

ORDINANCE NO. 2016-008

AN ORDINANCE OF THE CITY OF ARLINGTON, WASHINGTON
ADOPTING PROVISIONS RELATING TO TAX INCENTIVES IN TARGETED AREAS
FOR NEW CONSTRUCTION OF INDUSTRIAL OR MANUFACTURING FACILITIES
CREATING FAMILY LIVING WAGE JOBS

WHEREAS, the City of Arlington has been granted the authority to create tax incentives in targeted areas for new construction of industrial or manufacturing facilities creating family living wage jobs as a result of Senate Bill 5761 (Chapter 9, 2015 Laws 1st Special Session) and RCW 84.25; and

WHEREAS, the City Council previously passed Resolution No. 2016-005 which notified the public of its intent to create targeted areas in support of this authority, which resolution scheduled a public hearing for May 2, 2016; and

WHEREAS, the City Council conducted a public hearing on May 2, 2016; and

WHEREAS, the City Council wishes to create tax incentives to support construction that will create new family living wage jobs;

NOW, THEREFORE, the City Council of the City of Arlington do hereby ordain as follows:

Section 1. A new chapter 3.98 of the Arlington Municipal Code (AMC) is hereby created, to read as follows:

Chapter 3.98 – Property Tax Exemption

3.98.100	Purpose
3.98.110	Applicability
3.98.120	Definitions
3.98.130	Exemption Created
3.98.140	General Requirements
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3.98.100 Purpose. It is the purpose of this chapter to encourage new manufacturing and industrial uses on undeveloped or underutilized lands zoned for industrial and manufacturing uses within the city through tax incentive, thereby increasing employment opportunities for family living wage jobs.

3.98.110 Applicability. All undeveloped or underutilized properties within the city's Light Industrial and General Industrial zones shall be eligible to receive an ad valorem tax exemption as allowed by Senate Bill 5761 (Chapter 9, 2015 Laws 1st Special Session) and RCW 84.25 for the value of new construction of industrial/manufacturing facilities.

3.98.120 Definitions. The definitions in this section shall apply to this chapter unless the context clearly requires otherwise:

- (1) "Administrative Authority" means the Department of Community and Economic Development.
- (2) "City" means the City of Arlington.
- (3) "Designee" means the Director of Community and Economic Development.
- (4) "Director" means the Director of Community and Economic Development.
- (5) "Family living wage job" means a job with a wage that is sufficient for raising a family. A family living wage job shall have an average wage of eighteen dollars an hour or more, working two thousand eighty hours per year on the subject site, as adjusted annually for inflation by the consumer price index.
- (6) "Governing Authority" means the Arlington City Council.
- (7) "Industrial/manufacturing facilities" means building improvements that are ten thousand square feet or larger, representing a minimum improvement valuation of eight hundred thousand dollars (\$800,000.00) for uses categorized as "division D: manufacturing" by the United States Department of Labor in the Occupation Safety and Health Administration's standard industrial classification manual.
- (8) "Lands zoned for industrial and manufacturing uses" means lands in the City zoned as of December 31, 2014, for an industrial or manufacturing use consistent with the City's Comprehensive Plan where the lands are designated for industry.
- (9) "Owner" means the property owner of record.
- (10) "Targeted area" means an area of undeveloped lands zoned for industrial and manufacturing uses in the City that is located with or contiguous to an innovation partnership zone, foreign trade zone, or EB-5

regional center, and designated for possible exemption under the provisions of this chapter.

(11) “Undeveloped or underutilized” means that there are no existing building improvements on the property or portions of the property targeted for new or expanded industrial or manufacturing uses.

3.98.130 Exemption Created

(a) The value of new construction of industrial/manufacturing facilities qualifying under this chapter is exempt from property taxation under this title, as provided in this section. The value of new construction of industrial/manufacturing facilities is exempt from taxation for properties for which an application for a certificate of tax exemption is submitted under this chapter before December 31, 2022. The value is exempt under this section for ten successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate.

(b) The exemption provided in this section does not include the value of land or nonindustrial/manufacturing-related improvements not qualifying under this chapter.

(c) The exemption provided in this section is in addition to any other exemptions, deferrals, credits, grants, or other tax incentives provided by law.

(d) This chapter does not apply to state levies or increases in assessed valuation made by the assessor on non-qualifying portions of buildings and value of land nor to increases made by lawful order of a county board of equalization, the department of revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

(e) This exemption does not apply to any county property taxes unless the governing body of the county adopts a resolution and notifies the governing authority of its intent to allow the property to be exempted from county property taxes.

(f) At the conclusion of the exemption period, the new industrial/manufacturing facilities cost shall be considered as new construction for the purposes of chapter 84.55 RCW.

