

City of Fairfax, Virginia  
City Council Regular Meeting



Agenda Item # 8b

City Council Meeting 9/27/2016

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**TO:** Honorable Mayor and Members of City Council

**FROM:** Robert Sisson, City Manager *rs*

**SUBJECT:** Public hearing and Council action on an ordinance amending Chapter 14 (Businesses) of the Code of the City of Fairfax, Virginia by adding a new Article X (Technology Zone)

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**ISSUE(S):** Whether to consider an ordinance amending the Code of the City of Fairfax, Chapter 14 (Businesses) by adding a new Article X (Technology Zone).

**SUMMARY:** The Code of Virginia §58.1-3850 enables local municipalities to establish Technology Zones which help cultivate economic growth by providing tax incentives and/or regulatory flexibility to qualified technology businesses. The proposed ordinance establishes a Technology Zone conterminous with the boundaries of the City of Fairfax. Eligible technology businesses within the Technology Zone shall be certified by the City as a Qualified Technology Business. Upon certification, a Qualified Technology Business would be required to enter into a performance agreement and thereafter shall be entitled to the benefits established within the Technology Zone. The proposed Technology Zone benefits include a total or partial exemption for up to (but not in excess) of five years of the Business, Professional, and Occupational License (BPOL) taxes. The Economic Development Authority has discussed this proposed ordinance and recommended its enactment by the City Council at the City Council Work Session meeting on July 7, 2016.

**FISCAL IMPACT:** Unable to determine at this time.

**RECOMMENDATION:** Approve the ordinance establishing a technology zone.

**ALTERNATIVE:** Take no action.

**RESPONSIBLE STAFF/  
POC:** Director of Economic Development, EDA

**COORDINATION:** City Attorney, City Manager, Commissioner of the Revenue

**ATTACHMENTS:** Ordinance  
Sample Motion

**ORDINANCE NO. 2016 - \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 14 OF THE CODE OF THE CITY OF FAIRFAX, VIRGINIA, BY ADDING THERETO A NEW ARTICLE IX, ENTITLED TECHNOLOGY ZONE**

BE IT ORDAINED by the City Council of the City of Fairfax, Virginia that Chapter 14 of the Code of the City of Fairfax, is amended by adding thereto a new Article IX to provide in its entirety as follows:

ARTICLE IX – TECHNOLOGY ZONE

Sec. 14-419. Purpose of Technology Zone.

The City of Fairfax (or the “City”) has determined that the development of its commercial tax base requires incentives, and further determines that an appropriate method of offering incentives for the City is to create a Technology Zone (as guided and authorized by the Code of Virginia § 58.1-3850). The City believes that the establishment of a Technology Zone will improve the economic conditions within the City which would benefit the welfare of the citizens.

This creation of a Technology Zone does not affect any other existing requirements for businesses, such as zoning regulations.

Sec. 14-420. Definitions.

For the purpose of this article the following words and phrases shall have the meanings given below, unless clearly indicated to the contrary:

*Administrator* means the City Manager or his or her designee.

*Performance Agreement* means the City's standard agreement form, to which shall be attached a business's proposed plan of development and/or business plan.

*Qualified Technology Business* means a business which derives a reasonable accounting of its income from the design, development, manufacture or other creation, for lease, sale or license of technology based products, processes or related services. Technology based products, processes or related services are defined as engaging in the activity of automation, biotechnology, biomedical research, electronics, computer hardware, computer software, defense, energy, environmental, manufacturing equipment, advanced materials, medical applications, pharmaceuticals, photonics, electronic based subassemblies and components, testing and measurements, telecommunications, systems, integration, multimedia, e-commerce, internet services, transportation, architecture and engineering or similar activities. Any business providing incubation or co-location services to startup or new businesses may qualify as a Qualified Technology Business if a reasonably substantial component of its business plan involves providing for a physical location of at least four businesses within a single location, and that business facilitates access to technology services

for its client businesses or members. An electronic equipment facility that is primarily occupied, or intended to be occupied, by electronic and computer equipment that provides electronic data switching, transmission, or telecommunication functions between computers, both inside and outside the facility shall not qualify as a technology business.) The use of computers, telecommunication services, or a web page or internet site shall not, in itself, be sufficient to qualify as a Qualified Technology Business. Receivers, principals or prime contractors of identifiable federal appropriations for research and development defined in Federal Acquisition Regulations, in the areas of computer and electronic systems, computer software, applied sciences, economic, social and physical sciences shall meet the definition of a Qualified Technology Business. A business operating under a certificate of public convenience issued by the Virginia State Corporation Commission, or engaged in the provision of a “utility service” as defined by City Code will not qualify.

