

**ORD-3402**

1 AN ORDINANCE TO AMEND THE CITY CODE BY ADDING  
2 A NEW CHAPTER 9, CONSISTING OF SECTIONS 9-1  
3 THROUGH 9-9, ESTABLISHING THE ViBe CREATIVE  
4 DISTRICT AS AN ARTS AND CULTURAL DISTRICT AND  
5 TECHNOLOGY ZONE AND PROVIDING REQUIREMENTS  
6 AND INCENTIVES FOR QUALIFYING BUSINESSES IN  
7 SUCH DISTRICT

8  
9 Sections Added: City Code Sections 9-1 through 9-9

10  
11 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH,  
12 VIRGINIA:

13  
14 That the City Code is hereby amended by the addition of a new Chapter 9, consisting  
15 of City Code Sections 9-1 through 9-9, establishing the ViBe Creative District and providing  
16 requirements and incentives for qualifying businesses within the district, to read as follows:

17  
18 **CHAPTER 9. CREATIVE DISTRICTS**

19  
20 **Sec. 9-1. Purpose.**

21  
22 The purpose of this chapter is to attract creative industries to the City, to encourage  
23 creative activities at existing venues, to attract new establishments at which creative  
24 activities are carried on, and to establish a framework for broadening economic  
25 development through creative endeavors. It is the intention of the City Council to  
26 encourage the growth of creative activities and organizations by facilitating and  
27 incentivizing the establishment and growth of businesses principally engaged in fields such  
28 as art, architecture, graphic design, fashion, film and other media, software, music,  
29 publishing, performing arts, culinary arts, advertising, sustainability and other fields in which  
30 creativity and originality are essential elements of the business.

31  
32 **Sec. 9-2. Establishment of districts; boundaries.**

33  
34 There are hereby established the following Creative Districts within the City:

35  
36 (a) The ViBe Creative District, which shall consist of all property designated on  
37 the map entitled "ViBe Creative District," dated April 21, 2105, which map is on file in the  
38 Cultural Affairs Office and Department of Planning. Such district is hereby declared an arts  
39 and cultural district and technology zone.

40  
41 **Sec. 9-3. Definitions.**

42

43 (a) Administrator means the City Manager or such other person as he may  
44 designate to perform the duties of the Administrator under this chapter. The City Manager  
45 may designate such other persons to assist in the administration of this Article as he may  
46 deem appropriate.

47  
48 (b) Locally sourced shall be limited to produce that is grown, or meat, seafood or  
49 other animal products derived from poultry or livestock, raised within the Commonwealth of  
50 Virginia or within one hundred (100) miles of the location at which they are sold.

51  
52 (c) Qualifying organization means:

53  
54 (1) An individual, business or other entity that contributes to the spectrum  
55 of arts and cultural activities and venues available to the public by  
56 regularly presenting live performances of theatre, dance, music, or  
57 other imaginative work or producing or exhibiting physical works  
58 created by, or under the direction of one or more artists, that are  
59 intended for unique production or limited reproduction;

60  
61 (2) A museum or historic site, the primary mission of which is education or  
62 historic preservation;

63  
64 (3) A theater, including an art-house movie theater for art, independent  
65 and world films, art gallery, dance studio, music venue, performance  
66 space, art school or academy, including a culinary arts school or  
67 academy; or

68  
69 (4) An individual, business or other entity that is principally engaged in one  
70 of more of the following fields or activities:

71  
72 A. Architecture;

73  
74 B. Marketing and advertising;

75  
76 C. Culinary arts, including, but not limited to, artisans engaged in  
77 bread making, cheese making, charcuterie, confectionary,  
78 coffee roasting or similar practices, culinary institutes, and  
79 restaurants that (i) locally source no less than ten per cent  
80 (10%) of the food served at the establishment; (ii) are not one  
81 of a chain of restaurants having more than ten (10)

82 establishments; and (iii) prepare food by hand or using  
83 traditional, non-industrialized methods. For purposes of this  
84 section, "locally" shall mean within the Commonwealth of  
85 Virginia or no farther than fifty (50) miles from the location of the  
86 subject establishment;

87  
88 D. Design, including industrial, interior, graphic, web and fashion  
89 design;

90  
91 E. Film and media, including radio, video animation and  
92 photography;

93  
94 F. Publishing;

95  
96 G. Software development;

97  
98 H. Research and development of technology related to: (i) energy  
99 efficiency and renewable energy; (ii) water use efficiency; (iii)  
100 the reduction of waste, pollution and environment degradation;  
101 (iv) sustainable development; or (v) green building;

