



To: Mayor & Council
FC 12.9.10

Memorandum

To: Mayor Thomas J. Tomzak and Members of City Council
From: Beverly R. Cameron, City Manager
Date: December 9, 2010
Subject: Arts and Cultural District Ordinance

Issue

Shall City Council adopt the Arts and Cultural District ordinance which provides for BPOL tax and permit fee reduction incentives for qualifying businesses to remain, expand and locate in the designated 50-block downtown area?

Recommendation

I recommend that City Council establish the downtown Arts and Cultural District by adoption of the attached ordinance.

Background

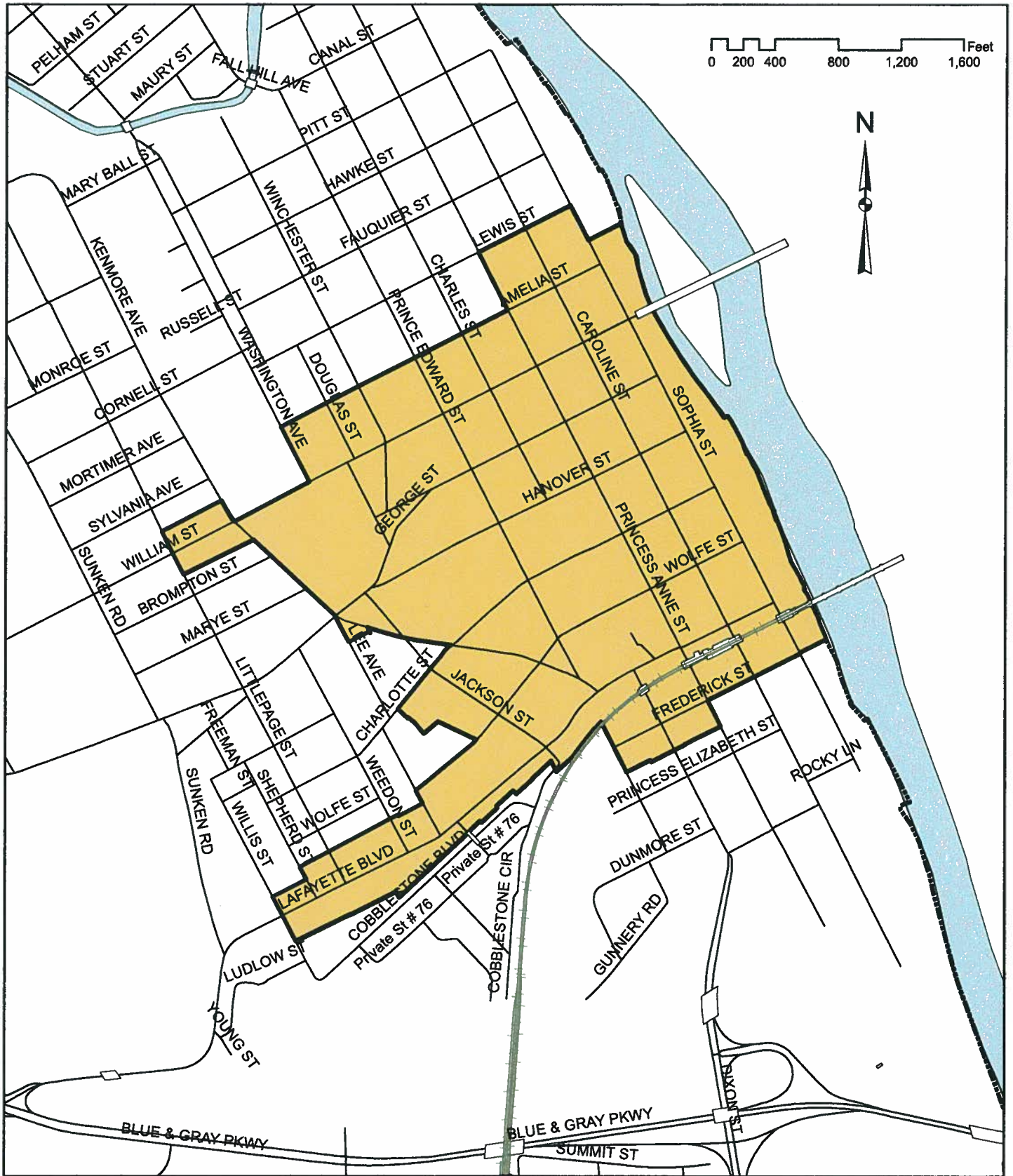
City Council conducted a public hearing on the proposed ordinance at its November 23 meeting and approved the ordinance on first reading. As a result of questions and comments by Council members and further consultation with the Arts Commission, the following revisions have been made and are incorporated into the attached ordinance:

