

ORDINANCE NO. ORD-07-01

**AN ORDINANCE TO AMEND THE "WASHINGTON COUNTY REAL AND  
PERSONAL PROPERTY TAX CREDIT ORDINANCE  
FOR BUSINESSES THAT CREATE JOBS"**

**RECITALS**

By virtue of the authority contained in Section 9-230, Tax-Property Article, Annotated Code of Maryland, a local government is authorized to adopt a local program to provide tax credits for businesses creating jobs in the county.

The Board of County Commissioners (the "Board") wishes to continue a local program in order to encourage the creation of jobs in the County and, for that purpose, it is necessary to adopt an ordinance.

On October 17, 2006 the Board adopted an ordinance entitled "Washington County Real and Personal Property Tax Credit Ordinance for Businesses that Create Jobs" (the "Ordinance"). The Board has determined that text changes are required concerning the Ordinance and does so by amendment thereto.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Washington County, Maryland, that the ordinance entitled "Washington County Real and Personal Property Tax Credit Ordinance for Businesses that Create Jobs" adopted October 17, 2006 be and is hereby amended.

Amended the 24<sup>th</sup> day of April, 2007.

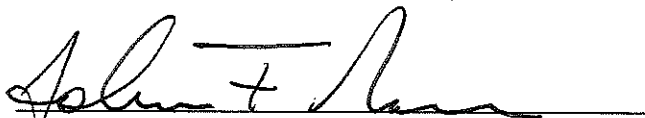
Effective the 24<sup>th</sup> day of April, 2007.

ATTEST:



Joni L. Bittner, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

  
John F. Barr, President

Approved as to form and  
legal sufficiency:

A handwritten signature in black ink, appearing to read "Andrew F. Wilkinson", written over a horizontal line.

Andrew F. Wilkinson  
Assistant County Attorney

Mail to:

County Attorney's Office  
100 W. Washington Street, Room 202  
Hagerstown, MD 21740

**WASHINGTON COUNTY REAL AND PERSONAL**  
**PROPERTY TAX CREDIT ORDINANCE**  
**FOR BUSINESSES THAT CREATE JOBS**

Adopted and Effective: November 12, 2002

Revision 1 – June 7, 2005

Repealed and Readopted -- October 17, 2006

Amended – April 24, 2007

# WASHINGTON COUNTY REAL AND PERSONAL TAX CREDIT ORDINANCE FOR BUSINESSES THAT CREATE JOBS

## **Section 1. Tax credits.**

The Treasurer must allow a New Jobs Tax Credit against the County property tax imposed on real property owned or leased by a business entity or its affiliate and on personal property owned by that business entity or its affiliate if the business entity qualifies for the credit under this ordinance.

## **Section 2. Definitions.**

In this ordinance, the following words have the meanings indicated:

(a) Affiliate, Business Entity, New or Expanded Premises, New Permanent Full-Time Position, and Notification Date have the meanings defined in Md. Code, Section 9-230, Tax-Property Article, or any successor provision.

(b) Treasurer means the County Treasurer or the Treasurer's designee.

(c) New Jobs Tax Credit means the credit granted under this ordinance to a qualified business entity against the County property tax imposed on the new or expanded premises and the personal property located on those premises.

(d) Base real property tax assessment means the assessment assigned to the property in question by the State Department of Assessments and Taxation prior to the construction of the "New or Expanded Premises" as defined in Md. Code, Tax-Property Article, § 9-230.

(e) Ordinance means this Washington County Real and Personal Tax Credit Ordinance for Businesses that Create Jobs.

## **Section 3. Eligibility for tax credit.**

(a) Except as indicated in part (d) of this Section 3, in order to qualify for a New Jobs Tax Credit under this Ordinance, a business entity must, on or after October 17, 2006:

(1) construct, or expand by at least 10,000 square feet, premises in the County on which it conducts business by buying, building, or leasing new premises;

(2) employ at least 25 persons in new permanent full-time positions located in the new or expanded premises in the County within the first 24-month period after it occupies the new or expanded premises, provided that 50% of the new permanent full-time positions must pay at least 135% of the applicable Average Weekly Wage per Washington County Worker as that amount is determined and adjusted each year by the Maryland Department of Labor, Licensing and Regulation;

(3) be located in a priority funding area as designated in Title 5, Subtitle 7B of the State Finance and Procurement Article; and

(4) after meeting the requirements of Section 3(a)(1), (2) and (3) and in order to continue to receive a New Jobs Tax Credit each year allowed under this Ordinance, the business entity must maintain at least 25 persons in permanent full-time positions located in the business premises as indicated in Section 3(a) for a period of three (3) years after each year that a tax credit is allowed. At least 50% of the permanent full-time positions must continue to pay at least 135% of the applicable Average Weekly Wage per Washington County Worker as that amount is determined and adjusted each year by the Maryland Department of Labor, Licensing and Regulation. The three (3) year requirement noted herein will result in a nine (9) year reporting requirement as indicated in Section 6(c).

(b) A business entity does not qualify for a New Jobs Tax Credit if:

(1) the business entity has moved the operations which are located on new or expanded premises from another county (including Baltimore City) in Maryland;

(2) the new or expanded premises has otherwise been granted a tax credit or exemption under this Ordinance for the taxable year in which a tax credit or exemption is claimed.;

(3) the new or expanded premises is a restaurant, retail facility, hospitality facility, or warehouse distribution facility; except that a business facility may have a small number of positions involved in retail sales when such retail sales are incidental to the primary purpose of the new or expanded premises as determined by the Board of County Commissioners (the "Board");

(4) the business entity is a type of business entity that the Board by resolution before the Notification Date has made ineligible for a New Jobs Tax Credit, or the new permanent full-time positions are a type of position that the Board by resolution before the Notification Date has made ineligible for a New Jobs Tax Credit, or the new or expanded premises are located in a geographic area that the Board by resolution before the Notification Date has made ineligible for a New Jobs Tax Credit. For purposes of this sub-paragraph "Notification Date" shall mean the date on which the business entity provides written notice to the Hagerstown-Washington County Economic Development Commission ("EDC") as required in Section 6(a) herein.

