

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY, VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICES ON MONDAY, JANUARY 13, 2014

An Ordinance to Amend the Rockbridge County Code By Enacting a New Chapter 17—Planning, Zoning and Development, to Provide Regulations for Tourism Zones

BE IT ENACTED by the Rockbridge County Board of Supervisors that:

1. Chapter 17 – Planning, Zoning and Development is hereby enacted and adopted as follows:

ROCKBRIDGE COUNTY CODE

Chapter 17

PLANNING, ZONING AND DEVELOPMENT

- Art. I. Subdivision and Zoning, §§17-1--17-19**
- Art. II. Business Incentives, §§17-20--17-39**
 - Div. 1. Tourism Zones, §§17-20--17-39

ARTICLE I. SUBDIVISION AND ZONING

Sec. 17-1. Rockbridge County Land Development Regulations.

The Rockbridge County Land Development Regulations, as may be from time to time amended by ordinance, are hereby incorporated as Appendix A to the Rockbridge County Code.

Sec. 17-2 – 17-19. Reserved.

ARTICLE II. BUSINESS INCENTIVES

DIVISION 1. TOURISM ZONES

Sec. 17-20. Definitions.

For purposes of this Article, 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 DCD.

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 County shall not be included in the calculation of capital investment(s).

County Code means the Code of the County of Rockbridge, Virginia, as amended.

DCD means the County's Department of Community Development.

Existing tourism business means a tourism business that was actively engaged in the conduct of trade or business in the County 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 five-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 County prior to the submission of a completed tourism zone program qualification application.

Qualified tourism business means a tourism business that has met the qualifications set forth in Section 17-24 and continues to meet such qualifications as required by this Article.

Tourism business means a business whose primary purpose is to establish a desirable destination to attract tourists from outside of the County 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 article, shall be one or more of the following categories of business:

- (i) artisan or hand-crafted trade center
- (ii) lodging establishment, including bed and breakfast or inn
- (iii) seated restaurant
- (iv) music center
- (v) outdoor recreational center or sporting goods businesses
- (vi) antique merchandising shop
- (vii) museums

Tourism zone means a specific geographic area or areas created pursuant to Chapter 38, Title 58.1 of the Code of Virginia (1950, as amended), to foster the development and expansion of tourism businesses in the County. The tourism zones shall be as shown on Appendix B to this article 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 DCD to renew and submit data in order to continue receiving incentive rebates pursuant to this article.

Tourism zone program qualification application means an application, available from the DCD, 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 article.

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

Sec. 17-21. Establishment of tourism zones.

Tourism zones are hereby established in the County in accordance with Chapter 38, Title 58.1 of the Code of Virginia (1950, as amended). The geographic boundaries of said zones are as set forth on the attached Appendix B-1 and Appendix B-2. The tourism zones shall include only those particular parcels, any portion of which is located within the tourism zone as determined by the County's geographic information system to be in a tourism zone.

Sec. 17-22. 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.

Sec. 17-23. Administration.

A tourism business seeking to obtain the benefits of the tourism zone will hold preliminary discussions with the DCD, prior to any investment, resulting in a letter from the tourism business describing the project and submittal of a completed tourism zone program qualification application.

The DCD will perform the initial review of the project to determine if the project meets the required criteria for certification as a qualified tourism business. If the initial review indicates that the certification requirements are met, DCD will forward the tourism zone program qualification application and a recommendation to the County Administrator. The County Administrator, acting as designee of the Board of Supervisors, shall review the tourism zone program qualification application and, in consultation with the County Attorney, make a final determination as to whether the tourism business meets the requirements of this Article for designation as a qualified tourism business, notification of which will be provided by the DCD.

In the event that the application is denied, the DCD shall notify the applicant in writing, which shall include the reasons for denial. The applicant shall have thirty (30) days to appeal the decision to the Board of Supervisors by written request for appeal submitted to the county administrator.

Sec. 17-24. Qualifications.

