jobs
Technology Zone & Defense Production Zone	Tourism Zone						
New Business: 10 FT Jobs	New Business: 5 FT Jobs						
Expanding Business: 3 FT Jobs	Expanding Business: 2 FT Jobs						
Review & Approval Process	<ol style="list-style-type: none"> 1. Economic Development Director & Commissioner of the Revenue 2. Town Attorney & Town Manager 3. Town Council 						

* Unless otherwise authorized by a resolution of the Town Council

** Staff recommends that in the future the Town establish a formal accelerated review process for target industries.

CHAPTER 15 ARTICLE VIII. - BUSINESS ZONES—TAX INCENTIVES

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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.

§ 58.1-3851. Creation of local tourism zones

A. Any city, county, or town may establish, by ordinance, one or more tourism zones. Each locality may grant tax incentives and provide certain regulatory flexibility in a tourism zone.

B. The tax incentives may be provided for up to 20 years and may include, but not be limited to (i) reduction of permit fees, (ii) reduction of user fees, and (iii) reduction of any type of gross receipts tax. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.

C. The governing body may also provide for regulatory flexibility in such zone that may include, but not be limited to (i) special zoning for the district, (ii) permit process reform, (iii) exemption from ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), or the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq.), and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

D. The establishment of a tourism zone shall not preclude the area from also being designated as an enterprise zone.

2006, c. 642;2008, c. 462;2013, cc. 756, 793.

§ 58.1-3850. Creation of local technology zones

A. Any city, county or town may establish, by ordinance, one or more technology zones. Each locality may grant tax incentives and provide certain regulatory flexibility in a technology zone.

B. The tax incentives may be provided for up to ten years and may include, but not be limited to: (i) reduction of permit fees; (ii) reduction of user fees; and (iii) reduction of any type of gross receipts tax. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.

C. The governing body may also provide for regulatory flexibility in such zone which may include, but not be limited to: (i) special zoning for the district; (ii) permit process reform; (iii) exemption from ordinances; and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to ten years.

D. Each locality establishing a technology zone pursuant to this section may also adopt a local enterprise zone development taxation program for the technology zone as provided in § 58.1-3245.12.

E. The establishment of a technology zone shall not preclude the area from also being designated as an enterprise zone.

1995, c. 397;1996, c. 830;1997, c. 168;2002, c. 449.

§ 58.1-3853. Creation of local defense production zones

A. As used in this section, unless the context requires a different meaning:

"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. A locality may also include as a defense production business any business that performs functions ancillary to or in support of the design, development, or production of such materials, components, or equipment.

B. Any city, county, or town may establish, by ordinance, one or more defense production and support services zones. Each locality may grant incentives and provide certain regulatory flexibility in a defense production and support services zone.

C. The incentives may be provided to defense contractors or defense production businesses located in a defense production and support services zone for up to 20 years and may include, but not be limited to (i) reduction of permit fees, (ii) reduction of user fees, and (iii) reduction of any type of gross receipts tax. In addition, local governing bodies are authorized to enter into agreements for the payment of economic development incentive grants to defense contractors or defense production businesses located in defense production and support services zones with payment of the grants conditioned upon the businesses making certain real property or capital investments, creating and maintaining new jobs, or performing or meeting other economic development objectives.

D. The governing body may also provide for regulatory flexibility in such zone that may include, but not be limited to (i) special zoning for the district, (ii) permit process reform, (iii) exemption from ordinances, and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 20 years.

E. Each locality establishing a defense production and support services zone pursuant to this section may also adopt a local enterprise zone development taxation program for the defense production and support services zone as provided in § 58.1-3245.12.

F. The establishment of a defense production and support services zone shall not preclude the area from also being designated as an enterprise zone.

2011, cc. 875, 877;2012, c. 91.