102 I. Historic preservation;

103  
104 J. Craft breweries, craft distilleries or wine-tasting rooms;

105  
106 K. Farmers' markets at which locally-sourced produce, meat and  
107 eggs, seafood, artisan breads and cheeses, hand-harvested  
108 honey, and other fresh, small-batch foodstuffs are the  
109 predominant items that are offered for sale; or

110 L. Antique markets at which the display of antiques covers at least  
111 fifty per cent (50%) of the display floor area. For purposes of  
112 this section, antiques shall include only works of art, furniture,  
113 decorative objects or similar items having special value by virtue  
114 of their age and uniqueness.

115 A qualifying organization shall be physically located within a Creative District designated by  
116 the City Council.

117  
118 **Sec. 9-4. Administration; eligibility.**

119           (a) Upon application, the Administrator shall determine, in writing, whether the  
120 applicant shall be classified as a qualifying organization as defined in Section 9-3. The  
121 applicant shall have the burden of demonstrating to the satisfaction of the Administrator that  
122 it meets the requirements to be so classified. The determination of the Administrator that an  
123 applicant shall not be classified as a qualifying organization shall be appealable to the City  
124 Manager. No applicant shall be classified as a qualifying organization if the Commissioner  
125 of the Revenue determines that such applicant is delinquent in the payment of any taxes or  
126 fees payable to the City.

127  
128           (b) A qualifying organization shall establish its eligibility to receive the incentives  
129 provided for in this chapter on an annual basis; provided, however, that in the event the  
130 Administrator has reason to believe that a qualified organization no longer meets the  
131 applicable requirements, such organization shall, upon request of the Administrator, provide  
132 such information as will enable the Administrator to determine whether the organization  
133 continues to meet the applicable requirements.

134  
135           (c) A qualifying organization shall file an annual business license application with  
136 the Commissioner of the Revenue, pay any applicable business license taxes, and shall  
137 provide the Commissioner with certification from the Administrator that the organization  
138 meets the requirements for classification as a qualifying organization. The amount of gross  
139 receipts to be earned shall be set out in the license application and shall be subject to  
140 verification by the Commissioner by audit or inspection of documents. The qualifying  
141 organization shall also provide the Commissioner, upon request, with proof that no taxes or  
142 fees payable to the City are delinquent at the time of application. In the event any such  
143 taxes or fees are delinquent, the Commissioner shall so notify the Administrator, who shall  
144 decline to certify the applicant as a qualifying organization.

145  
146           (d) Failure of a qualifying organization to pay in full by the due date any taxes or  
147 fees payable to the City shall result in the denial or revocation of such organization's  
148 qualifying status for the remainder of the current calendar year or until such taxes or fees  
149 are paid in full.

150  
151           (e) The Administrator shall, after consultation with the Commissioner of Revenue,  
152 Real Estate Assessor or other appropriate officer, prescribe additional procedures for the  
153 implementation and administration of this chapter not provided for herein, to the extent such  
154 procedures are not inconsistent with this chapter or applicable law.

155  
156 **Sec. 9-5. Qualification.**

157

158 Upon determination by the Administrator that an applicant is a qualifying  
159 organization, such organization shall be qualified to receive the incentives provided for in  
160 this chapter; provided, however, that a qualifying organization to which a business license  
161 was issued prior to the effective date of the establishment of the Creative District in which it  
162 was located at the time of the issuance of such license shall not be eligible for the  
163 incentives set forth in Sections 9-6 or 9-7. All such incentives shall be subject to annual  
164 appropriation by the City Council. If an organization ceases to be a qualifying organization  
165 during a year in which reimbursements, payments or exemptions apply, they shall be  
166 prorated for the months such organization was a qualifying organization.

167 **Sec. 9-6. Reimbursements of business, professional and occupational license taxes.**

168  
169 (a) Qualifying organizations shall be entitled to a reimbursement of business,  
170 professional and occupational license taxes imposed by Chapter 18 for a period of ten (10)  
171 years immediately following the Administrator's determination pursuant to Section 9-4 or  
172 until such organization no longer qualifies for such reduction, whichever is the first to occur;  
173 provided, however, that in the event the Administrator's initial determination occurs with less  
174 than six (6) months remaining in the calendar year, a qualifying organization may elect to  
175 designate the following calendar year as the first year for purposes of obtaining the  
176 reimbursement; and provided further, that any qualifying organization eligible for the flat  
177 business license tax pursuant to section 18-207 may elect to defer receiving reimbursement  
178 as provided in this section until the first business license year after the expiration of its  
179 entitlement as provided in section 18-207.