For a tourism business to be certified as a qualified tourism business the following qualifications must be met:

- (1) An existing tourism business must meet the following criteria:
 - (a) Provide additional capital investment, within the tourism zone, of at least two hundred fifty thousand dollars (\$250,000.00) over the base year; and,
 - (b) Create at least five (5) new full-time jobs at a rate of pay in excess of minimum wage.
- (2) A new tourism business must meet the following criteria:
 - (a) Provide new capital investment, within the tourism zone, of at least five hundred thousand dollars (\$500,000.00); and,
 - (b) Create at least ten (10) new full-time jobs at a rate of pay in excess of minimum wage.
- (3) 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-half (1/2) of each incentive year.

- (4) Qualified tourism businesses that have completed one (1) five-year incentive period may qualify for additional expansion incentives as an existing tourism business.
- (5) 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.
- (6) A qualified tourism business that has met the qualifications of this Article 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.

Sec. 17-25. Incentives.

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 County pursuant to Section 19-21, *et seq.*, in Article II, Chapter 19 of the County Code, in an amount equal to fifty percent (50%) 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) Priority consideration and review of all county permit applications.
- (3) Rebate on all county permitting fees for building and zoning, upon proof of payment, in an amount equal to fifty percent (50%) of the fees paid.

Nothing herein shall be construed as limiting the Board'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 Rockbridge County Economic Development Authority.

Sec. 17-26. Incentive period.

Qualified tourism businesses shall receive the benefits of the tourism zone incentives for a period of five (5) 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.

Sec. 17-27. 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 DCD for certification as a qualified tourism business.
- (2) The DCD will review and verify that each applicant is in compliance with the tourism zone qualifications and follow the administration procedures outlined in Section 17-23 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 DCD on or before March first (1st) of each year of the incentive period, indicating the number of full time employees employed by the qualified tourism business, the amount of business, professional and occupational license tax paid by the qualified tourism business for the previous calendar year during the incentive period, and any other information as requested by the DCD 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 first (1st) 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) Any qualified tourism business that fails to pay in full any taxes imposed by the federal, state or local government, by the due date, will forfeit all tourism zone incentives for at least one (1) year and until the tax debt is satisfied.
- (6) Any qualified tourism business declaring bankruptcy during the incentive period is disqualified and the business will be ineligible to receive tourism zone incentives for the remainder of the incentive period.
- (7) Any tourism business that ceases to be a qualified tourism business, ceases to meet the minimum capital investment criteria, or removes its operation from the tourism zone during any year of the incentive period, shall repay to the county the total amount of tourism zone incentives received. A tourism business must sign an agreement to this effect before receiving tourism zone incentives.
- (8) Any qualified tourism business that leaves the County to conduct business in another location within five (5) years of completing the incentive period, shall repay the County the total amount of tourism zone incentives received. A tourism business must sign an agreement to this effect before receiving tourism zone incentives.

Sec. 17-28. Special service districts not affected.

The establishment of the tourism zone shall not be construed to affect any provision or requirement of the County Code or State statute creating special service districts, including but not limited to the collection of special taxes.

Sec. 17-29. Land Development Regulations not affected.

This Article is an economic development incentive and is not a zoning change. Nothing herein shall be construed to affect any provision or requirement of the Rockbridge County Land Development Regulations.

Sec. 17-30. Nonwaiver.

Nothing in this Article shall not be construed to waive the requirement of any ordinance, regulation or policy of the County 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 Article shall be construed as waiving the right of the County 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 County Administrator, acting as designee of the Board of Supervisors, in consultation with the County Attorney may remove qualified tourism business status from any business that is not compliant with any Article, regulation, policy or other legal requirement.

Sec. 17-31. Confidentiality.

To the extent permitted under the Virginia Freedom of Information Act, confidential business records will be safeguarded from disclosure.

Sec. 17-32. Education and promotion.

The DCD shall develop programs to educate the public and potential businesses of the benefits of the tourism zone.

Secs. 17-33--17-39. Reserved.

2. This Ordinance shall be effective on and from January 13, 2014.

Adopted this _____ day of January, 2014.

Recorded Vote:

AYES:

NAYES:

ABSENT:

ROCKBRIDGE COUNTY BOARD OF SUPERVISORS

By: _____
Chairman

Attest: _____
Spencer H. Suter, Clerk