2025-O-27

AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 787 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED TO INCLUDE A TAX INCENTIVE FOR THE CONSTRUCTION OR RENOVATION OF RESIDENTIAL HOUSING

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Articles 787 of the Codified Ordinances of the City of Huntington, as revised, are hereby **AMENDED, MODIFIED AND RE-ENACTED** to read as follows

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ARTICLE 787
BUSINESS AND OCCUPATION TAX

787.61 CONTRACTOR AND SUBCONTRACTOR TAX INCENTIVE FOR NEW CONSTRUCTION OR RENOVATION OF ~~SINGLE FAMILY HOMES~~ RESIDENTIAL HOUSING WITHIN THE CITY.

(a)(1) *Authority.* W.Va. Code §8-13-5(f) provides the following: "*Where the governing body of a municipality imposes a tax authorized by this section [B&O tax], the governing body may offer tax credits from the tax as incentives for new and expanding businesses located within the corporate limits of the municipality.*" Council finds that any business authorized to do business within the municipality as a contractor or subcontractor to build *"new construction"* as defined in §787.61(b)(2) or a *"substantial improvement"* as defined in §787.61(b)(5) is either a "new" business, if it has not previously engaged in business in the municipality, or it is an "expanding business" if it has previously engaged in business within the municipality. Therefore, Council further finds that such businesses qualify for the tax exemptions contemplated in W.Va. Code §8-13-5(f) when such businesses contract to engage in construction and renovation described in this section. For the purposes of this section and the authority granted by State statute, the term *"located within the corporate limits of the municipality"* shall include any business with its primary office located within or without the municipality that has or will have operations within the municipality that otherwise qualify under this section.

(~~a~~2) *Statement of purpose.* Tax incentives are proven to be mechanisms that drive economic development when they are narrowly enacted for the specific desired effect. The City of Huntington seeks to participate in the current movement of remote or partially remote workers to smaller cities and rural areas. It is acknowledged by council that a driver of this type of residence relocation is the availability of housing stock that may be obtained at a significantly lower cost than the potentially relocating individual currently pays. The redevelopment of neighborhoods within the city is vital to inducing relocation to the city. The council seeks to promote such development and to remove financial barriers to the construction of new homes or renovation of existing homes by individuals or families buying property ~~for the first time~~ within the city. A limited exemption in the business and occupation tax will be of assistance in achieving the goal of inducing investment in ~~single family homes~~ residential housing within the city.

(b) *Definitions.*

(1) *"Contractors"* and *"subcontractors"* shall mean any persons or entities engaged in the business of "contracting" as that term is defined in section 785.05(d), which includes the furnishing of work, or both materials and work, in the fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof, or the alteration, improvement or development of real property.

(2) A *"qualifying construction ~~single family home~~"* shall include the new construction residential housing with 1-8 dwelling units per parcel, ~~free standing residence~~ constructed for a "family/household unit" as defined in section 1315.02 as enacted on June 22, 2020. The residential housing may be constructed as free-standing or attached units, provided there may be~~. There may~~ ~~only be one single family home~~ no more than 8 dwelling units per lot. ~~The "qualifying single family home" must be purchased by a "first time home buyer" after October 1, 2020, to qualify for the exemption provided in this section.~~ Renovation of existing residential structures may qualify if the renovation is a "substantial improvement" and the renovation either (a) is completed within 12 months prior to a sale at market rate or (b) is initiated within 12 months after purchase at market rate.

(3) *"Applicant"* shall mean the contractor or subcontractor applying for the exemption and who contracts or subcontracts for the performance of construction work on ~~a~~ "qualifying construction ~~single family home~~ ". ~~A contractor may also apply for an exemption as an "applicant" when constructing or renovating a "spec house" with the intention of selling it to a "first time home buyer". A subcontractor may also be an "applicant" when performing subcontracted work on a "qualifying single family home".~~

(4) "Market rate" shall mean construction or renovation performed in exchange for a price that is prevailing in the Huntington market area, as determined by the forces of supply and demand. ~~A *"spec house"* means any "qualifying single family home" owned or purchased by a contractor for the purpose of reselling the property after initial construction or renovation.~~

(5) "Substantial improvement" shall mean the renovation of an existing structure where either the total job cost exceeds 50-percent of the value of the structure or where over 50-percent of the floor space is renovated. ~~A *"first time home buyer"* shall include any individual or "family/household unit" that purchases a "qualifying single family home" within the City of Huntington after October 1, 2020, and that individual or "family/household unit" has never before owned real estate within the City of Huntington corporate limits.~~

(c) *Exemption.*

~~(1)~~ Beginning September ~~October~~ 1, 202~~0~~5, there shall be an exemption from the 2-percent business and occupation tax ~~exempted from the first \$200,000 of gross revenue paid to an "applicant", so long as the "applicant" timely makes application for exemption, all business and occupation taxes~~ to be paid under the contractor or subcontractor category for the sale of a "qualifying construction ~~single family home~~" so long as the "applicant" timely makes application for exemption. In order to qualify for the exemption, all revenue producing contract or subcontract work must be performed after September ~~October~~ 1, 202~~0~~5. This exemption shall in no way be interpreted to allow for a cumulative exemption of gross sales of a contractor or subcontractor on other unrelated work performed. It shall only apply to each "qualifying construction ~~single family home~~" on an individual basis.

