

ORDINANCE NO. 24-1

AN ORDINANCE TO CREATE AND ORDAIN CHAPTER 24, BUSINESS, OF THE CODE OF THE COUNTY OF SPOTSYLVANIA, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Spotsylvania, Virginia, that Chapter 24, Business, is hereby created and ordained, as follows:

WHEREAS, Chapter 38, Title 58.1 of the Code of Virginia of 1950, as amended (the "Act") empowers any county, by ordinance, to establish a technology zone in which special tax incentives and certain other regulatory flexibility may be granted for a period not to exceed ten (10) years in accordance with the Act;

WHEREAS, the Board of Supervisors of the County of Spotsylvania, Virginia (the "Board") has determined that establishing a Technology Zone (defined below) with incentives for economic growth will foster the development and expansion of commercial and industrial businesses engaged in the research, development, manufacture and/or design of technology products or services, thereby assisting the efforts of Spotsylvania County, Virginia (the "County") in attracting local employment opportunities for its citizens; and

WHEREAS, the Board has determined it is in the best interest of the County to establish a Technology Zone.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SPOTSYLVANIA, VIRGINIA:

1. **Definitions.** For purposes of this Ordinance, the following words and phrases shall have the meanings subscribed below, unless clearly indicated to the contrary:

Base Year defined as the calendar year preceding the calendar year in which the applicant submits the Business Incentive Application to the DED.

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.

Business Incentive Application means an application available from the DED to qualify for Technology Zone incentives offered by this Ordinance.

Capital Investments means moneys used by a Technology Business to purchase Fixed Assets and not moneys used for day-to-day operating expenses. Fixed Assets owned by the Technology Business that are moved into the Technology Zone from another location within the County shall not be included in the calculation of Capital Investments.

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

DED means the County's Department of Economic Development.

Employee means a person who is on the payroll of the Technology Business's establishment within the Technology Zone and whose workstation's primary location is within the Technology Zone.

Existing Technology Business means a Technology Business that was actively engaged in the conduct of trade or business in the County prior to an area being designated as a Technology Zone pursuant to this Ordinance.

Fixed Asset means long-lived tangible property owned by a Technology Business that is used by the Technology Business in the production of its income including real estate, plant, machinery and equipment.

Full Time Employee means an Employee who is employed in a job for an indefinite duration at a Technology Business located in a Technology Zone and is required either (A) to work at least minimum number of hours as determined by the Federal Government to qualify as a full time employee per week for a period consisting of forty-eight (48) consecutive weeks, or (B) work at least the minimum number of hours as determined by the federal government to qualify as a full time employee per week for a portion of the calendar year in which the employee was hired by the Technology Business. Seasonal, temporary, leased, contract labor, or an Employee whose job function is shifted from an existing location within the County to a Technology Business within the Technology Zone is not a Full Time Employee.

Internal Revenue Code means the Internal Revenue Code of 1986, as amended, Title 26 of the United States Code.

New Technology Business means a Technology Business not already existing within the County prior to an area being designated as a Technology Zone pursuant to this Ordinance.

Qualified Technology Business means a Technology Business that has met the qualifications set forth in Section 6 and continues to meet such qualifications as required by this Ordinance.

Technology Business means a Business whose primary purpose is the research, development, or manufacture and/or design for lease, sale or license of Technology Products, Processes or Related Services.

Technology Products, Processes or Related Services means engaging in the activities of automation, biotechnology, biomedical research, chemicals, computer hardware, computer software, defense, electronics, energy, environmental, homeland security, manufacturing equipment, advanced materials, medical technologies, pharmaceuticals, photonics, electronic-based subassemblies and components, testing and measurement, Telecommunications, systems integration, information systems, internet software or data and data warehousing or training in the above concentration areas.

In no case will the use of computers or telecommunication services used by a Business in its administrative operations qualify the Business as a Technology Business.

Technology Zone means a specific geographic area or areas created pursuant to Chapter 38, Title 58.1 of the Code of Virginia of 1950, as amended, to foster the development and expansion of Technology Businesses in the County.

