



City of North Port

ORDINANCE NO. 2021-04

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CODE OF THE CITY OF NORTH PORT, FLORIDA, CHAPTER 3, ARTICLE I. – ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION, TO RENEW THE CITY’S AUTHORITY TO GRANT EXEMPTIONS CONSISTENT WITH THE RESULTS OF THE NOVEMBER 2020 REFERENDUM AND TO MAKE CONSISTENT WITH FLORIDA LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VII, Section 3, of the Constitution of the State of Florida and Section 196.1995, Florida Statutes, empower the City to grant economic development ad valorem (property) tax exemptions to new businesses and expansions of existing businesses after the electors of the City, voting on the question in a referendum, authorize the exemptions; and

WHEREAS, on May 10, 2010 the City Commission of the City of North Port adopted Ordinance No. 2010-23, calling for a referendum to authorize the City to grant economic development ad valorem (property) tax exemptions and called for a referendum; and

WHEREAS, in anticipation of the referendum, on July 26, 2010, the City Commission adopted Ordinance No. 2010-24 which established Chapter 3, Article I of the Code of the City of North Port, Florida, entitled, “Economic Development Ad Valorem Tax Exemption,” which was only to become effective if the voters approved the referendum; and

WHEREAS, Chapter 3, Article I provided processes and procedures for the economic development ad valorem (property) tax exemptions which could be granted if the authority was provided by the voters; and

WHEREAS, in August 2010, the voters approved the economic development ad valorem (property) tax exemption program; and

WHEREAS, pursuant to Section 196.1995(7), Florida Statutes, the authority to grant economic development ad valorem tax exemptions expires ten (10) years after the date the authority was approved in an election; and

WHEREAS, therefore, and as provided for in Section 3-13 of the Code of the City of North Port, the City’s ability to grant economic development ad valorem (property) tax exemptions sunset on August 24, 2020; and

WHEREAS, pursuant to Section 196.1995(7), Florida Statutes, the City’s authority to grant these tax exemptions may be renewed for subsequent 10-year periods if each 10-year renewal is approved by referendum; and

WHEREAS, on July 2, 2020, the City Commission adopted Ordinance No. 2020-25 authorizing a referendum ballot item to renew this authority; and

WHEREAS, on November 3, 2020 the voters of the City of North Port, Florida affirmatively answered the referendum ballot item, renewing the City Commission’s authority to grant economic development ad valorem (property) tax exemptions to qualifying businesses; and

WHEREAS, the Supervisor of Elections certified the referendum results on November 13, 2020; and

WHEREAS, therefore, this ordinance is necessary to reflect that decision of the electorate and to otherwise make Chapter 3, Article I consistent with the authority granted by the Florida Legislature in Section 196.1995, Florida Statutes; and

WHEREAS, this ordinance is further necessary to amend language in order to comport with the Florida Statutes and remove a severability clause that is duplicative of the code’s general severability clause found in Section 1-8 of the Code of the City of North Port, Florida; and

WHEREAS, it is a recognized function of local government to promote economic development within its jurisdiction by providing financial incentives that will encourage new businesses to relocate within the jurisdiction and existing businesses to expand creating employment opportunities that will benefit the entire community; and

WHEREAS, the granting of ad valorem (property) tax exemptions to qualifying businesses will provide the City of North Port with an additional economic development incentive which will enhance the desirability of the City of North Port as a location for new businesses and expansions to existing businesses; and

WHEREAS, the City Commission finds that these amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 – FINDINGS.

1.01 The recitals outlined above are ratified and approved as true and correct, and are incorporated in this ordinance as findings of fact.

SECTION 2 – ADOPTION

2.01 Chapter 3 of the Code of the City of North Port, Florida is hereby amended as follows:

**“Chapter 3 – AD VALOREM TAX EXEMPTIONS
ARTICLE I. - ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION**

...