180  
181 (b) All business license tax reimbursements are subject to adjustment by the  
182 Commissioner of the Revenue based on actual gross receipts earned from qualifying  
183 activities. Any additional business license tax assessed due to such adjustments, or due to  
184 revocation of the tax rebate, shall be subject to collection and delinquency provisions set out  
185 in Chapter 18 of the City Code.

186  
187 **Sec. 9-7. Reimbursement of building code, zoning, etc. fees; eligibility for Economic**  
188 **Development Incentive Program awards and investment partnerships.**

189  
190 (a) The fee reimbursements provided for in subsections (b) through (d) shall apply  
191 to qualifying organizations for new construction, alterations and rehabilitation, provided that:  
192 (i) no less than one hundred per cent (100%) of the total cost of the construction is  
193 expended on facilities which will house or directly accommodate a qualifying organization;  
194 (ii) that the qualifying organization itself paid the fees for which reimbursement is sought;  
195 and (iii) the completed application for reimbursement, together with all other required

196 materials, is submitted to the Administrator within the times set forth below. Fees  
197 reimbursed pursuant to this chapter shall be paid out by the City.

198  
199 (b) *Building code fees.* Applications for reimbursement of permit and inspection  
200 fees under Chapter 8, Article 2 of the City Code shall be accompanied by material  
201 demonstrating to the satisfaction of the Administrator that the proposed construction meets  
202 the reimbursement criteria set forth in subsection (a). Such applications shall be submitted  
203 by no later than twelve (12) months after final inspection of the work performed. All building  
204 code fees shall be paid by the qualifying organization prior to receiving such reimbursement.

205  
206 (c) *Zoning ordinance fees.* Applications for reimbursement of fees for  
207 applications for discretionary development approvals shall be submitted by no later than  
208 twelve (12) months after the date of the approval. All such fees shall be paid by the  
209 qualifying organization prior to receiving reimbursement. For purposes of this section, the  
210 term “discretionary development approvals” shall include changes of zoning district  
211 classification, conditional use permits, special exceptions granted by the City Council under  
212 the Alternative Compliance provisions of the zoning district in which the qualifying  
213 organization is located, and approvals of PD-H1 or PD-H2 land use plans.

214 (d) *Subdivision and site plan fees.* Applications for reimbursement of fees for  
215 subdivision and site plan review pursuant to the City’s Subdivision Regulations (City Code  
216 Appendix B) or Site Plan Ordinance (City Code Appendix C) shall be submitted by no later  
217 than twelve (12) months after the date of approval of the preliminary or final subdivisions  
218 plat or site plan, as the case may be. All such fees shall be paid by the qualifying  
219 organization prior to receiving such reimbursement.

220  
221 (e) *Stormwater management review fees.* Applications for reimbursement of fees  
222 incurred pursuant to the Stormwater Management Ordinance (City Code Appendix D) shall  
223 be submitted by no later than twelve (12) months after the date such fees are incurred. All  
224 such fees shall be paid by the qualifying organization prior to receiving such reimbursement.  
225 Stormwater management utility fees imposed pursuant to Chapter 32.5 of the City Code  
226 shall not be reimbursed pursuant to this section.

227  
228 (f) *Economic Development Incentive Program; investment partnerships.*  
229 Qualifying organizations shall be eligible for awards pursuant to the Economic Development  
230 Incentive Program in accordance with the provisions of the Economic Development  
231 Investment Program Policy and Procedure. Qualifying organizations located within a  
232 Strategic Growth Area or Special Economic Growth Area shall also be eligible to participate  
233 in investment partnerships with the City or Virginia Beach Development Authority in  
234 accordance with the provisions of the Guidelines for Evaluation of Investment Partnerships

235 for Economic Development, adopted by the City Council on January 14, 2014, and any  
236 future amendments thereto.

