ORD-3402

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

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

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

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

CHAPTER 9. CREATIVE DISTRICTS

Sec. 9-1. Purpose.

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

Sec. 9-2. Establishment of districts; boundaries.

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

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

Sec. 9-3. Definitions.
(a) Administrator means the City Manager or such other person as he may designate to perform the duties of the Administrator under this chapter. The City Manager may designate such other persons to assist in the administration of this Article as he may deem appropriate.

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

(c) Qualifying organization means:

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

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

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

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

A. Architecture;

B. Marketing and advertising;

C. Culinary arts, including, but not limited to, artisans engaged in bread making, cheese making, charcuterie, confectionary, coffee roasting or similar practices, culinary institutes, and restaurants that (i) locally source no less than ten per cent (10%) of the food served at the establishment; (ii) are not one of a chain of restaurants having more than ten (10)
establishments; and (iii) prepare food by hand or using traditional, non-industrialized methods. For purposes of this section, “locally” shall mean within the Commonwealth of Virginia or no farther than fifty (50) miles from the location of the subject establishment;

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

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

F. Publishing;

G. Software development;

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

I. Historic preservation;

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

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

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

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

Sec. 9-4. Administration; eligibility.
(a) Upon application, the Administrator shall determine, in writing, whether the applicant shall be classified as a qualifying organization as defined in Section 9-3. The applicant shall have the burden of demonstrating to the satisfaction of the Administrator that it meets the requirements to be so classified. The determination of the Administrator that an applicant shall not be classified as a qualifying organization shall be appealable to the City Manager. No applicant shall be classified as a qualifying organization if the Commissioner of the Revenue determines that such applicant is delinquent in the payment of any taxes or fees payable to the City.

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

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

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

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

Sec. 9-5. Qualification.
Upon determination by the Administrator that an applicant is a qualifying organization, such organization shall be qualified to receive the incentives provided for in this chapter; provided, however, that a qualifying organization to which a business license was issued prior to the effective date of the establishment of the Creative District in which it was located at the time of the issuance of such license shall not be eligible for the incentives set forth in Sections 9-6 or 9-7. All such incentives shall be subject to annual appropriation by the City Council. If an organization ceases to be a qualifying organization during a year in which reimbursements, payments or exemptions apply, they shall be prorated for the months such organization was a qualifying organization.

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

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

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

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

(a) The fee reimbursements provided for in subsections (b) through (d) shall apply to qualifying organizations for new construction, alterations and rehabilitation, provided that:
(i) no less than one hundred per cent (100%) of the total cost of the construction is expended on facilities which will house or directly accommodate a qualifying organization;
(ii) that the qualifying organization itself paid the fees for which reimbursement is sought; and
(iii) the completed application for reimbursement, together with all other required
materials, is submitted to the Administrator within the times set forth below. Fees reimbursed pursuant to this chapter shall be paid out by the City.

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

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

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

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

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

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

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

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

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

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

(c) Review of application and plans. The Administrator shall review all applications, plans and other information submitted that relate to a rehabilitation project for which the exemption provided by this section is sought. If, after reviewing the application
and plans for a proposed rehabilitation project, the Administrator determines in writing that
the proposed project is eligible for the partial tax exemption provided for in this section, he
shall notify the applicant that the project has been approved for the exemption, subject to
compliance with the provisions of this section. The Administrator, on behalf of the City, and
the owner of the structure shall thereafter enter into an agreement setting forth the
terms and conditions pursuant to which the exemption provided for in this section is
granted.

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

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

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

(3) No increase in assessment occurring after the first year of such
rehabilitation exemption shall qualify for an increase in such
exemption. In the event of a decrease in the property's assessed
value after the first year of any rehabilitation exemption, the
exemption shall be based on the difference in taxes computed on the
base value and the decreased assessed value of the property. The
applicant shall submit to the real estate assessor documentation of all
qualifying costs incurred as a basis for the exemption, and shall
execute an affidavit stating that all such costs were incurred as part of
the project.

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

Sec. 9-9. Live-work units.

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

Adopted by the City Council of the City of Virginia Beach, Virginia on the 21st day of
April, 2015.