*Targeted Industry* means a type of business or manufacturing that is identified as a targeted industry in the City’s most recent economic development strategic plan, or established as a priority by the City Manager, Council, or Director of Economic Development.

Sec. 14-421. Administration.

The Administrator, in consultation with the Commissioner of The Revenue shall determine and publish the procedures for obtaining the benefits created by this article and for the administration of this article.

The Administrator shall be the single point-of-contact for qualified business owners to take advantage of the Technology Zone incentive described in this article, and shall provide recommendations as necessary to streamline the processes for a business to qualify and obtain the incentive.

Sec. 14-422. Boundaries.

The Technology Zone boundaries shall at all times be the same as the municipal boundaries of the City of Fairfax.

Sec. 14-423. Eligibility Requirements.

- (a) Economic incentives and regulatory flexibility may be made available to any new or expanded business listed by the City as a targeted industry and/or that advances the City's strategic goals identified in the most recently adopted economic development strategic plan and/or the City's comprehensive plan; and
- (b) New businesses must enter into to a Performance Agreement with the City based upon a minimum investment, jobs, sales revenues, or other significant criteria, as determined by the Administrator. The Qualified Technology Business must make a minimum investment and/or create and sustain a minimum number of full-time or equivalent jobs over a period of years outlined in the Performance Agreement in order to be eligible for economic incentives or regulatory flexibility; or

- (c) Existing businesses must commit to a Performance Agreement based upon a minimum expansion that may include jobs, a physical expansion or other significant criteria to be eligible for economic incentives or regulatory flexibility.
- (d) Business relocating from outside the City to a location within the City may qualify under paragraph (b) of this section.

Sec. 14-424. Taxes Eligible for Exemption.

Qualified Technology Businesses shall be exempt from the business, professional and occupational license taxes and fees (collectively, “BPOL”) imposed by the City that would otherwise be imposed on income derived from the research, development, manufacturer or rendering of advanced technological products or services. The amount and schedule of exemption shall be provided for in Section 14-425 of this Article, and may from time to time be amended in order to sustain the economic development priorities established by the City.

Sec. 14-425. Amount and Schedule of Exemption.

Qualified Technology Businesses shall be exempt for up to five consecutive calendar years from the BPOL taxes according to the schedule below. Year one is the calendar year in which the business becomes a Qualified Technology Business if it is qualified prior to June 30 of the first year. Otherwise, year one shall be the calendar year following the year in which the business becomes a Qualified Technology Business.

The schedule for exemption shall include: 100% exemption in year one (1); 80% exemption in year two (2); 60% exemption in year three (3); 40% exemption in year four (4); 20% exemption in year five (5); and no exemption for any year after the conclusion of the initial five year period.

Sec. 14-426. Procedure for Tax Exemption as a Qualified Technology Business.

The Administrator shall develop an application form to implement the terms of this article. No incentive application shall be approved until the Commissioner of The Revenue makes a determination that no other unpaid taxes are outstanding. Once an incentive application has been approved and the business certified by the Administrator as a Qualified Technology Business, the business and the City shall execute a Performance Agreement and the business shall thereafter be entitled to the exemptions created by this article.

Sec. 14-427. Compliance.

- (a) Failure of the Qualified Technology Business to pay in full by the due date any taxes imposed by the City shall result in the loss of the exemption for the remainder of the then current year upon a finding by the Administrator that such delinquency is significant. The Administrator shall withdraw Qualified Technology Business status

for any business that is not compliant with any ordinance, regulation, or other legal requirement pertaining to that business.

- (b) Failure of the Qualified Technology Business to meet the minimum criteria established in Section 14-423 regarding minimum investment and/or minimum number of jobs shall result in the loss of the exemption for the remainder of the current year. In that event, the Qualified Technology Business shall repay, within 30 days, to the City of Fairfax the full amount of revenue that would have been generated through the full tax rate as specified in the Agreement.
- (c) If a business ceases to be a Qualified Technology Business during a year in which rebates or exemptions apply, the tax exemption shall apply only to those months the business was a qualified business. The Qualified Technology Business shall establish its qualification for the incentives on an annual basis.

This ordinance shall become effective as provided by law.

INTRODUCED:  
PUBLIC HEARING:  
ADOPTED:

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Mayor

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Date

ATTEST:

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City Clerk

Votes

Councilman DeMarco  
Councilman Greenfield  
Councilman Meyer  
Councilmember Miller  
Councilmember Schmidt  
Councilman Stehle

**SAMPLE MOTION**

**“I MOVE TO APPROVE AN ORDINANCE AMENDING THE CODE OF THE CITY OF FAIRFAX, VIRGINIA, CHAPTER 14 (BUSINESSES) BY ADDING A NEW ARTICLE X (TECHNOLOGY ZONE).”**