~~Sec. 3-2. Findings of fact.~~

- ~~(a) It is a recognized function of local government to promote economic development within its jurisdiction by providing financial incentives that will encourage new businesses to relocate within their jurisdiction and existing businesses to expand creating employment opportunities that will benefit the entire community.~~
- ~~(b) The current economic climate has resulted in a high unemployment rate in the city, impacting the quality of life for the city's citizens and the sustainability of local businesses.~~
- ~~(c) Subject to voter referendum, the city commissioners (the "commission") desire to offer economic development ad valorem tax exemptions to new businesses relocating to the city and to businesses already situated in the city that are expanding in order to foster economic growth and increased employment.~~
- ~~(d) In order to ensure that applications for an economic development ad valorem tax exemption are considered in a nonarbitrary and nondiscriminatory manner, it is necessary to establish guidelines that further the commission's economic development policy to assist the commission in making its determinations.~~
- ~~(e) Applications for an economic development ad valorem tax exemption shall be considered by the commission in its legislative capacity on a case by case basis, after considering the property appraiser's report, city manager's recommendation, and the review criteria.~~
- ~~(f) No precedent shall be implied or inferred by the granting of an exemption to a new or expanding business.~~
- ~~(g) Prior to this chapter, the commission adopted Ordinance No. 2010-23 calling for a special referendum on August 24, 2010, seeking authorization to grant economic development ad valorem tax exemptions to qualifying businesses.~~

Sec. 3-~~32~~. - Short title.

This article shall be known and cited as the "economic development ad valorem tax exemption ordinance."

Sec. 3-~~43~~. - Definitions of terms.

~~When used in this article, the~~ The following words, phrases, and terms shall have the same meanings ~~ascribed to them in this section attributed to them in current Florida Statutes and the Florida Administrative Code, except where the context clearly indicates otherwise:~~

Applicant. Any person, firm, partnership, or corporation that ~~who~~ files an application with the commission seeking an economic development ad valorem tax exemption.

~~*Commission.* The City Commission of North Port.~~

Business. Any for-profit activity engaged in by any person, firm, partnership, corporation, or other business organization or entity.

~~City. City of North Port, Florida.~~

Department. The Florida Department of Revenue.

Economic development ad valorem tax exemption. Ad valorem tax exemption granted by the commission in its sole discretion to a qualifying new business and an expansion of an existing business for up to 100 percent of the city ad valorem tax levied on the qualifying property of ~~said~~ the business for a period up to ten years or up to 20 years for a data center; provided, however, the exemption shall not apply to ~~taxes-taxes~~ levied for the payment of bonds or taxes authorized by a vote of the electors pursuant to section 9 and section 12, article VII of the State Constitution.

Enterprise zone. An area designated as an enterprise zone pursuant to F.S. § 290.0065 prior to December 31, 2015.

Expansion of an existing business.

- (1) A business or organization establishing ten or more new jobs to employ ten or more full-time employees in this state, paying an average wage for the new jobs that is above the average wage in the area, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant principally engages in any of the operations referred to in Subsection (1) of the definition of "new business" below; or
- (2) A business or organization establishing 25 or more new jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by F.S. § 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; provided that ~~such~~ the business increases operations on a site ~~collocated~~ located within the city or colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization, resulting in a net increase in employment of not less than ten percent or an increase in productive output or sales of not less than ten percent.
- (3) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that increases operations on a site located within the same zone or area colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

~~*Goods.* All personal property when purchased primarily for personal, family, or household use, but not including personal property sold for commercial or industrial use.~~

~~*Improvements.* Physical changes made to raw land, and structures placed on or under the land surface.~~

New business.

