

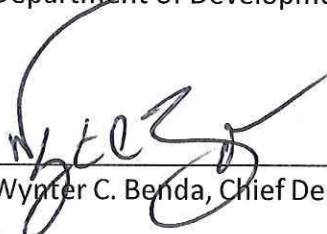


To the Honorable Council
City of Norfolk, Virginia

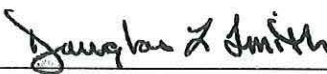
June 11, 2019

From: Jared M Chalk, Interim Director
Department of Development

Subject: Ordinance to amend and reordain the Norfolk City Code by adding a new chapter 45.7 entitled "Downtown Arts and Cultural District"

Reviewed: 
Wynfer C. Benda, Chief Deputy City Manager

Ward/Superward: 2/6

Approved: 
Douglas L. Smith, City Manager

Item Number: R-17

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**

This agenda item is an ordinance to amend and reordain the Norfolk City Code by adding a new chapter 45.7 entitled "Downtown Arts and Cultural District" so as to establish the Downtown Arts and Cultural District pursuant to section 15.2-943.1 of the Code of Virginia, 1950, as amended.

IV. **Analysis**

The State of Virginia authorizes localities to establish one or more arts and cultural districts for the support and creation of arts and cultural venues in the City and the creation of incentives for the support and creation of arts and cultural venues within the City. This amendment will designate the NEON District as the "Downtown Arts and Cultural District" and provide certain incentives for arts related businesses. The goal in establishing the Downtown Arts and Cultural District is to increase awareness and support for the arts and culture in the city, which will serve to support and create arts and cultural venues in the city, to increase capital investment and create jobs, and to promote Norfolk as the arts and cultural center of the region.

V. **Financial Impact**

N/A

VI. Environmental
N/A

VII. Community Outreach/Notification
Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

VIII. Board/Commission Action
N/A

IX. Coordination/Outreach
This letter and ordinance have been coordinated with the Budget Department, Development Department, City Attorney's Office and the Downtown Norfolk Council.

Supporting Material from the Department of Development:

- Ordinance

5/29/2019MR

Form and Correctness Approved:

By Michelle B. [Signature]
Office of the City Attorney

Contents Approved:

By [Signature]
Department of Development

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE TO AMEND AND REORDAIN THE CODE OF THE CITY OF NORFOLK, VIRGINIA, 1979, BY ADDING A NEW CHAPTER 45.7 ENTITLED "DOWNTOWN ARTS AND CULTURAL DISTRICT" SO AS TO ESTABLISH THE DOWNTOWN ARTS AND CULTURAL DISTRICT PURSUANT TO § 15.2-943.1 OF THE CODE OF VIRGINIA, 1950, AS AMENDED.

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WHEREAS, § 15.2-943.1 of the Code of Virginia, 1950, as amended, authorizes localities to establish one or more arts and cultural districts for the support and creation of arts and cultural venues in the City;

WHEREAS, by Ordinance Number 45,103, the City Council designated the D-4 "Downtown District" shown in Exhibit A attached hereto as the "Downtown Arts and Design District";

WHEREAS, the Downtown Arts and Design District is commonly known as the NEON District;

WHEREAS, the City Council has determined that it would be advantageous to designate a portion of the Downtown Arts and Design District as a downtown arts and cultural district pursuant to § 15.2-943.1 of the Code of Virginia, 1950, as amended, and to provide incentives for the support and creation of arts and cultural venues within the City; now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That in furtherance of the above-stated desire to support and create arts and cultural venues in the City, the Code of the City of Norfolk, 1979, is hereby amended and reordained by adding thereto a new Chapter 45.7 establishing the Downtown Arts and Cultural District pursuant to the terms of § 15.2-943.1 of the Code of Virginia, 1950, as amended, to read as follows:

Chapter 45.7 DOWNTOWN ARTS AND CULTURAL DISTRICT

ARTICLE I.

Downtown Arts and Cultural District

Sec. 45.7-1. Intent.

It is the intent of the council in establishing the Downtown Arts and Cultural District to increase awareness and support for the arts and culture in the city, which will serve to support and create arts and cultural venues in the city, to increase capital investment and create jobs, and to promote Norfolk as the arts and cultural center of the region. The council believes that establishment of an arts and cultural district will benefit the welfare of the citizens of Norfolk.