1. Adjusted the district map to include the Charles Dick house located on the north side of Princess Anne Street in the block between Lewis Street and Amelia Street.
2. Added a provision that non-arts businesses which host year-round, rotating art exhibits must have a display area of at least 120 square feet to qualify for the BPOL tax reduction of up to \$250 per year.
3. Clarified that tattoo parlors are not eligible for BPOL tax reductions, but are part of the visual arts.
4. Strengthened the qualification provisions to only businesses that are in compliance with zoning and building codes as well as taxes and other financial obligations to the city.
5. Added a provision that historical tours, performances by disc jockeys and businesses with performance agreements for economic incentives are not eligible for tax reductions under this ordinance.

6. Added a \$2,000 limit to the provision for permit and application fee waivers for any single new or expanded business.

Fiscal Impact

The Commissioner of the Revenue estimates the fiscal impact of the BPOL tax reduction to be about \$6,500 annually for the approximately 40 existing arts and cultural businesses in the district. This provision is for a term of five years. The fiscal impact of the provision for building and zoning permit waivers for expanding and new arts businesses is estimated to be \$5,000 or less per year.



LEGEND:

 Proposed_Arts&Cultural_District

City of Fredericksburg, VA Proposed Arts & Cultural District

DATE: December 7, 2010



MOTION:

December 14, 2010

Regular Meeting

SECOND:

Revised Ordinance No. 10-__

RE: ESTABLISHING AN ARTS AND CULTURAL DISTRICT FOR THE PURPOSE OF INCREASING AWARENESS AND SUPPORT FOR THE ARTS AND CULTURE, AND PROVIDING INCENTIVES FOR THE SUPPORT AND CREATION OF ARTS AND CULTURAL VENUES IN THE DISTRICT, BY AMENDING CITY CODE CHAPTER 22, "BUSINESSES," ADDING A NEW ARTICLE VII, "ARTS AND CULTURAL DISTRICT"

ACTION: Ayes: ; Nays:

FIRST READ: November 23, 2010 **SECOND READ:** _____

IT IS HEREBY ORDAINED by the City Council of the City of Fredericksburg, Virginia, that Chapter 22, "Businesses," of the City Code is amended as follows:

SEC. I. Introduction, purpose.

Fredericksburg's Comprehensive Plan (2007) recognizes the importance of the arts to the City's character. Chapter 3 of the Comprehensive Plan recites the value of the Downtown as the center for local arts and as an evening venue for entertainment, and identifies the active arts community as one of the many strengths of the Downtown Commercial District. The Downtown Goals support the presence of the arts, and Downtown Policies likewise encourage the development of additional arts and entertainment offerings downtown, the development of arts events and festivals, and the development of additional venues for performing and visual arts. The 2006 JumpStart! Fredericksburg 2010 Final Report lists the "active arts community" as a current strength of the Downtown Commercial District.

A vibrant arts and cultural community contributes to the life and character of the City, and the economic, social, educational, and intellectual impacts of public and private investment in the arts are well-documented. The Virginia General Assembly has authorized localities to establish an arts and cultural district for the purpose of increasing awareness and support for the arts and culture in the locality, and to provide incentives for the support and creation of arts and cultural venues in the district.

The purpose of this ordinance is to attract new arts and cultural venues, support existing arts and cultural venues, and to encourage the expansion of existing venues in the downtown

area. These new, existing, and expanded venues will increase the City's reputation and market presence as a regional destination for arts and cultural activities, as well as the opportunities and benefits to City residents of arts and cultural offerings. These incentives are one element in a broader program to support and create arts and cultural venues downtown, including the Economic Development Authority's grants program and the City Council's 2008 reorganization of the Fredericksburg Arts Commission.