Telecommunications means internet, e-mail or similar services, but shall exclude voice, telephone and facsimile communications.

Year 1 means the calendar year in which the Technology Business submits a Business Incentive Application to the DED prior to March First (1st) of that year and is qualified as a Qualified Technology Business in such year pursuant to the Certification Procedure described in this Ordinance. Otherwise, Year 1 shall be the year following the year in which the Technology Business is qualified as a Qualified Technology Business pursuant to the Certification Procedure described in this Ordinance.

2. **Establishment of Technology Zone.** A Technology Zone is hereby established in the County in accordance with the Act.

3. **Boundaries.** The boundaries of the Technology Zone shall be within the areas described in Exhibit A attached to this Ordinance.

4. **Administration.** An applicant seeking to obtain the benefits of the Technology Zone will hold preliminary discussions with the DED resulting in a letter from the applicant describing the planned project and submittal of a completed Business Incentive Application.

The DED will perform the initial review of the project to determine if the project meets the required criteria for a Qualified Technology Business and is consistent with the County's policy for the consideration of Technology Zone incentives. If the initial review indicates that the project has merit, DED will forward the request and recommendation to the County Administrator for consideration by the Board.

The Board will review the proposed project and accompanying request. The Board will evaluate the request and make a decision based upon the project's positive impact on the County. The Board has the sole authority to designate incentives for the implementation of economic development projects.

5. **Eligibility.** A Business seeking the benefits of the Technology Zone incentives must be a Technology Business.

6. **Qualifications.** For a Technology Business to be a Qualified Technology Business eligible to receive the benefits and incentives of the Technology Zone, it must be located within the boundaries of the Technology Zone and meet the following qualifications:

- (a) An Existing Technology Business must have met one of the following criteria:
 - (i) provided additional Capital Investments of at least one hundred thousand dollars (\$100,000) over the Base Year; or
 - (ii) increased the average number of Full Time Employees by the greater of:
 - (A) ten percent (10%) over the Base Year; or
 - (B) an average increase over the Base Year of at least three (3) new, Full Time Employees.
- (b) A New Technology Business must have met one of the following criteria:
 - (i) provided Capital Investments of at least one hundred fifty thousand dollars (\$150,000) within the boundaries of the Technology Zone; or
 - (ii) employed at least five (5) Full Time Employees.
- (c) The following conditions apply to both Existing Technology Businesses and New Technology Businesses:
 - (i) wages paid to Full Time Employees must be equal to or greater than twenty percent (20%) above the County's average annual salary as determined by the DED.
 - (ii) Technology Business must meet and maintain the minimum qualifying employment and investment levels through Year 5 to be a Qualified Technology Business.
 - (iii) Qualified Technology Businesses that have completed one five-year incentive period and seeking Technology Zone incentives for a

second five-year period will be treated as an Existing Technology Business for qualification purposes.

7. **Incentives.** Qualified Technology Businesses located within the boundaries of the Technology Zone are afforded the following incentives:

(a) Tax Rebates:

(i) rebate on business, professional and occupational license tax imposed by the County pursuant to Section 11.1-10 of the County Code; and

(ii) rebate on machinery and tools tax imposed by the County pursuant to Section 21-1 of the County Code and Chapter 35, Title 58.1 of the Code of Virginia of 1950, as amended.

For those Qualified Technology Businesses that are Existing Technology Businesses, rebates shall only be applicable to taxes assessed on the portion of gross receipts or acquired machinery and tools directly attributable to the expansion of the business.

The amount of each tax rebate shall be a percentage of that portion of taxes paid by the Qualified Technology Business each year of the incentive period that is directly attributable to the expansion of the business. The percentage rebated for a five-year incentive period shall be determined by the following schedule:

| | |
|--------------|----------------------------|
| Year 1 | One hundred percent (100%) |
| Year 2 | One hundred percent (100%) |
| Year 3 | Fifty percent (50%) |
| Year 4..... | Fifty percent (50%) |
| Year 5..... | Fifty percent (50%) |

(b) Targeted Industry Status -- Qualified Technology Businesses shall be placed in the County's established Fast Track Development Review, Permitting and Inspections program.

