

**A RESOLUTION TO ADOPT CRITERIA, GUIDELINES AND TAX INCENTIVES FOR  
ELIGIBLE QUALIFYING TECHNOLOGY BUSINESSES LOCATED IN THE  
TECHNOLOGY ZONE**

**WHEREAS**, Section 58.1-3850 of the *Code of Virginia*, 1950, as amended (the “**Code**”), authorizes any county, by ordinance, to establish one or more technology zones in which special tax incentives may be granted for not more than ten years in accordance with the provisions of such section of the Code; and

**WHEREAS**, the Board of Supervisors of Caroline County, Virginia, (the “**Board**”) has, by ordinance adopted on July 30, 2009, established such a technology zone (the “**Ordinance**”) and may in the future establish one or more additional technology zones; and

**WHEREAS**, pursuant to the Ordinance, the Board is to establish criteria and guidelines, including, but not limited to, the level of capital investment and other investment, including the number of employees and salaries of those employees, in order for an eligible qualified technology business to receive tax incentives offered by the County pursuant to the authority in Section 58.1-3850 of the Code and the Ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of Caroline County, Virginia, that:

1. The criteria, guidelines and tax incentives available to an eligible Qualified Technology Business located in the technology zone (the “**Guidelines**”) shall be as follows:

These guidelines for an eligible Qualified Technology Business located in a technology zone provide criteria, guidance and possible tax incentives available for eligible businesses. An individual performance agreement between the County and the Business shall establish the specific criteria and incentives available to each eligible Qualified Technology Business located in a Technology Zone.

**A. Definitions.**

For purposes of the Guidelines, the following words and phrases shall have the meanings subscribed below, unless clearly indicated to the contrary:

*Base Year* means the calendar year preceding the calendar year in which the applicants submit the Business Incentive Application to the County.

*Board* means the Board of Supervisors for the County.

*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 Director of Economic Development for the County and reviewed by the Director of Economic Development for the County and the County Administrator to determine whether a business is an eligible Qualified Technology Business in a Technology Zone created by the Technology Zone Ordinance and eligible for incentives.

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

*County* means Caroline County, Virginia.

*County Administrator* means the Caroline County, Virginia, Administrator.

*County Average Salary* means the average salary of either County residents, including those who work outside of the County, or those employees employed by businesses located in the County, whichever is greater. For any given year, such County Average Salary shall be determined by the County Administrator.

*County Code* means the *Code of Caroline County, Virginia*, 2003, as amended.

*Existing Business* means a Business that was actively engaged in the conduct of trade or business in the County prior to the adoption of the Technology Zone Ordinance on July 30, 2009, or prior to an area becoming a Technology Zone by amendment to the Technology Ordinance.

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

*Full-time Employees* means employees who (a) are employed for an indefinite duration at a Business located in a Technology Zone, (b) are eligible for or receive healthcare benefits from the Business and (c) have a salary 10% above the County Average Salary.

*IDA* means the industrial development authority for Caroline County, Virginia.

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

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

*Qualified Technology Business* means a business that has met and continues to meet the qualifications set forth in § 103-145 of the County Code.

*Technology Zone* means the geographic zones established under and described in § 103-144 of the County Code.

*Technology Zone Ordinance* means the ordinance adopted by the Caroline County Board of Supervisors on July 30, 2009 that added Article XVII to the County Code and any amendments to said Article.

*Year One* means the calendar year in which a Qualified Technology Business submits a Business Incentive Application to the County Administrator prior to March 1 of that year and is determined to be a Qualified Technology Business eligible for incentives based on the criteria and meets the criteria and guidelines as a Qualified Technology Business in such year pursuant to the certification process described in these guidelines. Otherwise, Year One 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 these guidelines. *Year Two* means the calendar year immediately following Year One. *Year Three* means the calendar year immediately following Year Two. *Year Four* means the calendar year immediately following Year Three. *Year Five* means the calendar year immediately following Year Four. *Year Six* means the calendar year immediately following Year Five. *Year Seven* means the calendar year immediately following Year Six. *Year Eight* means the calendar year immediately following Year Seven. *Year Nine* means the calendar year immediately following Year Eight. *Year Ten* means the calendar year immediately following Year Nine.

**B. Applicants for benefits.**

An applicant seeking to obtain the benefits of the Technology Zone will hold preliminary discussions with the County Administrator. Said discussion shall result in a letter from the applicant describing the planned project and submission of a completed Business Incentive Application.

The Director of Economic Develop will perform the initial review of the application to determine if the application and Business meets the criteria required for an eligible Qualified Technology Business and is consistent with the County policy. If the initial review indicates that the project has merit, the County Administrator will develop a recommendation for review by the Board. The Board will review the proposed project and accompanying recommendations. 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 tax or other incentives for implementation of such projects.