Sec. 45.7-2. Establishment of the Downtown Arts and Cultural District, and Boundaries

The Downtown Arts and Cultural District is hereby established. The Downtown Arts and Cultural District shall consist of the area shown on the map attached to this Ordinance. Any lot, piece, or parcel of land not wholly contained within the boundaries of the area shown on the maps attached to this Ordinance shall not be part of the Downtown Arts and Cultural District. The designation of the area as an arts and cultural district (hereinafter referred to as the "district") shall not in any respect override any applicable City Code regulatory requirements including, but not limited to zoning regulations, fire code, nuisance, and building and property maintenance codes.

Sec. Sec. 45.7-3. Definitions.

For the purposes of this chapter, and unless otherwise indicated to the contrary, the following term(s) shall have the following meaning(s):

(a) "District administrator" means the city manager, or another employee of the city as designated by the city manager, who shall serve as the administrator for the district.

(b) "Qualified arts organization" shall mean a business for profit or not-for-profit organization physically located within the district which, by the determination of the district administrator in accordance with this chapter, positively contributes to the spectrum of arts and cultural activities and venues available to the public by presenting live performances of theatre, dance, music, or other imaginative work and/or producing or exhibiting physical works created by, or under the direction of one or more artists, which are intended for unique production or limited reproduction. Museums or historic sites, the primary mission of which is education, history, or historic preservation, may also qualify as qualified arts organizations. Theaters, including movie theaters, art galleries, dance studios, music venues, performance spaces, art schools and academies, including culinary arts schools and academies, and graphic art design businesses are examples of qualified arts organizations.

In no case shall a restaurant, hair or nail salon, or an office use such as an architect, advertising agency, bank, real estate office, medical office, attorney's office or any other general office use qualify as a qualified arts organization for the purposes of this chapter. Additionally, in no case shall a retail art establishment qualify as a qualified arts organization for the purposes of this chapter unless the retail art establishment creates or exhibits visual or performing art such as painting, sculpture, textiles, dance, photography or music which is intended for unique production or limited reproduction, and the retail art establishment derives greater than fifty percent (50%) of its income from these art activities.

When applying for any benefit afforded under this

chapter, the applicant shall have the burden of proving qualification as a qualified arts organization. The incentives in this chapter shall not extend beyond the time limits set forth in this chapter unless the district administrator determines that a successor organization or assignee of an original qualified arts organization is owned and operated by a wholly separate and different entity than the original qualified arts organization. In such case, the new entity shall submit a separate application under this chapter.

(c) "Redevelopment" means any expansion, addition, facade change or other physical improvement to a property primarily housing a qualified arts organization that increases the assessed value of the property.

Sec. 45.7-4. Administration.

The district administrator shall be responsible for administration of this chapter and shall determine the procedures for applying for and obtaining the incentives provided herein.

Sec. 45.7-5. Eligibility requirements.

The tax incentives provided for in section 45.7-8 below and fee exemptions provided for in 45.7-9 below will be made available to any existing for-profit business or not-for-profit organization physically located within the district as of July 1, 2019 that applies no later than September 30, 2019 to be recognized as a qualified arts organization and meets the additional criteria set forth below; or any new for-profit business or not-for-profit organization physically located in the district that is a qualified arts organization as defined in section 45.7-3(b) and meets the additional criteria set forth below. New businesses or organizations shall apply to the district administrator for qualification no later than sixty (60) days after the initial commencement of operations. The district administrator shall apply the following criteria when determining if a business or organization is eligible for the incentives provided in this chapter:

(a) The business must be a qualified arts

organization as defined in section 45.7-3(b).

(b) The business or organization has the burden of proving to the district administrator on an annual basis that it qualifies as a qualified arts organization. The business or organization must provide the district administrator with a description of the principal business activities to be carried on in the district; a description of the location of said business within the district and whether such location is owned by the applicant business or organization or leased, and if leased, the name of the landlord and the length of the lease term; details regarding the structure of the business or organization (i.e. type of entity and if other than a sole proprietorship, the names and addresses of all principals of the business); a narrative description of the current and past activities of the business or organization, and in the case of an already operating business or organization, information regarding current and past locations of the business or organization; and a business plan including pro-formas for no less than three (3) years. The business plan is not required if the applicant business has been in continuous operation within the district for five or more years. The business or organization must at all times comply with all applicable federal, state and local laws and regulations.