Nothing herein shall be construed as limiting the Board's power to grant additional incentives to Technology 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 Spotsylvania County Economic Development Authority.

8. **Certification Procedure.** The following certification procedure applies to Technology Businesses seeking to obtain the benefits of the Technology Zone:

(a) A Technology Business must submit a Business Incentive Application to the DED for certification as a Qualified Technology Business. All Business Incentive

Applications shall be submitted to the DED no later than March First (1st). Applications received after March First (1st) will not be eligible to receive Technology Zone incentives for that year.

(b) The DED will review and verify that each applicant is in compliance with the Technology Zone qualifications and follow the Administration procedures outlined in Section 4 above.

(c) After a Technology Business has been certified as a Qualified Technology Business, it must annually submit an application to the Commissioner of Revenue prior to March First (1st), indicating the number of Full Time Employees employed by the Qualified Technology Business, an official Virginia Employment Commission report for wage verification, the amount of business license tax, real estate, business personal property, and/or machinery and tool taxes paid by the Qualified Technology Business during the incentive period, and any other information as requested by the Commissioner of Revenue or the DED for purposes of administering the Technology Zone. Applications must be signed by an official representative of the Qualified Technology Business authorized to sign on its behalf.

(d) An Existing Technology Business shall not qualify for Technology Zone incentives by reorganizing or changing its form in a manner that does not alter the basis of the Technology Business assets or result in a taxable event.

(e) An Existing Technology Business qualifying for a second five-year incentive period shall be eligible to receive Technology Zone incentives for the duration of five years or the expiration of this Ordinance, whichever is shorter.

(f) If a Qualified Technology Business fails to pay in full the taxes imposed by the County by the due date, this will result in the forfeiture of the Technology Zone incentives for that year upon a finding that the tax account has been delinquent for sixty (60) days.

(g) If a Qualified Technology Business files for bankruptcy during the five-year incentive period, this will result in the forfeiture of any portion remaining of the Technology Zone incentive.

(h) In the event that the Technology Business ceases to be a Qualified Technology Business, ceases to meet the minimum employment and capital investment criteria, or removes itself from operation from the County during any year in the five-year incentive period, it shall be required to repay the total amount of Technology Zone incentive benefits received. A Technology Business must sign an agreement to this effect before receiving Technology Zone benefits.

(i) If a Qualified Technology Business leaves the County to conduct business in another location within five (5) years of completing the five-year incentive period, it will be required to repay the County the total amount of Technology Zone incentive benefits received.

9. **Special Service Districts Not Affected.** The establishment of the Technology Zone shall not be construed to affect any provision or requirement of the County Code or ordinances creating Special Service Districts, including but not limited to the collection of special taxes.

10. **Zoning Ordinance Not Affected.** This Ordinance is an economic development incentive and is not a zoning change. Nothing herein shall be construed to affect any provision or requirement of any County zoning ordinance.

11. **Nonwaiver.** Nothing in this Ordinance 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 Ordinance 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 Technology Business or upon real or personal property owned or leased by a Qualified Technology Business. The Board reserves the right to remove Qualified Technology Business status from any business that is not compliant with any ordinance, regulation, policy or other legal requirement.

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

13. **Restrictions.** No Qualified Technology Business may apply for or receive a tax or fee exemption under this Ordinance on the basis of a building permit issued or construction commenced prior to the establishment of the Technology Zone in which the property lies.

14. **Education and Promotion.** The DED shall develop programs to educate the public and potential businesses of the benefits of the Technology Zone.

15. **Expiration.** This Ordinance shall expire ten (10) years from the date of its adoption in accordance with the Act. To the extent permitted by the Act, the Board may create another technology zone within the boundaries of the Technology Zone upon the expiration of this Ordinance.

16. **Effective Date.** This Ordinance shall take effect immediately.

