

ORDINANCE NO. 24-2

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 amended and re-ordained by amending Article I, Technology Zones, Sections 24-1, et. seq., and by adding a new Article II, Tourism Zones, as follows:

Chapter 24

BUSINESS

Article I. Technology Zones

Sec. 24-1. Definitions.

For purposes of this Article, 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 Technology Zone Program Qualification Application to 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.

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 Article.

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.

Incentive Period means a five (5) year period during which a Qualified Technology Business receives the benefit of Technology Zone incentives.

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 Article.

Qualified Technology Business means a Technology Business that has met the qualifications set forth in Section 24-7 and continues to meet such qualifications as required by this Article.

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.

Technology Zone Program Annual Review Application means an application to be completed annually, available from the DED to renew and submit data in order to continue receiving incentive rebates.

Technology Zone Program Qualification Application means an application available from the DED to qualify to receive Technology Zone incentives established by this Article.

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 Technology Zone Program Annual Review Application to the Commissioner of Revenue on or before 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 Article.

Sec. 24-2. Establishment of Technology Zone.

A Technology Zone is hereby established in the County in accordance with the Chapter 38, Title 58.1 of the Code of Virginia of 1950, as amended.

Sec. 24-3. Boundaries.

The Boundaries of the Technology Zone shall be within the areas described in Appendix A of this Chapter.

Sec. 24-4. Administration.

An applicant seeking to obtain the benefits of the Technology Zone will hold

preliminary discussions with the DED, prior to any investment, resulting in a letter from the applicant describing the planned project and submittal of a completed Technology Zone Program Qualification 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.

Sec. 24-5. Eligibility.

A Business seeking the benefits of the Technology Zone incentives must be a Technology Business. In areas that encompass both a Tourism Zone and a Technology Zone, a Business will only be eligible to receive incentives from one zone or the other, not both.

Sec. 24-6. Incentive Period.

Qualified Technology Businesses shall receive the benefits of the Technology Zone incentives for a five (5) year Incentive Period. A Qualified Technology Business may apply to qualify to receive the benefit of Technology Zone incentives for one (1) additional Incentive Period of five (5) years.

Sec. 24-7. Qualifications.

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

- (a) An Existing Technology Business must meet one (1) of the following criteria:
 - (i) Provide additional Capital Investments of at least one hundred thousand dollars (\$100,000.00) over the Base Year; or
 - (ii) Increase the average number of Full-Time Employees by the greater of:
 - (A) Ten (10) percent 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 meet one (1) of the following criteria:
 - (i) Provide Capital Investments of at least one hundred fifty thousand dollars (\$150,000.00) within the boundaries of the Technology Zone; or
 - (ii) Employ 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 (20) percent above the County's average annual salary as determined by the DED.
 - (ii) The Technology Business must meet and maintain the minimum qualifying employment and investment levels through year 5 in order to qualify as a Qualified Technology Business.
- (d) Qualified Technology Businesses that have completed one (1) five-year Incentive Period and are seeking qualification for an additional Incentive Period will be treated as an Existing Technology Business for qualification purposes and Technology Zone incentives for a second five (5) year period will be treated as an Existing Technology Business for qualification purposes.

Sec. 24-8. 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 as may be permitted by law 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.

Sec. 24-9. 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 Technology Zone Program Qualification Application to the DED for certification as a Qualified Technology Business.
- (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 24-4.
- (c) After a Technology Business has been certified as a Qualified Technology Business, it must annually submit a Technology Zone Program Annual

Review Application to the Commissioner of Revenue on or before March First (1st) of each year of the Incentive Period, 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. Applications received after March First (1st) will not be eligible to receive Technology Zone incentives for that year.

- (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) 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.
- (f) If a Qualified Technology Business files for bankruptcy during any five-year Incentive Period, this will result in disqualification and the business will be ineligible to receive Technology Zone incentives for the remainder of the Incentive Period.
- (g) 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 within any five-year Incentive Period, it shall be required to repay the total amount of Technology Zone incentives received. A Technology Business must sign an agreement to this effect before receiving Technology Zone incentives.
- (h) If a Qualified Technology Business leaves the County to conduct business in another location within five (5) years of completing any five-year Incentive Period, it will be required to repay the County the total amount of Technology Zone incentives received.

