

City of Philadelphia



(Bill No. 040642)

AN ORDINANCE

Providing for the contingent exemption, abatement or credit of certain taxes within specified geographic areas, including by amending Bill No. 030242 (approved May 29, 2003), relating to the boundaries of the Keystone Opportunity Improvement Zone, and by amending Chapter 19-3200 of The Philadelphia Code, entitled "Keystone Opportunity Zone," including by revising the conditions for exemption from net profits tax and by clarifying and amending the provisions relating to relocating businesses, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Bill No. 030242 (approved May 29, 2003) is hereby amended by amending Exhibit C thereto, as set forth in Exhibit A hereto.

SECTION 2. Bill No. 030242 (approved May 29, 2003) is hereby further amended by amending Exhibit C thereto, as set forth in Exhibit B hereto.

SECTION 3. Chapter 19-3200 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-3200. KEYSTONE OPPORTUNITY ZONE.

* * *

§19-3203. Authorization of Exemption, Abatement or Credits from Certain Taxes.

(a) Effective as of January 1, 1999, and continuing through and including December 31, 2010, with respect to real property or business activity, as applicable, attributable to the Keystone Opportunity Zone; (b) effective as of January 1, 2001, and continuing through and including December 31, 2013, with respect to real property or business activity, as applicable, attributable to the Keystone Opportunity Expansion Zone; and (c) with respect to real property or business activity, as applicable, attributable to each separate Philadelphia Keystone Opportunity Improvement Subzone, effective [upon designation by DCED of such subzone (anticipated on or about October 1, 2003)] *January 1, 2004 with respect to the original Keystone Opportunity Improvement Subzones and effective upon designation of any enhancements to such Subzones or any new Keystone Opportunity Improvement Zones or Subzones with respect to such enhanced or new areas* and continuing [for a period of fifteen (15) years from the date of

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such designation] *through and including December 31, 2018*, the following provisions shall apply:

* * *

(4) Subject to the conditions set forth in Section 19-3208 and elsewhere in this Chapter, a [taxpayer,] *resident of the Zone is exempt from* [whether or not a resident, may claim a credit against] the Net Profits Tax imposed under Chapters 19-1500 and 19-2800[, to the extent of the tax liability attributable to net profits from the operation of a qualified business within the Zone].

* * *

§19-3204. Conditions for Exemptions, Abatements and Credits.

* * *

(3) Relocation.

(a) Any business that relocates into the Zone from outside the Zone shall not receive any of the exemptions, abatements or credits set forth in this chapter unless that business either:

(.1) Increases full-time employment by at least twenty percent (20%) in the first full year of operation within the Zone, [or]

(.2) Makes a capital investment in the property located within the Zone *at least* equivalent to ten percent (10%) of the gross revenues of that business in the immediately preceding calendar or fiscal year[.], *subject to the provisions of subsection (3)(c), below; or*

(.3) *Has entered into a lease agreement with a net present value of at least \$50 million for a building or buildings at least 500,000 square feet, for purposes relating to food distribution on a publicly-owned site not smaller than 45 acres; for property located within the subzone, improvement subzone or expansion subzone:*

(A) *for a term at least equivalent to the balance of the duration of the subzone, improvement subzone or expansion subzone; and*

(B) *with aggregate payment under the lease agreement to support new capital investment at least equivalent to 5% of the gross revenues of that business in the immediately preceding calendar or fiscal year.*

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(c) For purposes of subsection (3)(a)(.2) above, a capital investment must either:

(.1) Consist of an equity ownership interest in an improvement to real property and have the effect of improving such property; or

(.2) Consist of tenant improvements made by a property owner on behalf of the relocating business, for manufacturing, industrial or research and development purposes to accommodate specific needs of the business, where the predominant activity on the property of the business will be manufacturing, industrial, or research and development.

(A) The cost of such tenant improvements must be negotiated in the lease and be required to be repaid by the business.