- (1) A business or organization establishing ten or more new jobs to employ ten or more full-time employees in this state, paying an average wage for the new jobs that is above the average wage in the area, which principally engages in any one or more of the following operations:
 - a. ~~manufactures~~ Manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or
 - b. Is a target industry business as defined in F.S. § 288.106(2)(q); or
- (2) A business or organization establishing 25 or more new jobs to employ 25 or more full-time employees in this state, the sales factor of which, ~~as defined by F.S. § 220.15(5)~~, for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or
- (3) An office space in this state owned and used by a ~~corporation~~ business or organization newly domiciled in this state, ~~;~~ provided ~~such~~ the office space houses 50 or more full-time employees of ~~such corporation~~ the business or organization; ~~;~~ provided ~~that such~~ the business or organization office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization; or
- (4) Any business or organization located in an area designated as an enterprise zone or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization; or
- (5) A business or organization that is situated on property annexed into a ~~municipality~~ the city and that, at the time of the annexation, is receiving an economic development ad valorem tax exemption from the county under F.S. § 196.1995.

Sales factor. A fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

Sec. 3-54. - Establishment of economic development ad valorem tax exemption.

- (a) There is herein established an economic development ad valorem tax exemption (hereinafter the "exemption") for ad valorem taxes levied by the city on real and tangible personal property. The exemption is a local option tax incentive for a qualifying new business or expansion ~~to~~ of an existing business which may be granted or refused at the sole discretion of the commission.
- (b) The exemption shall not accrue to improvements to real property made by or for the use of a qualifying new business or expansion to an existing business when ~~such~~ the

improvements have been included on the tax rolls prior to the effective date of the ordinance specifically granting a business an exemption.

- (c) At the discretion of the commission, the exemption may be granted for up to 100 percent of the assessed value of all improvements to real property ~~on the tax roll~~ made by or for the use of a qualifying new business and of all tangible personal property ~~on the tax role~~ of such the new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the qualifying expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate ~~such the~~ expansion of an existing business, provided that the improvements to real property are made or the tangible personal property is added or increased:
 - (1) ~~By January 1 of the year in which the application will be filed~~ After approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted; and
 - (2) The application for the exemption is filed with the city's finance department on or before ~~March~~ January 1 of the year the exemption is sought. Property acquired to replace existing property shall not be considered to facilitate a business expansion.
- (d) No exemption shall be granted for the land upon which a new business or expansion of an existing business is to be located.
- (e) Any exemption granted for a new business or expansion of an existing business is nontransferable between businesses.
- (f) All data center equipment for a data center shall be exempt from ad valorem taxation for the term of the approved exemption.

Sec. 3-65. - Application for exemption.

- (a) *Application.* Any eligible person, firm, partnership, or corporation which desires an economic development ad valorem tax exemption shall file with the commission a written application in the form prescribed by the department (Form DR-418), ~~a copy of which is attached hereto and incorporated herein as exhibit "A"~~ as may be amended from time to time, on or before ~~March~~ January 1 of the year the exemption is sought. The application must request the adoption of an ordinance granting the applicant an exemption pursuant to this article and must include the following information:
 - (1) The name and location of the new business or the expansion of an existing business;
 - (2) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of the improvements;
 - (3) A description of the tangible personal property for which an exemption is requested and the dates when the property was or is to be purchased;
 - (4) Proof, to the satisfaction of the commission, that the applicant is a new business or an expansion of an existing business, as defined herein;

- (5) The number of jobs the applicant expects to create along with the average wage of the jobs and whether the jobs are full-time or part-time;
 - (6) The expected time schedule for job creation; and
 - (7) Other information deemed necessary or appropriate by the city.
- (b) *Review.* Upon submittal of the application, the city manager or his designee shall review same and, within ten days of submission, notify the applicant of any facial deficiencies. Complete applications shall be scheduled for a public hearing before the commission, subject to a preliminary review by the property appraiser and city manager or his designee, within 45 days of receipt of the application. Applicant will be notified of the date and time of the public hearing.
- (c) *Agreement.* A business will be required to enter into an agreement with the city providing that the business will satisfy the business maintenance and continued performance conditions set forth in ~~chapter [section] 3-5 [3-9]~~, herein throughout the exemption period. The agreement must require the applicant to report at a specific time before the expiration of the exemption the actual number of new, full-time jobs created and their actual average wage. Additionally, the agreement may provide the commission with authority to revoke, in whole or in part, the exemption if the applicant fails to meet the expectations and representations described in the application.