Sec. 24-10. 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 state statute creating Special Service Districts, including but not limited to the collection of special taxes.

Sec. 24-11. Zoning Ordinance Not Affected.

This Article 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.

Sec. 24-12. Nonwaiver.

Nothing in this Article 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 Article 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.

Sec. 24-13. Confidentiality.

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

Sec. 24-14. Restrictions.

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

Sec. 24-15. Education and Promotion.

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

Secs. 24-16—24-20. Reserved.

Article II. Tourism Zones

Sec. 24-21. Definitions.

For purposes of this Article, 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 Tourism Zone Program Qualification Application to 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.

Capital Investments means moneys used by a Tourism Business to purchase Fixed Assets and not moneys used for day-to-day operating expenses. Fixed Assets owned by the Tourism Business that are moved into the Tourism 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.

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

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

Incentive Period means a five (5) year period during which a Qualified Tourism Business receives the benefit of Tourism Zone incentives.

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

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

Qualified Tourism Business means a Tourism Business that has met the qualifications set forth in Section 24-27 and continues to meet such qualifications as required by this Article.

Tourism Business means a Business whose primary purpose is to 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 while increasing travel-related revenue.

Tourism Products, Processes or Related Services means engaging in activities which promote and provide an experience for visitors 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; events on location; museums; wineries or related activities; and lodging if:

- a) It involves restoration or rehabilitation of a historic structure;
- b) It contains meeting space with a minimum of 250 person capacity and supporting hotel rooms and food and beverage capabilities.

Tourism 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 Tourism Businesses in the County.

Tourism Zone Program Annual Review Application means an application to be completed annually, available from the DED to renew and submit data in order to continue receiving incentive rebates.

Tourism Zone Program Qualification Application means an application available from the DED to qualify to receive Tourism Zone incentives established by this Article.

Year 1 means the calendar year in which the Tourism Business submits a Tourism Zone Program Annual Review Application to the Commissioner of Revenue on or before March 1st of that year and is qualified as a Qualified Tourism Business in such year pursuant to the Certification Procedure described in this Article.

Sec. 24-22. Establishment of Tourism Zone.

A Tourism Zone is hereby established in the County in accordance with Chapter 38, Title 58.1 of the Code of Virginia of 1950, as amended.

Sec. 24-23. Boundaries.

The Boundaries of the Tourism Zone shall be within the areas described in Appendix B of this Chapter.

Sec. 24-24. Administration.

An applicant seeking to obtain the benefits of the Tourism Zone will hold preliminary discussions with the DED, prior to any investment, resulting in a letter from the applicant describing the planned project and submittal of a completed Tourism Zone Program Qualification Application.

The DED will perform the initial review of the project to determine if the project meets the required criteria for a Qualified Tourism Business and is consistent with the

County's policy for the consideration of Tourism 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.

Sec. 24-25. Eligibility.

A Business seeking the benefit of Tourism Zone incentives must be a Tourism Business. In those areas that include both a Tourism Zone and a Technology Zone, a Business will only be eligible to receive incentives from one zone or the other, not both.

Sec. 24-26. Incentive Period.

Qualified Tourism Businesses shall receive the benefits of the Tourism Zone incentives for a five (5) year Incentive Period. A Qualified Tourism Business may apply to qualify to receive the benefit of Tourism Zone incentives for three (3) additional Incentive Periods, each five (5) years.

Sec. 24-27. Qualifications.

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 qualifications:

- (a) An Existing Tourism Business must meet the following criteria:
 - (i) Provide additional Capital Investments of at least two hundred fifty thousand dollars \$250,000 over the Base Year
- (b) A New Tourism Business must meet the following criteria:
 - (i) Provide Capital Investments of at least five hundred thousand dollars \$500,000 within the boundaries of the Tourism Zone;
- (c) The following conditions apply to both Existing Tourism Businesses and New Tourism Businesses:
 - (i) Tourism Business must meet and maintain the minimum qualifying investment levels through year five (5) in order to qualify as a Qualified Tourism Business.
- (d) Qualified Tourism Businesses that have completed one (1) five-year Incentive Period and are seeking qualification for additional Incentive

Periods will be treated as an Existing Tourism Business for qualification purposes And Tourism Zone incentives for a second five (5) year period will be treated as an Existing Tourism Business for qualification purposes.

