

VIRGINIA: AT A REGULAR MEETING OF THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA HELD AT THE COUNCIL CHAMBERS OF THE TOWN HALL IN BLUEFIELD, VIRGINIA ON THE 26<sup>TH</sup> DAY OF APRIL, 2016.

**AN ORDINANCE TO CREATE, BY CREATING ARTICLE III (TOWN OF BLUEFIELD ENTERPRISE ZONE ORDINANCE) OF CHAPTER 4 (COMMUNITY DEVELOPMENT), OF THE CODE OF ORDINANCES, TOWN OF BLUEFIELD, VIRGINIA.**

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that Article III of Chapter 4 of the Code of Ordinances, Town of Bluefield, Virginia is hereby created to read as follows:

**ARTICLE III. TOWN OF BLUEFIELD ENTERPRISE ZONE ORDINANCE**

**Sec. 4-150. Purpose.**

The purpose of this article is to stimulate business and industrial growth within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone by authorizing the Industrial Development Authority of the Town of Bluefield, Virginia to offer the economic incentives set forth in this article.

**Sec. 4-151. Authority.**

The Tazewell County Enterprise Zone, located in Tazewell County, Virginia, was established pursuant to the Virginia Enterprise Zone Act and sections 59.1-270 et seq., 59.1-538 et seq., 58.1-3220, 58.1-3221 of the Code of Virginia (1950) as amended.

**Sec. 4-152. Boundaries of the Tazewell County Enterprise Zone for the Town of Bluefield.**

The boundaries of the Tazewell County Enterprise Zone include portions of the Town of Bluefield. The map entitled "Tazewell County Enterprise Zone (Bluefield Area)", as it relates to the Town of Bluefield, is incorporated herein by reference, and is on file with the Office of the County Administrator of Tazewell County, Virginia at 108 East Main Street, Tazewell, Virginia. The acreage shown on the said map, designated as an enterprise zone, was declared an enterprise zone on January 1, 2016, by the Governor of the Commonwealth of Virginia for a period of ten (10) years in accordance with the Virginia Enterprise Zone Act.

**Sec. 4-153. Definitions.**

The following definitions shall apply to this article:

The term "Applicant" shall mean a Business Firm that applies for an economic incentive set forth in this article.

The term "BIDA" shall mean the Industrial Development Authority of the Town of Bluefield, Virginia.

The term "Business Firm" 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, subject to taxation as a for profit enterprise, and subject to state and local taxation as permitted by the Code of Virginia. However, Business Firm shall not include businesses or organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, sections 512 or 501C; nor does it include homeowners associations as defined in Federal Internal Revenue Code, section 528.

The term "Equivalent Employment" or "Equivalent Job" shall mean a person or persons employed by a Business Firm for at least forty (40) hours per week at an hourly wage or salaried equivalent. 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 Council of the Town of Bluefield, Virginia 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.

The term "Existing Business Firm" shall mean a Business Firm operating or located within Tazewell County, Virginia on January 1, 2016, or more than twelve months prior to applying for an economic incentive set forth in this article. A Business Firm which retains substantially the same ownership and which operated or was located within Tazewell County, Virginia on January 1, 2016, shall be considered an Existing Business Firm, even if the name of the Business Firm has changed.

The term "mixed use" shall mean a building used for both commercial/office/industrial use and residential use and at least thirty percent (30%) of the total usable floor space is used for the commercial/office/industrial operations of a Business Firm.

The term "New Business Firm" shall mean a Business Firm operating within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone after January 1, 2016, that had no prior business location within Tazewell County, Virginia.

