

Sec. 24-65. - Gate City tourism zone.

- (a) *Short title.* This section shall be known and may be cited as the "Gate City Tourism Zone Ordinance."
- (b) *Statutory authority.* Code of Virginia § 58.1-3851; creation of local tourism zones.
- (1) 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.
 - (2) 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.
 - (3) 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 ten years.
 - (4) The establishment of a tourism zone shall not preclude the area from also being designated as an enterprise zone.
- (c) *Purpose.* The purpose of the Gate City Tourism Zone Ordinance is to promote investment through mixed-use and commercial development that expands the presence of and/or otherwise enhances the tourism industry within the tourism zone district and promote economic incentives and regulatory flexibility for eligible business entities which will attract visitors.
- (d) *Definitions.* For purposes of this section, the following words and phrases shall have the meanings subscribed below, unless clearly indicated to the contrary:

Base year is defined as the calendar year preceding the calendar year in which the applicant submits the tourism zone program qualification application to the Town of Gate City.

Business means any corporation, partnership, electing small business (subchapter S) corporation, limited-liability company, or sole proprietorship authorized to conduct business in the Commonwealth of Virginia.

The term "business" does not include organizations that are exempt from state income tax on all income except unrelated business taxable income as defined in the Internal Revenue Code, Section 512; nor does it include homeowners associations as defined in the Internal Revenue Code, Section 528.

Capital investment(s) means moneys used by a tourism business to purchase fixed assets and not moneys used for day-to-day operating expenses. Fixed assets owned by the tourism business that are moved into the tourism zone from another location within the town shall not be included in the calculation of capital investment(s).

Town Code means the Code of the Town of Gate City, Virginia, as amended.

EDC means the town's economic development committee.

Existing tourism business means a tourism business that was actively engaged in the conduct of trade or business in the town prior to the submission of a completed tourism zone program qualification application. A change in ownership of an existing tourism business will not change the status of the business as an existing business.

Fixed asset means long-lived tangible property owned by a tourism business that is used by the tourism business in the production of its income including real estate, plant, machinery and equipment.

***Incentive period* means a three-year period during which a qualified tourism business receives the benefit of tourism zone incentives.**

Internal Revenue Code or *IRC* means the Internal Revenue Code of 1986, as amended, Title 26 of the United States Code.

New tourism business means a tourism business which has not been actively engaged in the conduct of trade or business in the town prior to the submission of a completed tourism zone program qualification application.

Qualified tourism business means a tourism business that has met qualifications as required by this section.

Tourism business means a business whose primary purpose is to establish a desirable destination to attract tourists from outside of the town or community and create an environment for those visitors that will deliver a memorable experience or promote educational opportunities while increasing travel-related revenue. A tourism business, in the context of this section, shall be one or more of the following categories of business:

- (1) Artisan or handcrafted trade center.
- (2) Lodging establishment, including bed and breakfast or inn.
- (3) Seated restaurant.
- (4) Music center/venue.
- (5) Outdoor recreational center or sporting goods businesses.
- (6) Antique merchandising shop and retail businesses.
- (7) Museums.
- (8) Theaters.

Tourism zone means a specific geographic area or areas created pursuant to of the Code of Virginia, ch. 38, tit. 58. (1950, as amended), to foster the development and expansion of tourism businesses in the town. The tourism zones shall be as shown on Appendix 1 to this section and as may be amended from time to time by subsequent ordinances.

Tourism zone program annual review application means an application to be completed annually, available from the town to renew and submit data in order to continue receiving incentive rebates pursuant to this section.

Tourism zone program qualification application means an application, available from the town, which is submitted by a tourism business seeking to qualify as a qualified tourism business in order to receive tourism zone incentives established by this section.

Year one means the calendar year in which the tourism business submits a tourism zone program annual review application to the town on or before March 1 of that year and is qualified as a qualified tourism business in such year pursuant to the certification procedure described in this section.

(e) *Establishment of tourism zones.* Tourism zones are hereby established in the town in accordance with the Code of Virginia, ch. 38, tit. 58.1 (1950, as amended). The geographic boundaries of said zones are as set forth on the attached Appendix 1. The tourism zones shall include only those particular parcels, any portion of which is located within the tourism zone as determined by the town's geographic information system to be in a tourism zone.

- (1) *Boundaries.* The Boundaries of the tourism zone shall be within the areas described in Appendix 1 of this section.
- (2) *Eligibility.* A business seeking to submit a tourism zone program qualification application in order to obtain the benefits of the tourism zone incentives must be a tourism business. The business must serve the general public and not discriminate against any person based on race, religion, sex, age, disability, or national origin.

- (3) *Administration.* An applicant seeking to obtain the benefits of the tourism zone will hold preliminary discussions with the EDC, prior to any investment, resulting in a letter from the applicant describing the planned project and submittal of a completed tourism zone program qualification application.

The EDC will perform the initial review of the project to determine if 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, EDC will forward the request and recommendation to the town manager for consideration by the council.

The council will review the proposed project and accompanying request. The council will evaluate the request and make a decision based upon the project's positive impact on the town. The council has the sole authority to designate incentives for the implementation of economic development projects.

