

**ADOPTED**

JAN 24 2012

**Board of Supervisors  
James City County, VA**

ORDINANCE NO. 192A-5

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 7, ENTERPRISE ZONE, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY RENAMING THE CHAPTER FROM ENTERPRISE ZONE TO ECONOMIC INCENTIVE ZONES; BY CREATING ARTICLE I WITH EXISTING SECTIONS 7-1 THROUGH 7-10, AS ENTERPRISE ZONE; BY ADDING ARTICLE II, TOURISM ZONE, BY ADDING SECTION 7-20, STATEMENT OF PURPOSE; SECTION 7-21, BOUNDARIES OF THE JAMES CITY COUNTY TOURISM ZONE; SECTION 7-22, DEFINITIONS; SECTION 7-23, QUALIFICATION FOR INCENTIVES; SECTION 7-24, INCENTIVE PERIOD; SECTION 7-25, LOCAL TOURISM ZONE INCENTIVES; SECTION 7-26, APPLICATION; AND SECTION 7-27, CONSTRUCTION AND SEVERABILITY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 7, Economic Incentive Zones, is hereby amended by creating Article I, Enterprise Zone, with existing Sections 7-1 through 7-10; by adding Article II, Tourism Zone, Section 7-20, Statement of purpose; Section 7-21, Boundaries of the James City County tourism zone; Section 7-22, Definitions; Section 7-23, Qualification for incentives; Section 7-24, Incentive period; Section 7-25, Local tourism zone incentives; Section 7-26, Application; and Section 7-27, Construction and severability.

Chapter 7. ~~Enterprise~~ *Economic Incentive Zones*

*Article I. Enterprise Zone*

Section 7-1. Statement of purpose.

Section 7-2. Boundaries of the James River Enterprise Zone.

Section 7-3. Definitions.

Section 7-4. Qualification for incentives.

Section 7-5. Local enterprise zone incentives.

Section 7-6. Application.

Section 7-7. Appeals.

Section 7-8. Enterprise zone administrator.

Section 7-9. Administrative regulations.

Section 7-10. Construction and severability.

*Sections 7-11 – 7-19. Reserved.*

## *Article II. Tourism Zone*

*Section 7-20. Statement of purpose.*

*The Virginia Code authorizes Virginia localities to establish, by ordinance, one or more tourism zones for the purpose of granting tax incentives and providing regulatory flexibility to qualified businesses.*

*The purpose of the Tourism Zone is to promote James City County's tourism industry by providing incentives to eligible business entities that will attract visitors, create new employment opportunities and/or promote educational opportunities while increasing travel-related revenue within the County.*

*Section 7-21. Boundaries of the James City County Tourism Zone.*

*The entire county shall be designated as a Tourism Zone.*

*Section 7-22. Definitions.*

*For the purpose of this Chapter, the following words and phrases shall have the meanings ascribed to them by this section, unless clearly indicated to the contrary:*

*Base year.* The calendar year preceding the calendar year in which the applicant submits the Tourism Zone Program Application to Office of Economic Development.

*Business.* Any corporation, partnership, electing small business (subchapter S) corporation, limited-liability company or sole proprietorship authorized to conduct business in the Commonwealth and subject to the state income tax on net corporate rate income (section 58.1-400, et seq. of the Virginia Code). A business does not include organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, Section 512, nor does it include homeowners associations as defined in Federal Internal Revenue Code, Section 528.

*Capital investment.* Money used by a tourism business to purchase fixed assets and not money used for day-to-day operating expenses.

*Development review fees.* Fees assessed by the county divisions of engineering and resource protection and planning.

*Existing tourism business.* A tourism business that actively engaged in the conduct of trade or business in the county before being included within a tourism zone pursuant to this chapter.

*Fixed asset.* A long-lived tangible piece of property owned by a tourism business used by the tourism business in the production of income including real estate and plant, machinery and tools which triggers the payment of taxes to the county.

*Incentive period.* A five year period during which a qualified tourism business receives the benefit of tourism zone incentives.

*New tourism business.* A tourism business not already in existence within the county prior to an area being designated as a tourism zone pursuant to this chapter.

*Office of economic development (OED).* The James City County office of economic development.

*Qualified tourism business.* A tourism business that has met the qualifications set forth in Section 7-23 and continues to meet such qualifications as required by this chapter.