Sec. 24-28. Incentives.

Qualified Tourism Businesses located within the boundaries of the Tourism 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 Tourism Businesses that are Existing Tourism 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 Tourism 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 Tourism 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 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 Spotsylvania County Economic Development Authority.

Sec. 24-29. Certification Procedure.

The following certification procedure applies to Tourism Businesses seeking to obtain the benefits of the Tourism Zone:

(a) A Tourism Business must submit a Tourism Zone Program Qualification Application to the DED for certification as a Qualified Tourism Business.

(b) The DED will review and verify that each applicant is in compliance with the Tourism Zone qualifications and follow the administration procedures outlined in Section 24-24 above.

(c) After a Tourism Business has been certified as a Qualified Tourism Business, it must annually submit a Tourism Zone Program Annual Review Application to the Commissioner of Revenue on or before March First (1st) of each year of the Incentive Period, indicating the number of Full Time Employees employed by the Qualified Tourism Business, the amount of business license tax, real estate, business personal property, and/or machinery and tool taxes paid by the Qualified Tourism Business during the Incentive Period, and any other information as requested by the Commissioner of Revenue or the DED for purposes of administering the Tourism Zone. Applications must be signed by an official representative of the Qualified Tourism Business authorized to sign on its behalf. Applications received after March First (1st) will not be eligible to receive Tourism Zone incentives for that year.

(d) 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.

(e) If a Qualified Tourism Business fails to pay in full the taxes imposed by the County by the due date, this will result in the forfeiture of the Tourism Zone incentives for that year.

(f) 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.

(g) In the event that the Tourism Business ceases to be a Qualified Tourism Business, ceases to meet the minimum capital investment criteria, or removes itself from operation from the County during any year within any five-year Incentive Period, it shall be required to repay the total amount of Tourism Zone incentives received. A Tourism Business must sign an agreement to this effect before receiving Tourism Zone incentives.

(h) If a Qualified Tourism Business leaves the County to conduct business in another location within five (5) years of completing any five-year Incentive Period, it will be required to repay the County the total amount of Tourism Zone incentives received.

Sec. 24-30. Special Service Districts Not Affected.

The establishment of the Tourism Zone shall not be construed to affect any provision or requirement of the County Code or state statute creating Special Service Districts, including but not limited to the collection of special taxes.

Sec. 24-31. Zoning Ordinance Not Affected.

This Article 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.

Sec. 24-32. Nonwaiver.

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

Sec. 24-33. Confidentiality.

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

Sec. 24-34. Restrictions.

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

Sec. 24-35. Education and Promotion.

The DED shall develop programs to educate the public and potential businesses of the benefits of the Tourism Zone.

Secs. 24-36 – 24-39. Reserved.