Sec. 45.7-6. Compliance with laws.

(a) If the qualified arts organization fails to pay in full any tax imposed by the city or other governmental entity by the date the tax becomes due, fails to comply with all applicable federal, state, and local laws and regulations, to comply with the requirements of this chapter, in the case of a first offense, such business or organization shall lose its qualification for the remainder of the current calendar year and in the case of any subsequent failure, the qualified arts organization qualification shall be revoked permanently.

(b) A qualified arts organization that loses its qualification or where a qualification has been revoked under subsection 45.7-6(a) above shall reimburse the city the full amount of all monies that it has received as incentives under this chapter during the calendar

year of the period of non-compliance; such reimbursement is to be paid to the city in full within thirty (30) days of the loss or revocation of qualification.

Sec. 45.7-7. Available incentives.

Upon approval by the district administrator, a qualified arts organization shall be entitled to receive the incentives provided in sections 45.7-8 and 45.7-9 below. The qualified arts organization shall have the burden of establishing its qualification(s) to receive the incentives on an annual basis.

Sec. 45.7-8. BPOL tax reduction.

Notwithstanding any other provision of the Norfolk City Code and pursuant to § 58.1-3850 of the Code of Virginia, 1950, as amended, any business that is certified as a qualified arts organization shall be entitled to a reduction of its business, professional and occupational license tax ("BPOL") imposed by Chapter 24, Article II-A of the Norfolk City Code against gross receipts derived from its creative activities as follows:

(a) Year one is the first calendar year in which a business or organization is certified as a qualified arts organization.

(b) The reduction shall apply for a period of three (3) calendar years, including the partial calendar year of certification and the following two (2) full calendar years, or until such earlier time that the business or organization no longer meets the definition of a qualified arts organization, whichever is the first to occur. If a business or organization ceases to be a qualified arts organization or removes its operation from the district during a year in which the reduction applies, the business or organization shall not be qualified or receive the reduction for that year. A business may not receive the BPOL reduction provided herein more than three (3) calendar years, including the calendar year of certification and the ensuing next two calendar years.

(c) A qualified arts organization must establish its qualification for the incentives on an annual basis

and the percentage of reduction for each year shall be: 100 percent reduction in year one; 100 percent reduction in year two; and 100 percent reduction in year three.

The business or organization shall have the burden of demonstrating, to the satisfaction of the district administrator, that it meets the definition of a qualified arts organization and that it meets all applicable criteria for a BPOL reduction.

The qualified arts organization shall also file an annual BPOL application with the City of Norfolk Commissioner of the Revenue and shall provide the Commissioner of the Revenue with certification from the district administrator that the business or organization qualifies as a qualified arts organization. The qualified arts organization shall certify that no taxes or fees are outstanding at the time of application for the BPOL reduction.

All BPOL tax reductions are subject to adjustment by the Commissioner of the Revenue based on actual gross receipts earned from qualified arts organization activities. Any additional BPOL tax assessed due to such adjustments, or due to revocation of the tax reduction, shall be subject to collection and delinquency in accordance with all applicable laws.

On or prior to March 1 of the calendar year following the last calendar year in which the BPOL reduction applies, the qualified arts organization taxpayer must report the prior calendar year's actual gross receipts to the Commissioner of the Revenue in accordance with Norfolk City Code.

Sec. 45.7-9. Permit fee exemption.

For a period of up to 120 months from qualifying as a qualified arts organization but only for so long as such qualification continues during such 120-month period, a qualified arts organization shall be exempt from any building, electrical, mechanical, plumbing, or site plan application fees that would otherwise be imposed on such qualified arts organization under City Code. This exemption shall apply to the record owner of the property where the qualified arts organization is located or to the business owner if such business is a

tenant of the subject property and, in either case, only to a qualified arts organization that is in the process of redevelopment as defined in section 45.7-3. This exemption may not be applied retroactively. Permit fees are not refundable due to failure to comply with the procedures established by the district administrator at the time of application for any permits or due to subsequent certification as a qualified arts organization. The qualified arts organization must provide written evidence of its certification as a qualified arts organization at the time of application for any permit.

Sec. 45.7-10. Change in circumstances.

If a business or organization ceases to be a qualified arts organization during a year in which incentives apply, the business shall be responsible for the full tax for that year.

Section 2:- That this ordinance shall be in effect from and after July 1, 2019.

Exhibit A