*Tourism business. A business whose primary purpose is to provide tourism products, processes or related services and establish a desirable destination to attract tourists from outside of the community and create an environment for those visitors that will deliver a memorable experience or promote educational opportunities and increase travel-related revenue in James City County.*

*Tourism products, processes or related services. Activities which promote and provide an experience for visitors to the county including, but not limited to: cultural or historical sites; recreation or athletic facilities; areas of scenic beauty or distinctive natural phenomena; family oriented destinations; tours; special events within the county; museums; wineries or related activities; and lodging that involves restoration or rehabilitation of an existing structure or includes new construction of a facility supporting rooms for overnight stay and conference space.*

*Tourism zone. 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.*

*Tourism zone administrator. The tourism zone administrator shall be the county's director of economic development.*

*Section 7-23. Qualification for incentives.*

*For a tourism business to be a qualified tourism business eligible to receive the benefit of tourism zone incentives, it must be located within the boundaries of the tourism zone and meet the following criteria:*

- a) Provide new capital investment of at least \$350,000.
  - i) Tourism businesses must meet and maintain the minimum qualifying investment levels through year five of the incentive period.**
- b) Submit a tourism zone application as required in section 7-26.*

*The qualified tourism business must commit to a performance based agreement guaranteeing certain investments, sales revenues, or other criteria as determined by the county. In those areas designated by multiple incentive zones, a business may receive local incentives from only one.*

*The following limitations apply:*

- a) *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.*
- b) *If a qualified tourism business fails to pay in full any taxes imposed by the county by the due date, this may result in the forfeiture of the tourism zone incentives for that year.*
- c) *If a qualified tourism business files for bankruptcy during any five-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.*
- d) *In the event that a qualified tourism business ceases to meet the minimum capital investment criteria or removes itself from operation from within the county at any time within any five-year incentive period, it shall be required to repay the total amount of the tourism zone incentives received.*
- e) *If a qualified tourism business leaves the county to conduct business in another location within five years of completing any five-year incentive period, it will be required to repay the county the total amount of tourism zone incentives received.*

*Section 7 -24. Incentive period.*

*Qualified tourism businesses shall receive the benefits of the tourism zone incentives for a five year incentive period. Qualified tourism businesses that have completed one five-year incentive period may seek qualification for one additional incentive period of five years and will be required to provide a new capital investment of \$350,000.*

*Section 7-25. Local tourism zone incentives.*

*Qualified tourism businesses located within the boundaries of the tourism zone shall be eligible for the following:*

- a) *Reduction of selected development review fees. The county shall reduce by 50%, development review fees (as defined in section 7-22) associated with the qualifying project.*
- b) *Business professional and occupancy license (BPOL) grant. - Qualified businesses located within a tourism zone may be eligible to receive from the economic development authority a five year declining grant to compensate the qualified business for the increase in BPOL based upon the increased capital investment.*
- c) *Business tangible personal property grant. Qualified businesses located within the tourism zone may be eligible to receive from the economic development authority a five year declining grant to compensate the qualified business for the increase in business tangible personal property tax triggered by the increased capital investment.*

*The percentage for a five-year declining grant shall be determined by the following schedule:*

*Year 1 – 90%*

*Year 2 – 70%*

*Year 3 – 50%*

*Year 4 – 40%*

*Year 5 – 30%*

*For existing tourism businesses, grants shall be based only on the taxes assessed on the portion of gross receipts directly attributable to the increased capital investment.*

*d) Expedited review process. The qualified business may be eligible for the county's expedited review process. The standard expedited review process fee will be waived.*

*Nothing herein shall be construed as limiting the county or the economic development authority from granting any 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 James City County economic development authority.*

#### *Section 7-26. Application.*

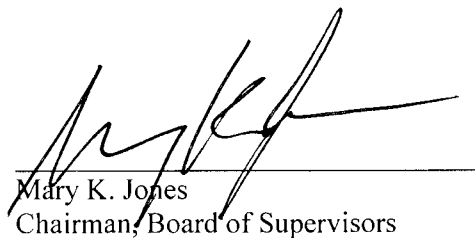
*Prior to submitting an application, a tourism business will schedule a preliminary meeting with the OED, prior to any investment. Once an application is submitted, the OED will perform an initial review to determine if the applicant is a qualified tourism business and that the proposed project meets the required criteria and is in compliance with the tourism zone qualifications.*

*Once the review is completed, the application and recommendation will be forwarded to the economic development authority for a decision.*

#### *Section 7-27. Construction and severability.*

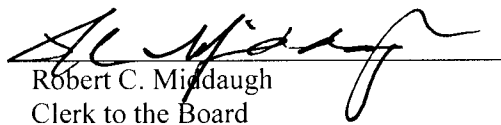
*This chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that is contrary to*

*the constitution of the Commonwealth or of the United States, or if the application thereof to any government agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government agency, person or circumstance.*



Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:



Robert C. Mindaugh  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
MCLENNON	AYE
ICENHOUR	AYE
KENNEDY	AYE
JONES	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of January, 2012.

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