APPENDIX A

TECHNOLOGY ZONE BOUNDARIES

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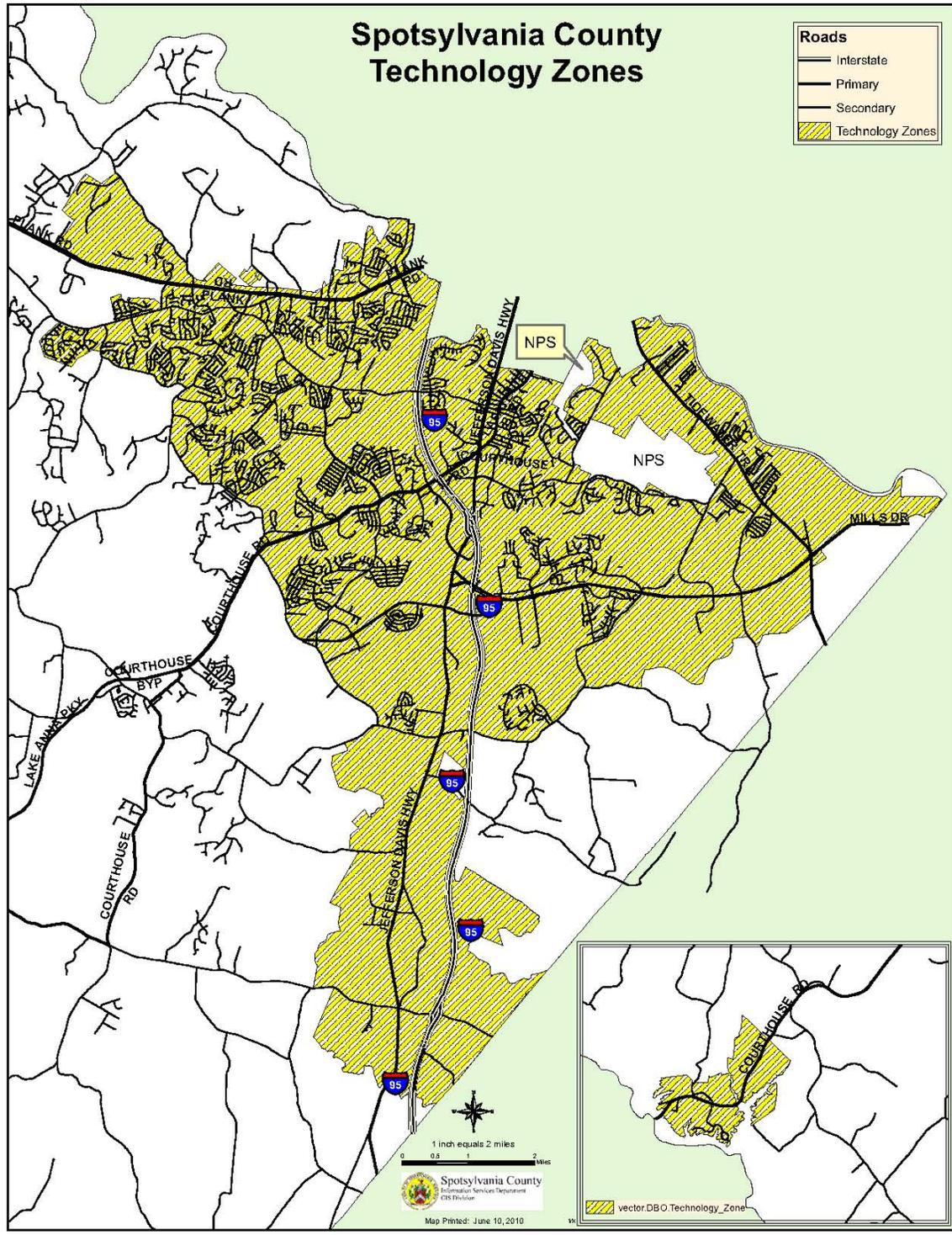
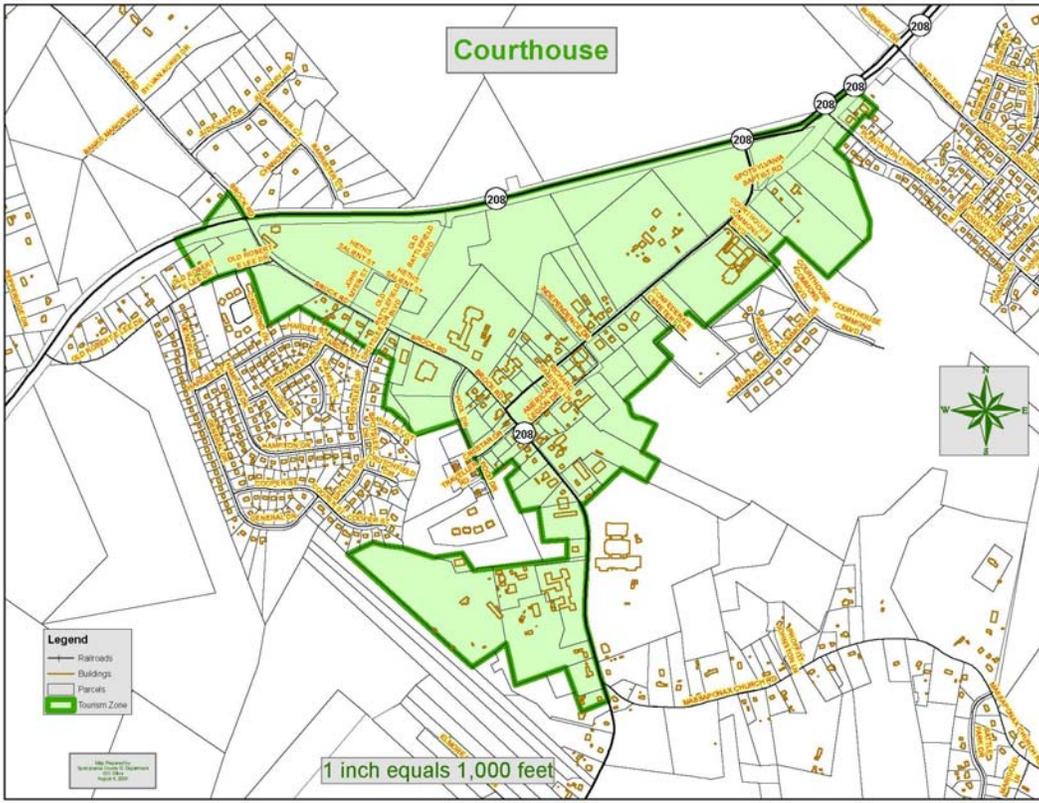