(B) The cost of such tenant improvements must be in addition to any fit out allowance offered by the property owner.

(C) Only 75% of the cost of the tenant improvements may be used in determining the amount of capital investment.

(D) The property owner and the business must provide documentation satisfactory to DCED that verifies the tenant improvements made and the cost of the tenant improvements.

(E) The property owner and the business must certify to DCED as to the amount of the rental payment that is attributable to the repayment of the cost of the tenant improvements and the period of time over which that cost will be repaid to the property owner.

* * *

§19-3207. Conditions for Business Privilege Tax Credit.

* * *

(4) Any credit against net profits tax liability on account of business privilege tax liability, under Section 19-1506 or otherwise, shall be calculated based on the amount of business privilege tax actually paid by the taxpayer.

§19-3208. Conditions for Net Profits Tax Exemption.

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[(1) The Department shall establish rules and regulations and methods of apportionment and allocation so that only such part of net profits attributable to business activity conducted within the Zone directly by the taxpayer shall be entitled to a credit against net profits tax.

(2) A taxpayer, when filing its net profits tax return, shall first compute its net profits in conformity with Chapter 19-1500 or 19-2800 with no adjustments or subtractions for net profits attributable to business activity in the Zone, prior to calculating any credit under this Chapter.

(3) The credit against net profits tax allowed to a taxpayer in any tax year under this Chapter shall not exceed the net profits tax liability of the taxpayer for such tax year, and shall not carry forward to any other tax year.]

(1) Residency. In order to qualify each year for an exemption from net profits tax under this Chapter, a person shall be domiciled and shall reside in the Zone for a period of 184 consecutive days during each taxable year, which may begin on the date of designation of the Zone by DCED or on the date the person first resides within the Zone.

* * *

SECTION 4. The provisions of this Ordinance shall take effect as follows:

(1) Section 1 shall take effect upon approval by the Commonwealth's Department of Community and Economic Development of an application by the Director of Commerce to expand the, or designate a new, Philadelphia Keystone Opportunity Improvement Zone, pursuant to Act No. ____ (approved _____), and only for such period of time as the Commonwealth provides for exemptions, abatements or credits with respect to sales and use tax, personal income tax, corporate net income tax and capital stock franchise tax for businesses and residents in such expanded or new Improvement Zone, and only with respect to properties in such Improvement Zone designated by the Commonwealth; and only upon establishment by the General Assembly that, with respect to businesses that relocate from outside the Zone into any of the properties designated in Exhibit A hereto, the provisions of subsection 307(b)(3) of the Act of October 6, 1998, no. 92, P.L. 705 (relating to lease agreements), as added by the Act of December 23, 2003, P.L. 360, No. 51, shall not apply, other than with respect to lease agreements for purposes relating to food distribution; and only upon authorization by the General Assembly to permit the City to impose the net profits tax on net profits attributable to the operation of a business, profession or other activity conducted by a qualified business located or partially located in the properties designated in Exhibit A hereto; and only for such period as the General Assembly does not repeal the foregoing authorizations.

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(2) Section 2 shall take effect upon approval by the Commonwealth's Department of Community and Economic Development of an application by the Director of Commerce to expand the, or designate a new, Philadelphia Keystone Opportunity Improvement Zone, pursuant to Act No. ____ (approved _____), and only for such period of time as the Commonwealth provides for exemptions, abatements or credits with respect to sales and use tax, personal income tax, corporate net income tax and capital stock franchise tax for businesses and residents in such expanded or new Improvement Zone, and only with respect to properties in such Improvement Zone designated by the Commonwealth.

(3) Section 3 shall take effect immediately upon enactment of, and only to the extent of, authorization by the General Assembly. To the extent not authorized by the General Assembly, any such inconsistent part of Section 3 shall not take effect. Notwithstanding anything to the contrary, however, with respect to any building that has been constructed or construction of which has begun as of the effective date of this Ordinance in the West Philadelphia Subzone of the Philadelphia Keystone Opportunity Improvement Zone, nothing in Section 3 shall apply to such building or to any business doing business in that building, whether under a lease signed on or prior to the date hereof or any time hereafter, with respect to any business attributable to such West Philadelphia Subzone location.

