

INTRODUCED: November 9, 2020

AN ORDINANCE No. 2020-239

To amend and reordain City Code § 26-874, concerning a business license incentive program for qualifying businesses, for the purpose of revising the definition of a qualifying business, adding the incentive of a refund, and requiring a business to apply to qualify for the program within two years from the date the business located in the city.

Patron – Mayor Stoney

Approved as to form and legality
By the City Attorney

PUBLIC HEARING: DEC 14 2020 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That section 26-874 of the Code of the City of Richmond (2015), as amended, be and is hereby **amended** and reordained as follows:

Sec. 26-874. Business License Incentive Program for qualifying businesses.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: JAN 11 2021 REJECTED: _____ STRICKEN: _____

Acquisition means the combination of two or more existing businesses where one business acquires the ownership of the other business or businesses.

Business license year means a calendar year.

Change in business form means a change in the organization of an existing business. A change in business form occurs whether such change is voluntary or involuntary and whether such change is recognized by the State Corporation Commission or not recognized by the State Corporation Commission. A change in business form includes a new business entity that meets the definition of "affiliated group," as that term is defined in Code of Virginia, § 58.1-3700.1, where such business conducts business activities that are similar to one or more of the affiliated businesses. However, a new business entity that meets such definition of "affiliated group" but conducts substantially different business activities shall not be treated as a change in business form.

Merger means the combination of two or more existing businesses to establish a new business.

Name change means a change in the name upon which a business trades. A name change occurs whether or not the business registers such name or change of name with the State Corporation Commission.

Qualifying business means a business that locates for the first time in the City of Richmond [~~after the effective date of the ordinance from which this section is derived~~]. A business shall not be deemed to locate in the City for the first time based on a merger, acquisition, similar business combination, name change, or a change in business form. A business shall not be deemed to locate in the City for the first time if there is an existing business in the City trading under the same or substantially similar business name, the businesses conduct

similar business activities, or the businesses are related either by a shared ownership structure or by a contractual relationship such as a franchisor/franchisee relationship. A qualifying business shall not include peddlers and itinerant merchants. A qualifying business shall not include a contractor required to obtain a business license by Code of Virginia, § 58.1-3715(B). When applying for any benefit afforded under this section, the applicant shall have the burden of proving qualification as a qualifying business.

Similar business combination means any transaction that has the effect of combining one or more businesses into a single business but is not of the same nature as a merger or an acquisition.

(b) *Business license tax exemption or refund.* Beginning on or after the effective date of the ordinance from which this section is derived, [A] a qualifying business that would otherwise be required to pay license taxes pursuant to Sections 26-868 and 26-871 shall be exempt from the payment of such business license taxes and only shall pay a license fee as set forth in Appendix A to this Code. In the event that the a business has already paid license taxes required pursuant to sections 26-868 and 26-871, a qualifying business shall be entitled to a refund of those license taxes already paid. The license tax exemption or refund provided in this section shall apply to the business license year in which the qualifying business locates in the City and to the following business license year. The exemption or refund provided herein shall not exceed a period of two business license years. A qualifying business shall forfeit any entitlement to the license tax reduction or refund provided in this section if such business is delinquent on any local tax, including, but not limited to, personal property taxes, real property taxes, admissions taxes, meals taxes, or transient occupancy taxes.

(c) *Application and appeal.* Any business seeking to qualify as a qualifying business shall complete an application in writing within two years from the date the business first located in the city. The application shall be on forms developed by the Director of Finance. Any determination of qualification or of non-qualification as a qualifying business shall be in writing by the Director of Finance. The appeal of a determination of non-qualification shall follow the appeal process of any other business license tax decision.