The term "Qualified Business Firm" shall mean a Business Firm that (1) has applied for an economic incentive set forth in this article; (2) meets either of the following employment criteria: (a) is a New Business Firm that employs five (5) new Equivalent Jobs more than the Business Firm employed at the time the Business Firm applied for an economic incentive set forth in this article or (b) an Existing Business Firm that expands its existing operations to a location within the Tazewell County Enterprise Zone and the corporate limits of the Town of Bluefield and maintains its employment levels equal to the number of Equivalent Jobs employed by the Business Firm at the time the Business Firm applied for an economic incentive set forth in this article; and (3) meets either of the following investment criteria: (a) the Business Firm has invested at least twenty five thousand dollars (\$25,000.00) in improvements to real property located in the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone including, but not limited to, new construction, renovation, rehabilitation, or expansion of a taxable structure, which serve to facilitate the business operations of the Business Firm or (b) the

Business Firm has invested at least twenty five thousand dollars (\$25,000.00) in purchasing machinery, tools, and business personal property not previously assessed by the Commissioner of Revenue for Tazewell County, Virginia, which will be located within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone, and will further serve to facilitate the business operations of the Business Firm within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone.

The term "Qualifying Improvement" shall mean the improvements to real property made by a Business Firm which constitutes the basis of a Business Firm qualifying for an economic incentive set forth in this article. For purposes of calculating a Real Estate Grant, such improvements shall be funds expended by the Business Firm externally for labor or materials to construct, demolish, renovate, or add to real property. No more than fifty percent (50%) of expenditures considered a Qualifying Improvement may be payments to persons or Business Firms affiliated with or a subsidiary of the Applicant Business Firm; expenditures made to such affiliated persons or subsidiary Business Firms must be reasonable.

The term "Qualifying Investment" shall mean the investments in machines, tools, or other taxable business personal property made by a Business Firm which constitutes the basis of a Business Firm qualifying for an economic incentive set forth in this article. No more than fifty percent (50%) of expenditures considered a Qualifying Investment may be payments to persons or Business Firms affiliated with or a subsidiary of the Applicant Business Firm; expenditures made to such affiliated persons or subsidiary Business Firms must be reasonable.

**Sec. 4-154. Authorized by the Council of the Town of Bluefield, Virginia.**

The Council of the Town of Bluefield, Virginia authorizes the BIDA to participate in the Tazewell County Enterprise Zone by offering the economic incentives set forth in this article.

**Sec. 4-155. Procedures to be developed.**

The BIDA shall develop procedures and documents to ensure a fair and lawful process for those who apply for an economic incentive set forth in this article.

The BIDA shall develop procedures and documents to ensure the lawful handling, calculating, accounting, and disbursement of money associated with the award of an economic incentive set forth in this article.

The BIDA shall develop procedures and documents to ensure continued compliance for those who receive an economic incentive set forth in this article. In the event there is a failure to maintain compliance with the requirements of an economic incentive set forth in this article, then the receipt thereof shall be terminated unless otherwise authorized by this article. Unless otherwise authorized by this article, the BIDA shall exercise no discretion in awarding a Qualified Business Firm an economic incentive set forth in this article when the applicable requirements have been satisfied.