SECTION 5. The Chief Clerk shall keep on file and available for public inspection the Exhibits to this Ordinance referenced herein.

Explanation:

[Brackets] indicates matter deleted.

Italics indicate new matter added.

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EXHIBIT A

Keystone Opportunity Improvement Zone

As authorized in Commonwealth of Pennsylvania Act ____ of 2004 and designated by the Governor in Executive Order No. _____, the following properties are added to the Naval Business Center Subzone of the Philadelphia Keystone Opportunity Improvement Zone (KOIZ) (or, if so designated by the Governor, the following properties are designated as a new Philadelphia Keystone Opportunity Improvement Zone or Subzone):

ALL THAT CERTAIN parcel or parcels of land located in the City and County of Philadelphia, Commonwealth of Pennsylvania, and bounded on the North side by Arch Street, on the East side by 17th Street, on the South side by John F. Kennedy Boulevard, and on the West side by 18th Street.

EXCEPTING THEREFROM all that certain lot or piece of ground with the building and improvements thereon erected; Situate on the South side of Arch Street at the distance of 110 feet Eastward from the East side of 18th Street in the City of Philadelphia; **CONTAINING** in front or breadth on said Arch Street 22 feet and extending of that width in length or depth Southward 150 feet to a former 40 feet wide street called Cuthbert Street (vacated) bounded Northward by said Arch Street, Westward by ground now or late of the West Arch Street Presbyterian Church, Southward by former Cuthbert Street, and Eastward by ground now or late of Liberty Property Philadelphia Limited Partnership IV East. (Being 1724 Arch Street). **AND ALSO EXCEPTING THEREFROM** all that certain lot or piece of ground with the buildings and improvements thereon erected; Situate in the 8th Ward in the City of Philadelphia, described as follows to wit: Beginning at a point formed by the intersection of the Southerly side of Arch Street (66 feet wide) and the Easterly side of 18th Street (50 feet wide); **CONTAINING** in front or breadth 110 feet and extending of that width between parallel lines and along said 18th Street the distance of 150 feet to the said former Cuthbert Street (40 feet wide). (Being 1726-32 Arch Street).

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EXHIBIT B

Keystone Opportunity Improvement Zone

As authorized in Commonwealth of Pennsylvania Act ____ of 2004 and designated by the Governor in Executive Order No. _____, the following properties are added to the Naval Business Center Subzone of the Philadelphia Keystone Opportunity Improvement Zone (KOIZ) (or, if so designated by the Governor, the following properties are designated as a new Philadelphia Keystone Opportunity Improvement Zone or Subzone):

All that certain lot or piece of ground with the buildings and improvements thereon erected situate in the 39th Ward of the City of Philadelphia, described generally as follows, to wit:

Beginning at a point formed by the intersection of the southerly side of Oregon Avenue (120 feet wide) and the westerly side of Christopher Columbus Boulevard (250 feet wide), thence extending south the distance of approximately one thousand eight hundred feet more or less to a point, thence extending west along the north right-of-way line of the Walt Whitman Bridge approximately two thousand five hundred feet more or less to a point, thence extending in an arc in a northeasterly direction approximately nine hundred feet more or less to a point, thence extending north approximately one thousand three hundred feet more or less to a point, thence extending east approximately one thousand three hundred feet more or less, to the first mentioned point and place of beginning.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 21, 2004. The Bill was Signed by the Mayor on July 1, 2004.

A handwritten signature in black ink, reading "Patricia Rafferty". The signature is written in a cursive style with a large, stylized initial "P".

Patricia Rafferty
Chief Clerk of the City Council