SEC. II. City Code Amendment.

Fredericksburg City Code Chapter 22, "Businesses," is amended by adding a new Article VII, "Arts and Cultural District," as follows:

Article VII. Arts and Cultural District

Sec. 22-700. Arts and Cultural District established; *purpose.*

- (a) There is hereby established the Fredericksburg Arts and Cultural District, consisting of all the area within the following boundaries: beginning at the corner of Sophia Street and Lewis Street, west along Lewis Street to Charles Street; then following Charles Street to Amelia Street, following Amelia Street to Washington Avenue, along Washington Avenue to William Street; along William Street to Littlepage Street, along Littlepage to the center of the block, and then to Kenmore Avenue; following Kenmore Avenue to Charlotte Street, and then along Charlotte Street across Jackson Street to the center of the block, then over to Wolfe Street, up to Willis Street, along Willis across Lafayette Boulevard to the center of the next block and then through the center of the block to Prince Edward Street; along Prince Edward across Frederick Street to the center of the block, then to Princess Anne Street, to Frederick Street to the Rappahannock River and back to the point of the beginning, as shown on the map entitled "City of Fredericksburg, VA Proposed Arts & Cultural District," dated ~~September 1~~ December 7, 2010.
- (b) *The purpose of this district is to attract new arts and cultural venues, support existing arts and cultural venues, and to encourage the expansion of existing venues in the downtown area. These new, existing, and expanded venues will increase the City's reputation and market presence as a regional destination for arts and cultural activities, as well as the opportunities and benefits to City residents of arts and cultural offerings.*

Sec. 22-701. Definitions.

When used in this article, the following terms shall have the meanings ascribed in this section:

Arts and cultural business is a business or not for profit organization primarily engaged in arts instruction, media arts, performing arts, performing arts venue, visual arts creation or visual arts exhibit as defined herein. The term includes a museum and an arts office use. The business may engage in related, incidental retail sales.

Arts instruction teaches individuals skills in the performing arts, media arts, or visual arts through experience, study, performance and assessment, providing participatory learning and engaging students with skilled artists, teachers, and art.

Arts office is an office use associated with an arts and cultural business, such as performing arts events organization and promotion, or arts production.

Business shall have the same meaning as provided for the business license tax in City Code Chapter 70, Article VIII.

District means the Arts and Cultural District established in section 20-700.

Existing business is an arts and cultural business which is physically located within the district as of December 31, 2010.

Expanded business is an existing arts and cultural business which expands physically into new space within the district, to add at least 30% in gross square feet (enclosed or outdoors).

License tax is the annual tax levied on the gross receipts of a business, trade, profession, occupation or calling pursuant to City Code Chapter 70, Article VIII.

Media arts are film, video, audio and other forms of digital and Web-based media, including the production, exhibition, distribution, and preservation of the work.

Museum is a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes which, using a professional staff, owns or uses tangible objects, cares for them, and exhibits them to the public in a physical setting on a regular basis.

New business is a new business physically located or locating in the district on or after January 1, 2011, which was not actively engaged in the conduct of trade or business in the district prior to the submission of a completed program qualification application. The new business shall generate a new use of the land or building, and not the continuation of an existing

use. An existing business shall not qualify for incentives by reorganizing or changing its form in a manner that does not alter the basis of the business assets or result in a taxable event.

New gross receipts are the increase in gross receipts in each calendar year after the expansion of an existing business.

Performing arts are live music, theater, dance, and opera.

Performing arts venue is a place of indoor or outdoor public assembly for the presentation of the performing arts or media arts.

Visual arts are the arts of painting, photography, sculpture, printmaking, drawing, design, folk and traditional arts and craft. ~~Tattoos are not included in the visual arts.~~

Visual arts exhibit is a business or gallery which displays the visual arts to visitors.

Sec. 22-702. License tax reduction.