#### **Sec. 4-156. The Rehabilitated Real Estate Tax Exemption.**

- A. **Definition.** The Rehabilitated Real Estate Tax Exemption, hereinafter referred to as the “RRETE”, is a three (3) year partial exemption from taxation on the increase in the assessed value of rehabilitated real estate, as authorized by section 58.1-3221 of the Code of Virginia (1950) as amended and, for the residential portion of any mixed use building, pursuant to section 58.1-3220 of the Code of Virginia (1950) as amended.
- B. **Incentive.** The incentive under the RRETE is eighty percent (80%) of the increase in the assessed value of rehabilitated real estate, resulting from the Qualifying Improvement, shall be exempted from taxation in the first tax year following the completion of the Qualifying Improvement, sixty percent (60%) in the second tax year, and forty percent (40%) in the third tax year. The RRETE shall expire after three (3) tax years.
- C. **Qualifications for the RRETE.** The following factors are the requirements necessary for a Business Firm to qualify for and receive the RRETE:
- (1) To be eligible for the RRETE, the subject property shall a) be at least fifteen (15) years old; b) be located within the Tazewell County Enterprise Zone; c) be located within the corporate limits of the Town of Bluefield; and d) be dedicated to commercial, industrial, or mixed use.
  - (2) To be eligible for the RRETE, the assessed value of the subject property after the completion of the Qualifying Improvement must equal or exceed one hundred and twenty five percent (125%) of the assessed value of the subject property prior to the commencement of the Qualifying Improvement.
  - (3) An Applicant for the RRETE shall not be eligible for the RRETE if the Applicant, or a legal entity under the control of the Applicant, or an immediate family member of the Applicant, as defined in section 2.2-3101 of the Code of Virginia (1950) as amended, or a tenant of the Applicant is receiving, has received, or has applied for a Real Estate Grant for the same Qualifying Improvement on the same property.
  - (4) An Applicant shall not be eligible for the RRETE if the Applicant is delinquent on any tax or fee levied by Tazewell County, Virginia or any incorporated town within Tazewell County, Virginia.
  - (5) Increased assessments resulting from rebuilding or repair after a flood, fire, or natural disaster shall not be considered a Qualifying Improvement for purposes of the RRETE.
  - (6) To receive the RRETE, a Business Firm shall apply to the BIDA prior to performing any demolition, addition, or rehabilitation that amounts to a Qualifying Improvement upon the subject property.

#### **D. Qualification Process for the RRETE.**

- (1) The BIDA shall evaluate all applications for the RRETE. Upon finding that an Applicant is eligible, the BIDA shall approve the application. Upon approval of an application, the BIDA shall issue a Notice of Qualification to the Applicant.
- (2) Within twelve (12) months of completion of the Qualifying Improvement, the Qualified Business Firm shall present a copy of the Notice of Qualification from the BIDA to the Commissioner of Revenue of Tazewell County, Virginia and the Treasurer of the Town of Bluefield. If the said Commissioner and the said Treasurer are both satisfied the requirements of this article have been met and that the Applicant was approved by the BIDA, then the said Commissioner, pursuant to sections 58.1-3221 and 58.1-3220 of the Code of Virginia (1950) as amended, shall apply the RRETE, starting with the first tax year after approval.

#### **Sec. 4-157. Local property tax grants.**

- A. **Real Estate Grant.** A Qualified Business Firm shall receive a Real Estate Grant, hereinafter referred to as a "REG", from the BIDA equal to twenty five percent (25%) of the increase in real property taxes paid to the Town of Bluefield by the Qualified Business Firm by reason of an increase in tax liability from a Qualifying Improvement made to real property located within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone and owned by the Qualified Business Firm. The value of the Qualifying Improvement shall be the increase in tax liability upon the subject property, resulting from the Qualifying Improvement, as determined by the Commissioner of Revenue of Tazewell County, Virginia so long as the Treasurer of the Town of Bluefield concurs. A Qualified Business Firm may receive a REG for a maximum of three (3) tax years.
- B. **Tangible Personal Property Grant.** A Qualified Business Firm shall receive a Tangible Personal Property Grant, hereinafter referred to as a "TPPG", from the BIDA equal to twenty five percent (25%) of the increase in local machinery, tool, and business personal property taxes paid to the Town of Bluefield by the Qualified Business Firm by reason of an increase in tax liability from the Qualifying Investment made upon machinery, tools, and business personal property located within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone and owned by the Qualified Business Firm. The value of the Qualifying Investment shall be the amount reflected on the Qualified Business Firm's machine, tools, and business personal property tax return filed with the Commissioner of Revenue of Tazewell County, Virginia so long as the Treasurer of the Town of Bluefield concurs. A Qualified Business Firm may receive a TPPG for a maximum of three (3) tax years.
- C. **The REG and TPPG enhancements.** The amount of a REG and/or a TPPG may be enhanced to fifty percent (50%) of the tax liability increase if any one of the following circumstances exists:

- 1) The Qualifying Investment and/or Qualifying Improvement of the Business Firm is being undertaken to diversify its product or customer base as determined at the sole discretion of the BIDA. Diversification shall mean at least fifty percent (50%) of the Qualifying Investment and/or Qualifying Improvement expands the Business Firm's capacity to produce a product for an industry sector which constitutes less than twenty five percent (25%) of the Business Firm's current customer base or to serve customers in an industry sector which constitutes less than twenty five percent (25%) of the Business Firm's current customer base.
  - 2) The Business Firm is technology-driven as determined at the sole discretion of the BIDA. A technology-driven Business Firm develops advanced technology or employs advanced technology integral to the production process, whether of information or physical goods. Technology-driven Business Firms include, but are not limited to, Business Firms in advanced manufacturing, agro-tech, clean energy and clean energy equipment research and production, computer and computer device manufacturing, data centers, information processing, information technology, medical device manufacturing, research and development, pharmaceutical manufacturing, scientific instrument manufacturing, software development, and telemarketing/teleservice centers. Technology-driven does not include using computers or office or medical equipment in the normal course of business or distributing, retailing, installing, or servicing technology equipment, unless a majority of customers are national or international.
  - 3) The Business Firm supports tourism as determined at the sole discretion of the BIDA. A Business Firm supports tourism if their primary customers are tourists and include, but are not limited to, hotels, bed and breakfasts, timeshares, gift shops, arts and crafts stores, antique dealers, galleries, outdoor recreation retailers, outdoor recreation service providers, museums, tourist attractions, and restaurants offering unique fare.
- D. **Guidelines to be adopted.** The BIDA shall adopt written guidelines for a REG and a TPPG for purposes of determining when a Business Firm is diversifying its product or customer base, technology-driven, and/or supporting tourism.
- E. **Requirements of a REG and a TPPG.** The following factors are requirements for a Business Firm to be eligible for and receive a REG and/or a TPPG:
- 1) In order to qualify for and receive a REG, a Business Firm shall be located within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone. Additionally, the Business Firm shall make, or cause to be made, a minimum capital investment in real property of at least twenty five thousand dollars (\$25,000.00). Capital investment in real property is herein defined as funds expended externally for labor or materials to construct, demolish, renovate, or add to real property. Furthermore, a New Business Firm

shall create a minimum of five (5) new jobs within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone. Lastly, an Existing Business Firm must retain the number of permanent full-time Equivalent Jobs located within Tazewell County, Virginia and the Tazewell County Enterprise Zone at the time of its application for a REG. The BIDA shall increase the amount of capital investment in real property required by three percent (3%) annually without filing an incentive amendment application.

- 2) In order to qualify for and receive a TPPG, a Business Firm shall be located within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone. Additionally, the Business Firm shall make, or cause to be made, a minimum capital investment in tangible personal property of at least twenty five thousand dollars (\$25,000.00). Capital investment in tangible personal property is herein defined as the purchase of tangible personal property. Furthermore, a New Business Firm shall create a minimum of five (5) new jobs within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone. Lastly, an Existing Business Firm must retain the number of permanent full-time Equivalent Jobs located within Tazewell County, Virginia and the Tazewell County Enterprise Zone at the time of its application for a TPPG. The BIDA shall increase the amount of capital investment in tangible personal property required by three percent (3%) annually without filing an incentive amendment application.
- 3) If the total amount of a TPPG is estimated to be more than fifty thousand dollars (\$50,000.00), then the Qualified Business Firm shall sign a performance agreement with the BIDA in which it agrees to return all or a portion of the amount of a TPPG payment it received if the Qualifying Investment is removed within five (5) years after the Qualified Business Firm receives its final TPPG payment. The amount required to be returned would be pro-rated for the number of years, after the final TPPG payment, that the Qualifying Investment remained within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone with a twenty percent (20%) credit being given for each full year in which the Qualifying Investment remained within the corporate limits of the Town of Bluefield and the Tazewell County Enterprise Zone.
- 4) To qualify for and receive a TPPG and/or a REG, a Business Firm must not be delinquent in any tax or fee levied by Tazewell County, Virginia or any incorporated town of Tazewell County, Virginia.
- 5) A Business Firm shall not receive a REG if the Business Firm or the owner of the property which the Business Firm occupies is receiving or has applied for the Rehabilitated Real Estate Tax Exemption (“RRETE”) on the same property.
- 6) A Business Firm shall not receive a REG and/or a TPPG if the Business Firm is a retail or food service establishment.