3.98.140 General requirements. An owner of property making application under this chapter shall meet the following requirements:

(a) The new construction of industrial/manufacturing facilities shall be located on land zoned for industrial and manufacturing uses, undeveloped or underutilized, and as provided in section 6 of Senate Bill 5761 (Chapter 9, 2015 Laws 1st Special Session), designated by the city as a targeted area;

(b) The new construction of industrial/manufacturing facilities shall

meet all construction and development regulations of the city;

(c) The new construction of industrial/manufacturing facilities shall be completed within three years from the date of approval of the application; and

(d) The applicant shall enter into a contract with the city approved by the Director of Community & Economic Development, under which the applicant has agreed to the implementation of the development on terms and conditions satisfactory to the administrative authority.

3.98.150 Application. An owner of property seeking an exemption under this chapter shall apply to the city on the application form adopted by the governing authority. The application shall contain the following:

A. Information setting forth the grounds supporting the requested exemption, including information indicated on the application form or in the guidelines;

B. A description of the project and site plan, and other information requested;

C. A statement of the expected number of new family living wage jobs to be created;

D. A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter; and

E. A statement that the applicant would not have built in this location but for the availability of the tax exemption under this chapter;

F. The applicant shall verify the application by oath or affirmation; and

G. The application shall be accompanied by the application fee required under this chapter. The Director may permit the applicant to revise an application before final action by the Department of Community and Economic Development.

3.98.160 Approval criteria. The duly authorized administrative authority of the city may approve the application if it finds that:

(1) A minimum of twenty-five new family living wage jobs will be created on the subject site as a result of new construction of manufacturing/industrial facilities within one year of building occupancy;

(2) The proposed project is, or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved; and

(3) The criteria of this chapter have been satisfied.

3.98.170 Approval/Denial.

(a) The Director shall approve or deny an application filed under this

chapter within ninety days after receipt of the application.

(b) If the application is approved, the city shall issue the owner of the property a conditional certificate of acceptance of tax exemption. The certificate shall contain a statement by the Director that the property has complied with the required criteria of this chapter.

(c) If the application is denied, the Director shall state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.

(d) Upon denial by the Director, an applicant may appeal the denial to the city's governing authority within thirty days after receipt of the denial. The appeal before the city's governing authority shall be based upon the record made before the city with the burden of proof on the applicant to show that there was no substantial evidence to support the city's decision. The decision of the city in denying or approving the application is final.

3.98.180 Application fee. An administrative application fee of \$500.00 (five hundred dollars) plus the required county assessor fee shall be paid at the time the application for limited exemption is filed. If the application is approved, the city shall pay the application fee to the county assessor for deposit in the county current expense fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application and administering the tax exemption program. If the application is denied, the city may retain that portion of the application fee attributable to its own administrative costs and refund the balance to the applicant.

3.98.190 Additional requirements.

(a) Upon completion of the new construction of a manufacturing/industrial facility for which an application for an exemption under this chapter has been approved and issued a certificate of occupancy, the owner shall file with the city the following:

(1) A description of the work that has been completed and a statement that the new construction on the owner's property qualify the property for a partial exemption under this chapter;

(2) A statement of the new family living wage jobs to be offered as a result of the new construction of manufacturing/industrial facilities; and

(3) A statement that the work has been completed within three years of the issuance of the conditional certificate of tax exemption.

(b) Within thirty days after receipt of the statements required under subsection (a) of this section, the city shall determine whether the work completed and the jobs to be offered are consistent with the application and the contract approved by the city and whether the application is

qualified for a tax exemption under this chapter.

(c) If the criteria of this chapter have been satisfied and the owner's property is qualified for a tax exemption under this chapter, the city shall file the certificate of tax exemption with the county assessor within ten days of the expiration of the thirty-day period provided under subsection (b) of this section.

(d) The city shall notify the applicant that a certificate of tax exemption is denied if the city determines that:

- (1) The work was not completed within three years of the application date;
- (2) The work was not constructed consistent with the application or other applicable requirements;
- (3) The jobs to be offered are not consistent with the application and criteria of this chapter; or
- (4) The owner's property is otherwise not qualified for an exemption under this chapter.

(e) If the city finds that the work was not completed within the required time period due to circumstances beyond the control of the owner and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the Director may extend the deadline for completion of the work for a period not to exceed twenty-four consecutive months.

(f) The owner may appeal a decision by the city to deny a certificate of tax exemption in superior court under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty days of notification by the city to the owner of the exemption denial.

3.98.200 Reporting.

(a) Thirty days after the anniversary of the date of the certificate of tax exemption and each year for the tax exemption period, the owner of the new industrial/manufacturing facilities shall file with the Administrative Authority an annual report indicating the following:

- (1) A statement of the family living wage jobs at the facility as of the anniversary date;
- (2) A certification by the owner that the property has not changed use;
- (3) A description of changes or improvements constructed after issuance of the certificate of tax exemption; and
- (4) Any additional information requested by the city.