~~(2) Beginning October 1, 2020, a contractor either constructing or renovating a "spec house" may qualify for the exemption set forth in subsection (1) above by complying with the following:~~

~~A. Upon the execution of a purchase agreement with a "first time home buyer" for the sale of a "qualifying single family home", the contractor shall make application to the division of finance for an exemption of the payment of the contractor category business and occupation tax on the construction or renovation of the property on gross revenues up to $200,000.~~

~~B. Prior to the time the contractor would be obligated to make payment of contractor category business and occupations tax on the gross revenue related to the construction or renovation of the "qualifying single family home" and after the sale of the property, the contractor shall file with the division of finance an affidavit attesting to the fact that the property was a "qualifying single family home" purchased by a "first time home buyer" after October 1, 2020.~~

~~C. The director of the division of finance or his or her designee shall review the application to determine whether the application entitles the "applicant" to an exemption. If the "applicant" so qualifies, a certificate of exemption shall be issued applicable to the specific sale at the specific address.~~

~~D. A subcontractor may likewise qualify for an exemption with respect to the sale of a "spec house" by complying with the same requirements as the contractor.~~

(d) *Calculation of amount of exemption.* The director of the division of finance or his or her designee shall calculate the amount of the exemption based on the information provided by the "applicant" ~~and~~ as well as ~~upon~~ any ~~the supporting~~ sales information available.

~~(1) In order to qualify for the renovation exemption contained herein, the renovations must be completed within 24 months of the closing date on the purchase of the "qualifying single family home".~~

(e) ~~*Minimum renovation amount.* Any renovation of a "qualifying single family home" or a "spec house", in order to qualify for a exemption under this section, must result in revenue to the contractor in the amount of no less than $15,000. Subcontractors receiving less than that amount may receive the exemption if the overall contract is for no less than $15,000.~~

(f) *Prior delinquencies; prior unpaid fees.* The exemption set forth herein shall not be available to any person or entity who has ~~prior~~ unresolved business and occupation tax delinquencies or unpaid fees owed to the city.

(g) ~~*Exemption passed on to the "First Time Home Buyer".* In applying for the exemption, the "applicant" shall attest in the application that the savings from the business and occupation tax exemption was passed on to the "first time home buyer" on a dollar for dollar basis, and the "applicant" shall retain the sales documents establishing that the "first time home buyer"~~

~~was not required to reimburse the "applicant" for any city business and occupation tax.~~ The provisions of this Article shall sunset on December 31, 2027.

(h) *Filing false claims.* It shall be a criminal act to file a false claim for exemption under this section. The penalty for such claim shall be a fine of no less than $100 nor more than $500 and a jail sentence not to exceed 30 days. If a single person or entity, or a successor to the original entity, has been determined to have filed a false claim on more than one occasion, the director of the division of finance may terminate the business license of the person or entity on the basis of the license holder having filed multiple previous false claims.

(i) *Review and appeal of adverse decisions.* Review of adverse decisions may be requested in writing to a temporary board consisting of the mayor or his or her designee, the director of the division of finance, and Chair of the Huntington Municipal Development Authority. The administrative review shall be conducted informally with the intention of achieving the intention of the ordinance. All relevant evidence of the "applicant" shall be considered. An aggrieved party may appeal the matter by seeking injunctive relief in the Circuit Court of Cabell County.

(j) *Administrative rules.* The director of the division of finance may enact rules for the efficient administration of this section.

(k) *Severability.* If any subsection, clause, provision or portion of this section shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other subsection, clause, provision or portion of this section.

BE IT FURTHER ORDAINED that all other articles, sections and subsections of the Codified Ordinances of the City of Huntington, as revised, shall remain in full force and effect until further Ordinance of this Council.

BE IT FURTHER ORDAINED that the amendments to Articles 787 of the Codified Ordinances of the City of Huntington, as revised, shall become effective September 1, 2025, upon its adoption by Council and approval by the Mayor.

SPONSORED BY COUNCILWOMAN SARAH WALLING

APPROVED AS TO FORM BY SD

FIRST READING 9/8/2025 - ORDERED ADVERTISED

SECOND READING 9/22/2025 - ADOPTED (8 yea, 0 nay and 3 absent - Holley - Mount, and Sweeeney)

DATE 9/22/2025

Lisa Caskins, Asst. City Clerk

BARBARA MILLER, CITY CLERK

DATE 9/22/2025

PATRICK J. FARRELL, MAYOR

✓

APPROVE

DATE 10/3/25

VETO