- 7) The BIDA, at their sole discretion, without regard for past awards, and without setting a precedent for future awards, may further augment the amount and/or duration of a REG and/or a TPPG and may also adjust the qualification criteria for such augmented feature. The BIDA may also, at their sole discretion, without regard for past awards, and without setting a precedent for future awards, may waive any qualification requirement of a REG and/or a TPPG, or any portion thereof. The BIDA may not add any qualification requirements nor diminish a REG and/or a TPPG for which a Business Firm qualifies.
- 8) If a Business Firm fails to meet any qualification requirement during the grant period, then the grant period may be extended by up to two (2) years and the Business Firm may receive a REG and/or a TPPG in any subsequent year for which it meets the qualification requirements, except that a REG and/or a TPPG payment shall be limited to a maximum of three (3) tax years.
- 9) A REG shall be paid within three (3) months from the first and subsequent dates that real estate taxes are paid by the Qualified Business Firm to the Town of Bluefield after the Qualifying Improvement in real property is made, or as mutually determined by the Qualified Business Firm and the BIDA through a performance agreement. A Business Firm must apply for a REG within twelve (12) months of the Qualifying Improvement.
- 10) A TPPG shall be paid within three (3) months from the first and subsequent dates that personal property taxes are paid by the Qualified Business Firm to the Town of Bluefield after the Qualifying Investment in tangible personal property is made, or as mutually determined by the Qualified Business Firm and the BIDA through a performance agreement. A Business Firm must apply for a TPPG within twelve (12) months of the Qualifying Investment.

**Secs. 4-158.---4-190. Reserved.**

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia adopts this ordinance on this 26<sup>th</sup> day of April, 2016.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that this ordinance shall be effective on the 26<sup>th</sup> day of May, 2016.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia authorizes Donald R. Harris, the Mayor of the Town of Bluefield, Virginia to execute this ordinance on behalf of said Council.

IT IS SO ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA on this 26<sup>th</sup> day of April, 2016.



PUBLIC HEARING: NONE  
 FIRST READING: APRIL 12, 2016  
 SECOND READING: APRIL 26, 2016  
 ADOPTION DATE: APRIL 26, 2016  
 EFFECTIVE DATE: MAY 26, 2016  
 FINAL RECORDED VOTE: 6-0  
 MEMBERS PRESENT: Don Harris, Donnie Linkous, Steve Danko, Jimmy Jones, Anglis Trigg, Lee Riffe  
 MEMBERS ABSENT: \_\_\_\_\_  
 RESULT OF VOTE: 6 AYES      0 NAYES      0 ABSTENTIONS

BY: Donald R. Harris  
 DONALD R. HARRIS, MAYOR

COMMONWEALTH OF VIRGINIA  
 COUNTY OF TAZEWELL, to wit:

The foregoing ordinance was acknowledged before me by Donald R. Harris, the Mayor of the Town of Bluefield, a Virginia Municipal Corporation, on this 26<sup>th</sup> day of April, 2016.

Wicki Sue Quesenberry  
 NOTARY PUBLIC  
 MY COMMISSION EXPIRES: 9-30-2016  
 REGISTRATION NUMBER: 7204913



ATTEST:  
Lesley L. Catron  
 LESLEY CATRON, TOWN CLERK

04/26/16  
 DATE

COMMONWEALTH OF VIRGINIA  
 COUNTY OF TAZEWELL, to wit:

The foregoing ordinance was acknowledged before me by Lesley Catron, the Town Clerk of the Town of Bluefield, a Virginia Municipal Corporation, on this 26<sup>th</sup> day of April, 2016.

Wicki Sue Quesenberry  
 NOTARY PUBLIC  
 MY COMMISSION EXPIRES: 9-30-2016  
 REGISTRATION NUMBER: 7204913

