

## **Ordinance ORD2012-06**

**AN ORDINANCE** to amend The Code of the Town of Ashland, Chapter 6, "Finance and Taxation", by adding Article XI, "Arts and Cultural District."

The purpose of this ordinance to create an Arts and Cultural District, as permitted per § 15.2-1129.1 of the State Code and as shown on the map titled *Arts and Cultural District*, which generally follows the lines of the Ashland Main Street District. The District will provide incentives to encourage the growth of arts and cultural organizations as well as complementary businesses, thus increasing the overall economic activity of this area and other neighboring areas. The Comprehensive Plan calls for the creation of this District.

**WHEREAS**, the Town Council has held a public hearing on the 30th day of April 2012, advertised as required by Virginia Code Section 15.2 – 2204.

**NOW THEREFORE BE IT ORDAINED** by the Council of the Town of Ashland, Virginia that Article XI, "Arts and Cultural District" shall read as follows:

### **ARTICLE XI. ARTS AND CULTURAL DISTRICT**

#### **Section 6-117. Purpose and Intent.**

In accordance with Code of Virginia, title 15.2, chapter 11, it is the purpose of this chapter to establish an arts and cultural district in order to increase awareness and support for the arts and culture in Ashland, specifically within the area designated as Ashland's Arts and Cultural District. The town believes that the creation of an arts and cultural district will enable arts and cultural organizations within the district the ability to partner and build alliances to enable more effective promotion, cooperation, and collaboration. The town further believes that the establishment of an arts and cultural district will encourage the growth of arts and cultural organizations as well as complementary businesses, thus increasing the overall economic activity of this geographic area and other neighboring areas of the town which would, in turn, benefit the welfare of the citizens throughout Ashland.

#### **Section 6-118. Administration.**

The town manager or the district administrator if one is so designated by the town manager, shall be responsible for administration of this chapter and shall determine the procedures for applying for and obtaining the incentives provided herein.

#### **Section 6-119. Definitions.**

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

- A. *Expanded business* shall mean a qualified arts organization that is currently located in the Town of Ashland and does one of the following: (i) makes a capital investment in the qualified arts organization of at least \$15,000.00. Capital investments are amounts spent to acquire or upgrade productive fixed assets (such as buildings, machinery and equipment, vehicles) to increase the capacity or efficiency of a firm for more than one accounting period. Capital investments do not include funds spent for working capital or day-to-day operation of the business; or (ii) creates at least one new full-time job at the qualified arts organization.
- B. *New business* shall mean a qualified arts organization that is not currently located within the Town of Ashland.

- C. *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 administrator, 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, 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 shop qualify as a qualified arts organization for the purposes of this chapter unless the retail shop creates or exhibits some 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 shop derives 50 percent or more of its income from these creative activities.

When applying for any benefit afforded under this chapter, the applicant shall have the burden of providing 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 to an original qualified arts organization is owned and operated by a wholly separate and different entity from the original qualified arts organization. In such case, the new entity shall submit a separate application under this chapter.

#### **Section 6-120. Boundaries of Arts and Cultural District.**

There is hereby created an arts and cultural district within the town, to be named the "Ashland Arts and Cultural District". The boundaries of the district are respectively inside of an area defined by the map titled "Town of Ashland Arts and Cultural District."

#### **Section 6-121. Eligibility requirements.**

The incentives contained in this ordinance will be made available to any existing for-profit business or not-for-profit organization physically located within the district, which applies no later than six months after the enactment of this chapter and which carries on at least one of the activities described in section 6-119 C. above and to the satisfaction of the district administrator meets the criteria set forth below; or any new for-profit business or not-for-profit organization physically located in the district, which carries on at least one of the activities described in section 6-119 C. above and to the satisfaction of the district administrator, meets the criteria set forth below. New businesses or organizations shall apply to the district administrator for qualification no later than six months from the initial commencement of operations. The district administrator shall apply the following criteria:

- (a) The business or organization must advance the town's strategic goals identified in the town's most recently adopted Comprehensive Plan.
- (b) The business or organization must enter into a written arts and cultural district agreement ("agreement") that, among other things, provides 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 five-year business plan including pro-forma. The agreement shall be subject to review and approval by the town attorney. The business or organization must at all times comply with all applicable federal, state and town laws and regulations.

**Section 6-122. Incentives for Qualified Arts Organization.**

- A. Business, professional and occupational license ("BPOL") taxes and fees. Qualified arts organizations shall be exempted from the payment of the BPOL taxes and fees imposed by Chapter 1 of Title 12 of the Ashland Town Code for the first three (3) full years following the actual occupation and/or certification of the qualified arts organization with the arts and cultural district.
- B. Permit fees other than those to cover required public notice advertising shall be waived for qualified arts organizations. Fees will be pro-rated for projects with non-qualified art organizations included based on the floor space used for the qualified arts organization.
- C. Qualified arts organizations may have regulatory flexibility on all temporary signage as defined in Sec 21-207.1(c)(10) of the Town Code, temporary signage used to advertise art openings, events, and exhibits shall be permitted to be displayed for up to 60 days per year.
- D. Qualified arts organizations may use the Rt. 54 Banner Board to advertise art related events as regulated in the Banner Board guidelines.

Upon certification by the administrator and proof that no taxes are outstanding at the time of the application, the qualified arts organization shall be entitled to the exemptions created by this section. Failure of the qualified arts organization to pay taxes when due or to comply with the requirements of this chapter shall result in the loss of the qualification under this chapter and the loss of the above tax exemptions.

**BE IT FURTHER ORDAINED** by the Town Council that the amendments herein of the Code of the Town of Ashland shall be effective immediately upon adoption.

Introduced:	April 30, 2012
Advertised:	Town Council: Herald Progress: April 12, 2012 & April 19, 2012
Public Hearing:	Town Council: April 30, 2012
Adopted:	April 30, 2012
Effective:	April 30, 2012