EXHIBIT A
TECHNOLOGY ZONE BOUNDARIES

(Cover Page)

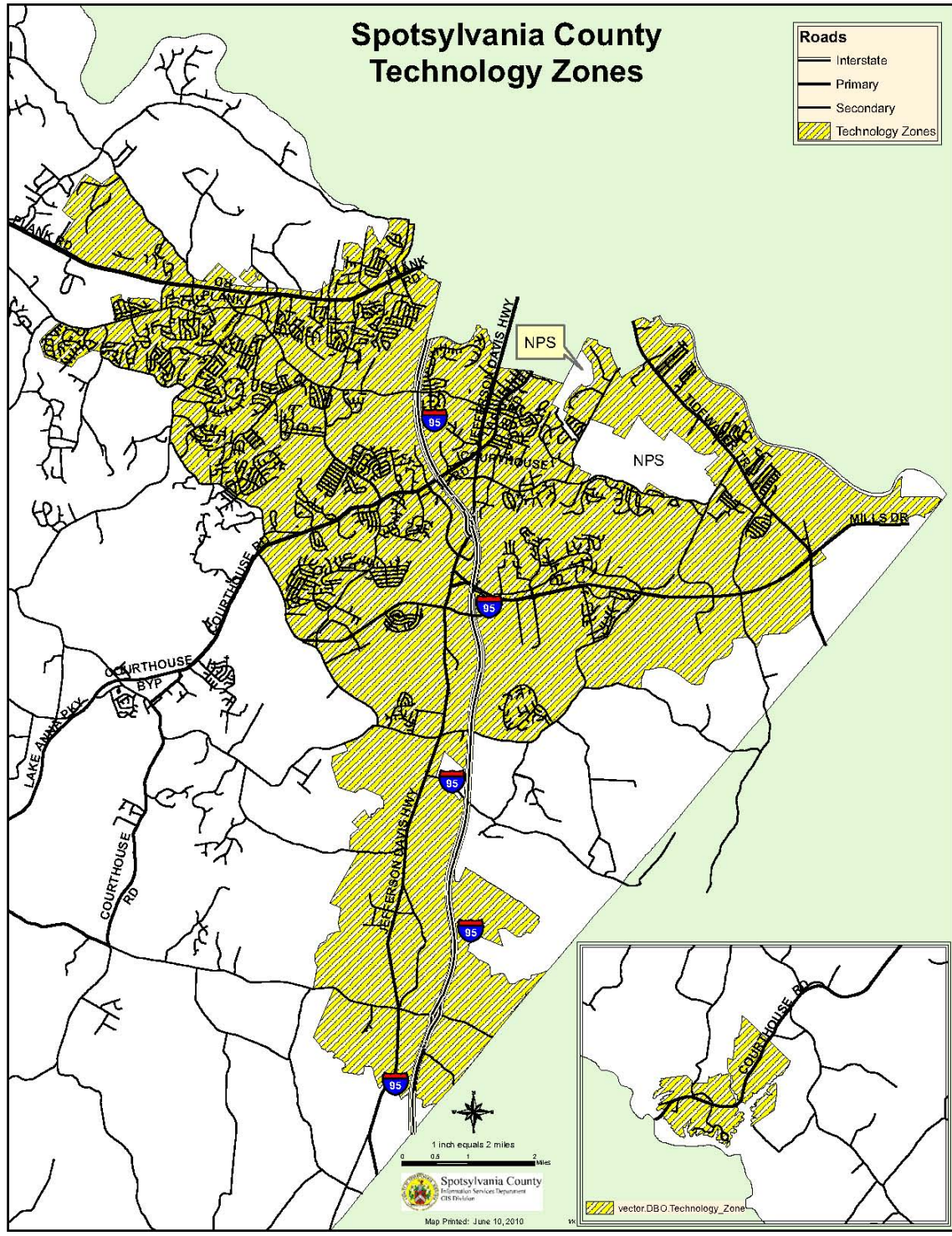


EXHIBIT A