Sec. 3-76. - Commission consideration of application.

- (a) *Property appraiser review.* Before the commission takes action on an application, a copy shall be delivered to the property appraiser for review. After careful consideration of the application, the property appraiser shall provide a report to the commission ~~within 15 days~~ which includes the following information:
- (1) The total revenue available to the city for the current fiscal year from ad valorem tax sources or an estimate of ~~such~~ the revenue if the actual total available revenue cannot be determined;
 - (2) The amount of revenue lost to the city for the current fiscal year by virtue of exemptions previously granted, or an estimate of ~~such~~ the revenue if the actual revenue lost cannot be determined;
 - (3) An estimate of the amount of revenue which would be lost to the city for the current fiscal year if the exemption applied for ~~was~~ were granted had the property for which the exemption is requested otherwise been subject to taxation; and
 - (4) A determination as to whether the property for which an exemption is requested is to be incorporated into a new business or the expansion of an existing business, or into neither, which determination the property appraiser shall also affix to the face of the application. Upon request, the department will provide the property appraiser ~~such~~ information ~~as it may have~~ available to assist in making this determination.

- (b) *Eligibility threshold.* The threshold for eligibility is whether the business meets the definition of a new business or of an expansion of an existing business as ~~provided in chapter [section] 3-4.~~
- (c) *Economic development policy guidelines.* In making its determination as to whether to grant the exemption, and, if granted, the duration and percentage of the exemption, the commission shall consider the following factors:
- (1) ~~Number of current and projected employees of the business at city location~~ The total number of net new jobs to be created by the applicant;
 - (2) ~~Average wage of employees at city facility~~ new jobs;
 - (3) Capital investment to be made by the applicant;
 - (4) ~~Innovative/green business~~ The environmental impact of the proposed business or operation;
 - (5) ~~Commitment to local procurement~~ The extent to which the applicant intends to source its supplies and materials within the applicable jurisdiction;
 - (6) Net positive contribution to the local economy;
 - (7) The type of business or operation and whether it qualifies as a targeted industry as may be identified from time to time by the commission;
 - (8) In addition to the above factors, the commission may consider any ~~such other activity or factor~~ economic-related characteristics or criteria deemed necessary by the commission, or proposed by the applicant or city manager that can be and demonstrated in a satisfactory fashion to the commission that promotes the sustainability of economic development within the city.
- (d) *No precedent.* Applications for an economic development ad valorem tax exemption shall be considered by the commission in its legislative capacity on a case-by-case basis, after considering the property appraiser's report, city manager's recommendation, and the review criteria. No precedent shall be implied or inferred by the granting of an exemption to a new or expanding business.
- (~~e~~) *Ordinance.* After consideration of the application and the property appraiser's review, the economic development policy guidelines, and ~~such~~ other information it deems relevant, the commission may choose to adopt an ordinance granting the exemption to the applicant for up to 100 percent of the assessed value of the qualifying property for up to ten years, or up to 20 years for a data center. If granted, the ordinance shall include the following information:
- (1) The name and address of the new business or the expansion of an existing business to which the exemption is granted;

- ~~(2) The name of the owner(s) of the new business or the expansion of an existing business;~~
- (32) The total amount of revenue available to the city from ad valorem tax sources for the current fiscal year, the total amount of the revenue lost to the city for the current fiscal year by virtue of exemptions currently in effect, and the estimated amount of revenue lost attributable to the ~~Exemption~~ exemption granted to the new or expanding business;
- (43) The expiration date of the exemption, which is ten years or less or 20 years or less for a data center (depending upon the duration of the exemption granted) from the date the commission enacts the ordinance granting the exemption; and
- (54) A finding that the business meets the definition of a new business or an expansion of an existing business ~~as set forth in chapter [section] 3-4~~ provided herein.