- (a) A new arts and cultural business is afforded a license tax reduction of 100% for five calendar years for the gross receipts attributable to the new district location, so long as it continues to operate at its new location as an arts and cultural business and remains current in its tax and other financial obligations to the city.
- (b) An expanded arts and cultural business *located within the district* is afforded a license tax reduction of 100% of liability attributable to new gross receipts for five years, so long as it continues to operate in its expanded location as an arts and cultural business, and remains current in its tax and other financial obligations to the city.
- (c) An existing arts and cultural business *located in the district* is afforded a license tax reduction in the amount of up to two hundred fifty dollars per year for five years beginning January 1, 2011 through December 31, 2015 *so long as it continues to operate as an arts and cultural business within the district and remains current in its tax and other financial obligations to the city.*
- (d) Any business located within the district, which is not an arts and cultural business, but which hosts year-round, rotating art exhibits open to the public in the public spaces of the business is afforded a license tax reduction of up to two hundred fifty dollars per year beginning on the effective date of this ordinance and through December 31, 2015, for each year in which the business qualifies. *The display space shall be a minimum of 120 square feet of wall or floor space in order to qualify for incentives in the Arts & Cultural District.*
- (e) Any business claiming a license tax reduction as an arts and cultural business shall nonetheless file a complete license tax application with the Commissioner of Revenue as required by City Code section 70-305.

- (f) *No business shall be eligible for a license tax reduction if there is an outstanding building or zoning code violation against such business which is not remedied or resolved by the date specified in the notice of violation. No business shall be eligible for a license tax reduction unless it is current in its local tax obligations on December 31, 2010 and continuously thereafter.*
- (g) *A tattoo parlor is not an eligible business. Historical tours, such as walking tours, trolley tours, carriage tours, boat tours and Segway tours are not eligible businesses. Performance by a disc jockey is not an eligible arts performance. A business with a performance agreement for economic incentives shall not be eligible for a tax reduction pursuant to this article.*

Sec. 22-703. Waiver of fees.

A new arts and cultural business, a new special event sponsored by an arts and cultural business, and an expanded arts and cultural business is afforded a 100% reduction of planning, zoning, ~~special event~~, and building permit application fees *up to two thousand dollars total for any single project* incurred in the initial establishment of the business, or expansion of the business, in the district.

Sec. 22-704. Administration.

- (a) The city manager may administer applications through the Economic Development and Tourism Department. Review applications for continued eligibility shall be administered by the Commissioner of Revenue. *In determining eligibility for the incentives contained herein, the city manager shall be guided by the purpose of this article. Tax exemptions shall be subject to the rule of strict construction.*
- (b) A new or existing arts and cultural business seeking to obtain the incentives of the District will meet with the Economic Development and Tourism staff and submit a completed program qualification application. The Economic Development and Tourism Department shall perform an initial review of the business or project to determine if it qualifies for incentives and then forward the application and recommendation to the city manager. The city manager, acting as the agent of the city council, shall review the application and recommendation and make a final determination as to whether the business or project is qualified for the incentives herein.
- (c) After an arts and cultural business has been determined to be eligible by the city manager, it must submit a review application to the Commissioner of Revenue annually on or before March 1st of each year of the incentive period, demonstrating its continued eligibility for the license tax reduction.
- (d) The original application and each review application shall be signed by an official officer, member, agent or representative of the business authorized to sign on its behalf.

(e) If the city manager denies an application, he shall do so in writing stating the reasons therefor, and affording the applicant an opportunity to respond in writing or in person.

Sec. 22-705. Confidentiality.

To the extent permitted under the Virginia Freedom of Information Act, confidential business records shall be safeguarded from disclosure; provided, however, that as a condition of receiving the incentives provided herein, each applicant agrees to the release by the City of the monetary value of any incentive (including license tax reduction) received. This agreement shall appear prominently upon the application for incentives and each signature upon an application shall bind the applicant to this condition.

SEC. III. These amendments shall be effective January 1, 2011.

Approved as to form:

Kathleen Dooley, City Attorney

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 10-____ duly adopted at a meeting of the City Council held _____, at which a quorum was present and voted.

Tonya B. Lacey
Clerk of Council