**C. Eligibility criteria.**

For either a New or Existing Business, to be eligible to receive the benefits or incentives of the Technology Zone, it must be a Qualified Technology Business located within the boundaries of the Technology Zone and meet the following criteria:

1. Provide a Capital Investment of at least \$1 million in the Base Year or Year One or a combination of the two;
2. Add and retain at least five new positions that are filled with Full-time Employees;
3. Maintain in the County the minimum qualifying number of Full-Time Employees and Fixed Assets from the Capital Investment of \$1 million through and including Year Ten.

**D. Incentives.**

Eligible Qualified Technology Businesses may be afforded the following tax incentives:

1. Reimbursement from the IDA of the amount of business, professional and occupational license tax imposed by the County pursuant to Section 103-89 *et seq.* of the County Code and actually paid by the eligible Qualified Technology Business, so that:

- a. Year One: 100% reimbursement
- b. Years Two-Ten: 75% reimbursement

2. Reimbursement from the IDA of the amount of real estate taxed imposed by the County pursuant to Section 103-56 *et seq.* of the County Code and actually paid by the eligible Qualified Technology Business, so that:

- a. Year One: 100% reimbursement
- b. Years Two-Ten: 75% reimbursement

3. Reimbursement from the IDA of the amount of tangible property and machinery and tools tax imposed by the County pursuant to Section 103-43 *et seq.* of the County Code and actually paid by the eligible Qualified Technology Business, so that:

- a. Years One – Five: 100% reimbursement
- b. Years Six – Ten: 75% reimbursement

4. For those Qualified Technology Businesses that are already existing businesses, reimbursement shall only be applicable to the taxes assessed on the portion of gross receipts or acquired tangible business property, machinery, tools, and real property directly attributable to the expansion of the business. The amount of each reimbursement shall be a percentage of the portion of the taxes paid by the Qualified Technology Business each year of the incentive period that is directly attributable to the expansion of the business.

If the Business fails to maintain eligibility for all ten years the Business shall pay to the IDA any and all reimbursement and shall pay to the County any other incentives provided.

**E. Corporate headquarters.**

Additional incentives are available to eligible Qualified Technology Businesses that locate their corporate headquarters within the Technology Zone. In the case where a corporate headquarters is located in a technology zone, reimbursement from the IDA may be applicable for up to 100% for all ten years, where both manufacturing and main corporate office functions are present and job creation exceeds 200 Full-time Employees.

**F. Failure to meet the criteria.**

Should a formerly eligible Qualified Technology Business fail to meet the eligibility criteria as set forth in these guidelines, incentives will be voided for the current year of operation and any year thereafter where the business does not meet the eligibility criteria. The Qualifying Technology Business that ceases doing business or leaves the County prior to end of the required ten-year period shall pay to the County the amount of all incentives received under these guidelines.

**G. Certification procedure.**

The following certification procedure applies to businesses seeking to obtain the benefit of the Technology Zone.

1. A business must submit a Business Incentive Application to the County for certification as a Qualified Technology Business. All Business Incentive Applications shall be submitted to the Director of Economic Development for the County no later than March 1. Applications received after March 1 will not be eligible to receive Technology Zone incentives for that year.

2. The Director of Economic Development for the County and the County Administrator will review and verify that each application is in compliance with the Technology Zone qualifications and eligibility requirements and follow the procedures outlined above.

3. After a technology business has been certified as an eligible Qualified Technology Business, it must annually submit an application to the Commissioner of Revenue prior to March 1 indicating the number of Full-time Employees employed by the 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 tools tax paid by the Qualified Technology Business during the incentive period; and any other information as requested by the Commissioner of Revenue or the County Administrator for purpose of administering the technology zone.

4. All applications must be signed by an official representative of the business, authorized to sign on its behalf.

5. An existing 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 business assets or results in a taxable event.

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

7. If an eligible Qualified Technology Business files for bankruptcy during the ten-year incentive period, this will result in the forfeiture of any portion remaining of the technology zone incentive.

8. In the event that the Business ceases to meet the minimum employment and capital investment criteria, or removes itself from operation within Technology Zone during any year in the ten-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.

#### **H. Nonwaiver.**

Nothing in these guidelines 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 these guidelines 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 eligible Qualified Technology Business status

from any business that is not compliant with any ordinance, regulation, policy or other legal requirement.

**I. Confidentiality.**

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

**J. Restrictions.**

No Qualified Technology Business may apply for or receive a tax incentive under these guidelines on the basis of a building permit issued or construction commenced prior to the establishment of the Technology Zone in which the property lies.

2. The foregoing shall be effective immediately.

**Adopted this \_\_\_ day of \_\_\_\_\_, 2009.**

\_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Clerk