EXHIBIT A

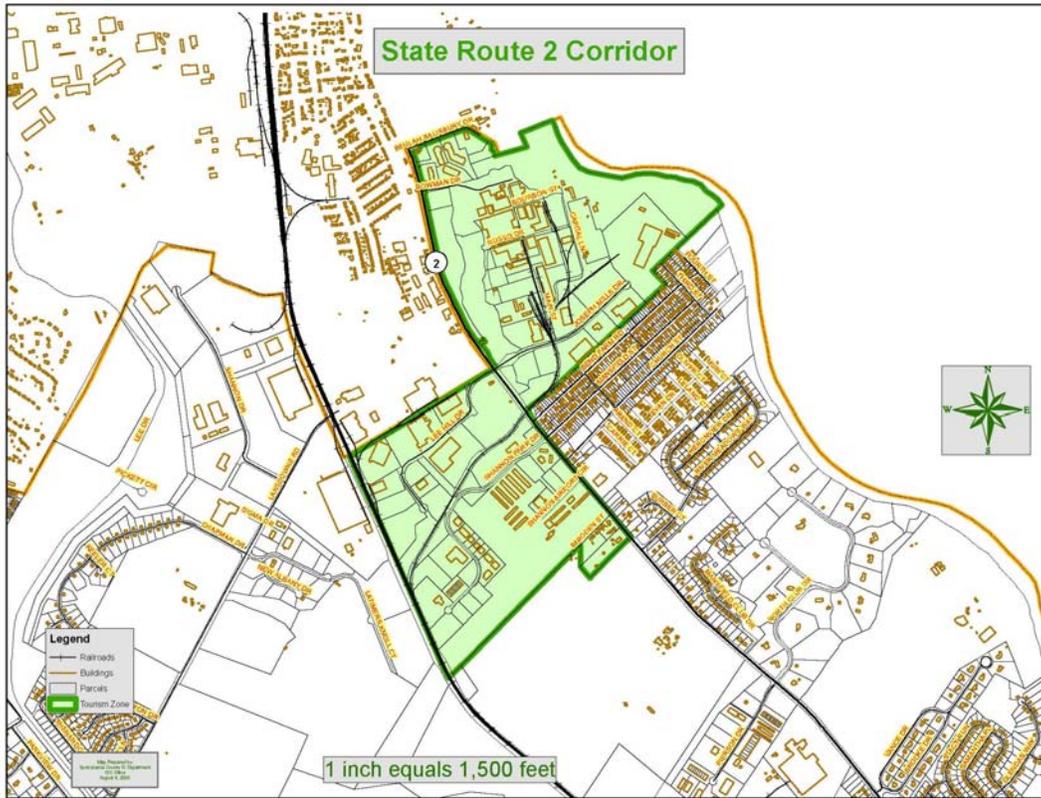
APPENDIX B

TOURISM ZONE BOUNDARIES

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APPENDIX B



APPENDIX B