(b) The City shall report annually by December 31st of each year, beginning in 2016, to the Department of Commerce. The report shall include the following information:

- (1) The number of tax exemption certificates granted;
- (2) The total number and type of new manufacturing/industrial

facilities constructed;

(3) The number of family living wage jobs resulting from the new manufacturing/industrial facilities; and

(4) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

3.98.210 Continuance and discontinuance.

(a) If the value of improvements have been exempted under this chapter, the improvements continue to be exempted for the applicable period under this chapter so long as they are not converted to another use and continue to satisfy all applicable conditions including, but not limited to, zoning, land use, building, and family wage job creation.

(b) If an owner voluntarily opts to discontinue compliance with the requirements of this chapter, the owner shall notify the assessor within sixty days of the change in use or intended discontinuance.

(c) If, after a certificate of tax exemption has been filed with the county assessor, the city discovers that a portion of the property is changed or will be changed to disqualify the owner for exemption eligibility under this chapter, the tax exemption shall be canceled and the following occurs:

(1) Additional real property tax shall be imposed on the value of the non-qualifying improvements in the amount that would be imposed if an exemption had not been available under this chapter, plus a penalty equal to twenty percent of the additional value. This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the non-qualifying improvements dated back to the date that the improvements were converted to a non-qualifying use;

(2) The tax shall include interest upon the amounts of the additional tax at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the improvements had been assessed at a value without regard to this chapter; and

(3) The additional tax owed together with interest and penalty becomes a lien on the property and attaches at the time the property or portion of the property is removed from the qualifying use under this chapter or the amenities no longer meet the applicable requirements for exemption under this chapter. A lien under this section has priority to, and shall be fully paid and satisfied before, a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the property may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same

manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent property taxes.

(d) Upon a determination that a tax exemption is to be terminated for a reason stated in this section, the Director shall notify the record owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to terminate the exemption. The owner may appeal the determination to the city, within thirty days by filing a notice of appeal with the city, which notice shall specify the factual and legal basis on which the determination of termination is alleged to be erroneous. At an appeal hearing, all affected parties may be heard and all competent evidence received. After the hearing, the governing authority shall either affirm, modify, or repeal the decision of termination of exemption based on the evidence received. An aggrieved party may appeal the decision of the governing authority to the superior court as provided in RCW 34.05.510 through 34.05.598.


(e) Upon determination by the city to terminate an exemption, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under RCW 84.40.080. The county assessor shall make such a valuation of the property and improvements as is necessary to permit the correction of the rolls. The value of the new industrial/manufacturing facilities added to the rolls is considered new construction for the purposes of chapter 84.40 RCW. The owner may appeal the valuation to the county board of equalization as provided in chapter 84.40 RCW. If there has been a failure to comply with this chapter, the property shall be listed as an omitted assessment for assessment years beginning January 1st of the calendar year in which the noncompliance first occurred, but the listing as an omitted assessment may not be for a period more than three calendar years preceding the year in which the failure to comply was discovered.

Section 2. Severability. If any provision, section, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 3. Effective Date. This ordinance shall be effective five days from its adoption and publication as required by law.

PASSED BY the City Council and APPROVED by the Mayor this 2nd day of May, 2016.

CITY OF ARLINGTON




Barbara Tolbert, Mayor

Attest:



Kristin Banfield, City Clerk

Approved as to form:



Steven J. Peiffle
City Attorney

CERTIFICATION OF ORDINANCE

I, Kristin Banfield, being the duly appointed and acting Clerk of the City of Arlington, Washington, a municipal corporation, do hereby certify that the following Ordinance No. 2016-008 was approved at the May 2, 2016 City Council meeting.


ORDINANCE NO. 2016-008

“AN ORDINANCE OF THE CITY OF ARLINGTON, WASHINGTON,
ADOPTING PROVISIONS RELATING TO TAX INCENTIVES IN
TARGETED AREAS FOR NEW CONSTRUCTION OF INDUSTRIAL
OR MANUFACTURING FACILITIES CREATING FAMILY LIVING
WAGE JOBS”

A true and correct copy of the original ordinance is attached.

Dated this 9th day of May, 2016.




Kristin Banfield
City Clerk for the City of Arlington

SUMMARY OF ORDINANCE ADOPTION

You are hereby notified that on May 2, 2016, the City Council of the City of Arlington, Washington, did adopt Ordinance No. 2016-008 entitled,

“AN ORDINANCE OF THE CITY OF ARLINGTON, WASHINGTON,
ADOPTING PROVISIONS RELATING TO TAX INCENTIVES IN
TARGETED AREAS FOR NEW CONSTRUCTION OF INDUSTRIAL
OR MANUFACTURING FACILITIES CREATING FAMILY LIVING
WAGE JOBS”

This ordinance is effective five days from passage and publication, except as otherwise specified in the ordinance.

The full text of the ordinance is available to interested persons and will be mailed upon request.

A handwritten signature in cursive script that reads "Kristin Banfield".

Kristin Banfield
City Clerk
City of Arlington