237

238 **Sec. 9-8. Partial tax exemption for rehabilitated structures.**

239

240 (a) Eligibility for exemption. To be eligible for the partial exemption from real  
241 estate provided by this section, a building or structure shall be no less than twenty (20)  
242 years of age at the time the application is made. Any such exemption shall only apply to  
243 buildings or structures that have been substantially rehabilitated, renovated or replaced for  
244 commercial or industrial use by a qualifying organization after the effective date of this  
245 section. The exemption shall apply only for such period as at least fifty per cent (50%) of  
246 the total floor area of the rehabilitated structure is occupied by a qualifying organization, as  
247 defined in section 9-3. For purposes of this section:

248

249 (1) "Rehabilitation" shall mean the process of returning a property to a  
250 state of utility, through repair or alteration, which makes possible an  
251 efficient use of the property; and

252

253 (2) "Qualifying costs" shall include the costs of all work done to the  
254 structural components, heating, plumbing and electrical systems of  
255 the building, work done to update kitchens and bathrooms, work  
256 necessary for compliance with the Americans With Disabilities Act,  
257 the installation of fire suppression systems and fire escapes,  
258 reasonable architectural and engineering fees, construction period  
259 interest, site work, landscaping elements and construction  
260 management costs, but shall not include acquisition costs .

261

262 (b) Application for exemption; base value. To qualify for a partial tax exemption  
263 pursuant to this section, the owner of such structure shall, at the same time an application is  
264 made for a building permit to rehabilitate such structure, file with the Administrator an  
265 application and construction plans. Among the other information supplied, the applicant  
266 shall estimate on the application form the qualifying costs of the rehabilitation project. Such  
267 application shall be filed prior to the commencement of any rehabilitation work for which an  
268 exemption is sought. No structure shall be eligible for such exemption unless all required  
269 building permit(s) have been issued.

270 (c) Review of application and plans. The Administrator shall review all  
271 applications, plans and other information submitted that relate to a rehabilitation project for  
272 which the exemption provided by this section is sought. If, after reviewing the application

273 and plans for a proposed rehabilitation project, the Administrator determines in writing that  
274 the proposed project is eligible for the partial tax exemption provided for in this section, he  
275 shall notify the applicant that the project has been approved for the exemption, subject to  
276 compliance with the provisions of this section. The Administrator, on behalf of the City,  
277 and the owner of the structure shall thereafter enter into an agreement setting forth the  
278 terms and conditions pursuant to which the exemption provided for in this section is  
279 granted.

280  
281 (d) *Exemption for rehabilitated structures.* Notwithstanding any contrary provision  
282 of the City Code, the exemption for rehabilitated structures shall be calculated and applied  
283 as set forth below:

284 (1) The assessment of the structure for the current tax year, prior to  
285 commencement of the rehabilitation, shall constitute the base value of  
286 the  
287 structure. The exemption shall be in an amount equal to the greater  
288 of the initial increase in assessed value of the structure above its base  
289 value resulting from the rehabilitation of the structure, as determined  
290 by the real estate assessor, or an amount equal to fifty (50) percent of  
291 the qualifying costs of rehabilitating the structure; provided, however,  
292 that the amount of the exemption provided by this subsection shall not  
293 exceed the amount of the assessment of the structure at any time  
294 after its rehabilitation.

295  
296 (2) The exemption shall run with the land for ten (10) years; provided,  
297 however, that if the Administrator determines that the criteria for the  
298 eligibility for the exemption no longer applies, the exemption shall  
299 cease as of the current tax year. The owner of the structure shall,  
300 upon request of the Administrator, furnish to the Administrator such  
301 information as is reasonably necessary for the Administrator to  
302 determine whether the rehabilitated property continues to meet the  
303 eligibility requirements of this section; provided, however, that the  
304 Administrator may consider all relevant information available to him in  
305 making such determination.

306  
307 (3) No increase in assessment occurring after the first year of such  
308 rehabilitation exemption shall qualify for an increase in such  
309 exemption. In the event of a decrease in the property's assessed  
310 value after the first year of any rehabilitation exemption, the

311 exemption shall be based on the difference in taxes computed on the  
312 base value and the decreased assessed value of the property. The  
313 applicant shall submit to the real estate assessor documentation of all  
314 qualifying costs incurred as a basis for the exemption, and shall  
315 execute an affidavit stating that all such costs were incurred as part of  
316 the project.

317  
318 (4) By August 15 of each year for the duration of the exemption, the real  
319 estate assessor shall notify the city treasurer of the exemption and the  
320 amount to be credited to the property owner's tax bill.

321  
322 **Sec. 9-9. Live-work units.**

323  
324 (a) Live-work units shall be allowed in accordance with the applicable provisions  
325 of the City Zoning Ordinance and Oceanfront Resort District Form-Based Code.

326  
327 Adopted by the City Council of the City of Virginia Beach, Virginia on the 21<sup>st</sup> day of  
328 April, 2015.