Sec. 3-87. - Application fee.

No fees shall be charged for processing the exemption application or any exemption ordinance adopted by the commission.

Sec. 3-98. - Continuing performance.

(a) *Change in ownership.*

- (1) The business granted the exemption shall be required to inform the commission in writing within ten business days as to any changes in ownership of the business granted and exemption.
- (2) Failure of the business granted an exemption to notify the commission in writing of any such changes in ownership is cause for revocation of the ordinance granting the exemption, at the commission's discretion.

(b) *Annual renewal statement and annual report.* The applicant shall be required to submit an annual renewal statement and an annual report to the city manager on or before March 1 of each year for which the exemption was granted. The city manager shall forward the annual report to the city commission. The applicant shall also timely comply with all filings required pursuant to F.S. § 196.011.

- (1) The annual renewal statement shall certify that information provided in the original application has not changed.
- (2) The annual report shall provide a report on the status of the business, evidencing satisfaction of the business maintenance and continued performance conditions set forth in the application. The report shall be prepared in substantially a form to be adopted by resolution.

Sec. 3-109. - Commission revocation.

Should any new business or expansion of an existing business fail to timely file the annual renewal statement and annual report with the commission, ~~on or before March 1 of each year~~

~~the exemption has been granted as required in chapter [section] 3-9 fail to continue to meet the definition of a new business or an expansion of an existing business, fail to timely file a new application upon notify the city of a change of ownership or use, and/or fail to fulfill any other representation made to the commission during the application process, including the creation and maintenance of the total number of new jobs identified by a business in the application (exhibit "A"), the commission, in its discretion, may adopt an ordinance revoking the ad valorem tax exemption.~~

- (1) *Notification.* Upon revocation, the commission shall immediately notify the property appraiser.
- (2) *Recover taxes.* If it is determined that for any year within the exemption period the owner was not entitled to receive ~~such~~ the exemption, the owner of the property shall be subject to the taxes exempted as a result of ~~such~~ the failure, plus annual interest at the maximum rate allowed by law.
- (3) *Reapply.* Nothing herein shall prohibit a business from reapplying for an ad valorem tax exemption pursuant to state law.

~~Sec. 3-1110. - Applicability.~~

~~This chapter shall be applicable throughout the city.~~

~~Sec. 3-12. - Severability.~~

~~If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or applications. To this end, the provisions of this article are declared severable.~~

~~Sec. 3-1310. - Sunset date.~~

~~Pursuant to F.S. § 196.1995, this chapter article shall expire on August 24, 2020 November 3, 2030, ten years after the date ~~such~~ the authority to grant economic development ad valorem tax exemptions was approved by the electors of the city voting on the question in a referendum. ~~no~~ No business shall be allowed to begin receiving ~~such~~ an exemption after that date; however, the expiration shall not affect the operation of any exemption for which a business has qualified under this ~~chapter~~ article ~~prior August 24, 2020 to November 3, 2030.~~~~

~~Sec. 3-14. - Effective date.~~

~~This chapter shall become effective on August 25, 2010, only if approved by a "yes" vote by a majority of those voting on the question posed at the August 24, 2010 referendum. If a majority of those voting on the question posed do not vote "yes", this chapter shall be null and void."~~

SECTION 3 – CONFLICTS

3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or provisions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

SECTION 4 – SEVERABILITY

4.01 If any section, subsection, sentence, clause, phase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

SECTION 5 – CODIFICATION

5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any additional codification information and notations appear in *italics*. These editorial notations shall not appear in the codified text.

SECTION 6 – EFFECTIVE DATE

6.01 This ordinance shall take effect immediately after adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public session on the 12th day of January 2021.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in public session this 9th day of February 2021.

CITY OF NORTH PORT, FLORIDA

GISELE "JILL" E. LUKE
MAYOR

ATTEST

HEATHER TAYLOR, CMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
CITY ATTORNEY