- (4) *Qualifications.* For a tourism business to be certified as a qualified tourism business the following qualifications must be met:

- a. An existing tourism business must meet the following criteria:
 1. Provide additional capital investment, within the tourism zone, of at least \$15,000.00 over the base year; and
 2. Create at least one new full-time job at a rate of pay in excess of minimum wage.
- b. A new tourism business must meet the following criteria:
 1. Provide new capital investment, within the tourism zone, of at least \$75,000.00; and
 2. Create at least two new full-time jobs at a rate of pay in excess of minimum wage.
- c. Both existing tourism businesses and new tourism businesses must meet and maintain the minimum qualifying investment levels each year of the incentive period and must meet and maintain the job creation qualification during at least one year of each incentive year.
- d. Qualified tourism businesses that have completed one three-year incentive period may qualify for additional expansion incentives as an existing tourism business,
- e. The applicant must present proof of use of the investment for tourism business purposes and demonstrate that the applicant is a tourism business as herein defined.
- f. A qualified tourism business that has met the qualifications of this section will become eligible to receive tourism zone incentives at such time as the qualified tourism business has commenced operations within the boundaries of the tourism zone.

- (f) ***Incentive.* Qualified tourism businesses located within the boundaries of the tourism zone are afforded the following incentives:**

- (1) **Rebate on business, professional and occupational license tax imposed by the town pursuant to chapter eleven of the town Code, in an amount equal to 50 percent of the tax paid by the qualified tourism business each year of the incentive period that is directly attributable to the qualified tourism business. For those qualified tourism businesses that are existing tourism businesses, rebates shall only be applicable to taxes assessed and paid on the portion of gross receipts directly attributable to the expansion of the business.**
- (2) **Rebate on real estate tax imposed by the town pursuant to chapter six of the town Code, in an amount equal to 100 percent of the tax paid by the qualified tourism business each year of the incentive period that is directly attributable to the qualified tourism business. Real estate must be located in the defined tourist zone and be listed on the National Register of Historic Places. Improvements, remodeling, and construction work must be approved by the department of historic resources to qualify for this incentive. Qualified**

tourism businesses shall receive the benefits of the tourism zone incentives for a period of three calendar years (the "incentive period"), or until such time that the business no longer operates or qualifies as a qualified tourism business, whichever is the first to occur. If the business ceases to be a qualified tourism business or removes its operation from the tourism zone during a year in which the rebate applies, the business shall not be qualified or receive the rebate for that year or thereafter.

- (g) *Certification procedure.* The following certification procedure applies to tourism businesses seeking to obtain the benefits of the tourism zone:
- (1) A tourism business must submit a tourism zone program qualification application to the DED for certification as a qualified tourism business.
 - (2) The EDC will review and verify that each applicant is in compliance with the tourism zone qualifications and follow the administration procedures outlined in subsection (e) above.
 - (3) After a tourism business has been certified as a qualified tourism business, it must annually submit a tourism zone program annual review application to the Town of Gate City on or before March 1 of each year of the incentive period, indicating the number of full time employees employed by the qualified tourism business, the amount of business license tax, real estate, 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 Town of Gate City or the EDC 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 1 will not be eligible to receive tourism zone incentives for that year.
 - (4) 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.
 - (5) If a qualified tourism business fails to pay in full the taxes (real estate, BPOL, meals tax) imposed by the town by the due date, this will result in the forfeiture of the tourism zone incentives for that year.
 - (6) If a qualified tourism business files for bankruptcy during any 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.
 - (7) In the event that the tourism business ceases to be a qualified tourism business, ceases to meet the minimum 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 before receiving tourism.
 - (8) If a qualified tourism business leaves the town to conduct business in another location within three years of completing any three-year incentive period, it will be required to repay the town the total amount of tourism zone incentives received.
- (h) *Special service districts not affected.* The establishment of the tourism zone shall not be construed to affect any provision or requirement of the town Code or state statute creating special service districts, including but not limited to the collection of special taxes.
- (i) *Zoning regulations not affected.* This section is an economic development incentive and is not a zoning change. Nothing herein shall be construed to affect any provision or requirement of the Town of Gate City zoning regulations.
- (j) *Nonwaiver.* Nothing in this section shall not be construed to waive the requirement of any ordinance, regulation or policy of the town including, but not limited to, those ordinances, regulations and policies that require permits and approvals for land use and construction. Additionally, unless stated otherwise herein, nothing in this section shall be construed as waiving the right of the town to enforce its ordinances, regulations or policies to collect any taxes, fees, fines, penalties, or interest imposed

by law on a qualified tourism business or upon real or personal property owned or leased by a qualified tourism business. The town manager, acting as designee of the town council, in consultation with the town attorney may remove qualified tourism business status from any business that is not compliant with any article, regulation, policy or other legal requirement.

- (k) *Confidentiality.* To the extent permitted under the Virginia Freedom of Information Act, confidential business records will be safeguarded from disclosure.
- (l) *Education and promotion.* The Town of Gate City shall develop programs to educate the public and potential businesses of the benefits of the tourism zone.