(c) To qualify for a credit against property tax imposed on personal property, a business entity must certify that the personal property is located on premises that qualify for a New Jobs Tax Credit under this Ordinance.

(d) Any business entity that, prior to October 17, 2006, had applied for, qualified for, and had received a New Jobs Tax Credit pursuant to the Washington County Real and Personal Property Tax Credit Ordinance for Businesses That Create New Jobs dated November 12, 2002 and revised June 7, 2005 ("the 2002 Ordinance"), shall continue to receive the tax credit in accordance with and based on the criteria prescribed by the 2002 Ordinance if such business entity continually meets the criteria of the 2002 Ordinance. Upon the expiration of the tax credit reporting period imposed by the 2002 Ordinance (nine taxable years after the initial

credit was allowed), such business entity shall no longer be eligible for a New Jobs Tax Credit under the prior certification and the Treasurer shall not allow further credit. In order to receive a new credit, any such business entity must reapply for the New Jobs Tax Credit and must meet anew all requirements then existing.

**Section 4. Amount of tax credit; pass-through to lessees.**

(a) The New Jobs Tax Credit that a taxpayer may claim against county real property taxes and business personal property taxes under this Ordinance is the following percentage of the property tax imposed on the increase in the base real property tax assessment of the new or expanded premises:

- (1) 52% during the first and second taxable years in which a credit is allowed;
- (2) 39% during the third and fourth taxable years in which a credit is allowed; and
- (3) 26% during the fifth and sixth taxable years in which a credit is allowed.

After the sixth taxable year, a business entity shall no longer be eligible for a New Jobs Tax Credit under the prior certification and the Treasurer shall not allow further credit. In order to receive a new credit after the sixth taxable year, a business entity must reapply for the New Jobs Tax Credit and must meet anew all requirements then existing by creating additional jobs and additional square footage.

(b) If at any time during the six (6) years that a business entity may claim credit under this Ordinance the business entity fails to satisfy any applicable requirement under this Ordinance to qualify for the tax credit, the business entity's eligibility for a tax credit hereunder shall cease and the Treasurer shall not allow further credit under the prior certification. In order to re-qualify and re-start a new six (6) year credit period under this Ordinance, the business entity must reapply for the New Jobs Tax Credit and must meet anew all requirements then existing by creating additional jobs and additional square footage.

(c) A business entity may not apply for a New Jobs Tax Credit if it owes taxes to the County, including but not limited to recaptured taxes under this Ordinance.

(d) Irrespective of lease terms to the contrary, a lessor of real property that is eligible for property tax credits under this Ordinance must reduce the amount of taxes for which an eligible business entity is contractually liable under a lease or rental agreement by the amount of any tax credit allowed for the real property under this Ordinance.

**Section 5. Recapture of tax credit.**

(a) For each year that a business entity receives a tax credit under this Ordinance, the business shall be required to continue to satisfy all applicable requirements under this Ordinance during the three (3) subsequent taxable years, for a maximum period of qualification of nine (9) years. This requirement of continued qualification shall further require that the business entity report to the EDC for a period of nine (9) years as indicated in Section 6(c). If at

any time during the 9-year reporting period a business entity does not satisfy all applicable requirements under this ordinance, then the business entity shall not receive the tax credit for the taxable year that the failure occurs and shall repay the tax credit provided during the three (3) previous taxable years. The tax credit shall be due and owing to the County upon notice from the Treasurer to the business entity that the credit must be repaid.

(b) Interest must accrue on any repayable tax credit at the rate established for overdue property taxes, beginning thirty (30) days after the notice from the Treasurer.

(c) Any unrepaid tax credit is a lien on real and personal property owned by the business entity in the same manner as unpaid real property taxes under state and county law.

**Section 6. Administration of tax credit.**

(a) A business entity must declare in writing its intent to apply for a New Jobs Tax Credit on a form furnished by the EDC and must state when and how it expects to qualify for the credit.

(b) When a business entity believes it can meet all eligibility requirements for the tax credit, it may apply for certification on the "New Jobs Tax Credit Application" furnished by the EDC, and must provide sufficient information to show that all requirements under this ordinance and applicable state law have been met.

(c) The EDC shall:

(1) determine the eligibility of the business entity for the tax credit;

(2) notify the State Department of Assessments and Taxation and the Treasurer that a business entity has been approved for the tax credit; and

(3) require submission of reports by the business entity each year that a tax credit is sought and during the three (3) taxable years after any year when the tax credit was earned to verify that the business entity continues to satisfy all applicable requirements under this ordinance. Such reporting will result in a maximum of nine (9) continuous years of reporting.

(d) A person who submits a false or fraudulent application, withholds information to obtain a tax credit, or provides any false or fraudulent information to obtain a tax credit under this ordinance must repay the County all amounts previously credited for any and all years that credits were provided and all accrued interest and penalties that would apply to those amounts as overdue taxes. A person who violates this subsection is liable for all court costs and expenses of the County in any civil action brought by the County against the violator. The County may collect any repayable tax credit, and otherwise enforce this ordinance, by any appropriate legal action.

(e) The Board may adopt regulations to administer this ordinance.