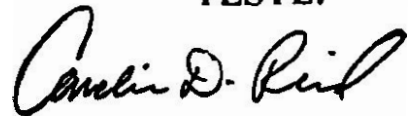
(d) *Limitation.* Nothing in this section shall be construed to repeal any requirement of businesses within the City to maintain records or comply with an audit by the Director of Finance. A qualifying business shall report its personal property and gross receipts to the Director of Finance, at such times and in such manner as required by law, and the failure to timely report shall result in the forfeiture of any entitlement to the license tax reduction provided in Subsection (b) of this section.

(e) *Construction.* The Business License Tax Incentive Program provided herein is in the nature of a partial tax exemption. As such, the rule of construction provided by Article X, Section 6(f) of the Constitution of Virginia shall apply.

§ 2. This ordinance shall be in force and effect upon adoption.

A TRUE COPY:

TESTE:

A handwritten signature in black ink, appearing to read "Camelin D. Reil". The signature is written in a cursive style with a large initial 'C'.

City Clerk



CITY OF RICHMOND

INTRACITY CORRESPONDENCE

O&R REQUEST


DATE: October 12, 2020 **EDITION:** 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor 

THROUGH: Lenora G. Reid, Acting Chief Administrative Officer 

THROUGH: Sharon Ebert, Deputy Chief Administrative Officer for Planning and Economic Development 

THROUGH: Leonard L. Sledge, Director of Economic Development 

FROM: John B. Wack, Director of Finance 

RE: Amendment to ordinance regarding Business License Incentive Program for Business Professional Occupational License Exemption (BPOL) Language.

ORD. OR RES. No. _____

PURPOSE: This O&R request is to clarify the definition of “qualifying business” found in Richmond City Code section 26-874(a) to make clear that a business qualifies only if locating in the City for the first time ever. In addition, this O&R request is to amend Richmond City Code section 26-874(b) to add an incentive of a refund, in whole or in part, of license taxes paid by a qualifying business. Lastly, this O&R request is to amend Richmond City Code section 26-874(c) to require a business to apply to qualify for the program within two years from the date the business located in the City.

REASON:

The current ordinance City Code Sec 26-874(a) defines “qualifying business” as “a business that locates for the first time in the City of Richmond after the effective date of the ordinance from which this section is derived.” It is unclear from a plain reading of the code section whether a business that located in the City prior to February 2013, left, and then re-located in the City after February 2013 may qualify for the incentive program. It is the Department of Finance’s intent that a business should only be considered a “qualifying business” if it locates in the City for the first time ever. In addition, pursuant to Richmond City Code section 26-874(b), the program cur-

rently does not provide for a refund for previously paid taxes by a “qualifying business.” The Department of Finance would like to expand the business license incentive program to provide for refunds as authorized by Virginia Code section 58.1-3703(D). The Department of Finance would like to amend the Richmond City Code section 26-874(c) to require the business to apply to qualify for the program within two years from the date the business located in the City for the first time ever.

RECOMMENDATION: The City Administration recommends adoption.

BACKGROUND: The City has many ways of assisting and encouraging new business coming into the City of Richmond. The modification of the respective section City Code will clarify which businesses are eligible for this incentive program, and allow for refunds of previously paid taxes for businesses subsequently deemed qualified by the Finance Department. This modification could increase revenue potential, and enhance the internal relationship among Economic Development and Department of Finance.

FISCAL IMPACT / COST: None

FISCAL IMPLICATIONS: None

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: Could positively impact revenue collections moving forward

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: November 9, 2020

CITY COUNCIL PUBLIC HEARING DATE: December 14, 2020

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Finance and Economic Development

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: None

AFFECTED AGENCIES: Department of Finance & Economic Development

RELATIONSHIP TO EXISTING ORD. OR RES.: Modifies Ordinance 2012-192-2013-8

REQUIRED CHANGES TO WORK PROGRAM(S): Modifies work programs within Business License & Assessment Unit within Finance and Economic Development.

ATTACHMENTS: None

O&R Request

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STAFF: John Wack, Director of Finance 646-5776
Valerie Weatherless, Program & Operations Manager 646-5195