



## City of North Port

### ORDINANCE NO. 2010-24

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA ESTABLISHING AN EXEMPTION FROM CERTAIN AD VALOREM TAXATION FOR CERTAIN NEW BUSINESSES AND EXPANSIONS OF EXISTING BUSINESSES; TO BE CODIFIED AS PART II, CHAPTER 3 OF THE NORTH PORT CODE; PROVIDING FOR ENACTMENT AUTHORITY; PROVIDING FINDINGS OF FACT; PROVIDING A SHORT TITLE; PROVIDING FOR DEFINITION OF TERMS; PROVIDING FOR ESTABLISHMENT OF ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION; PROVIDING FOR AN APPLICATION FOR EXEMPTION; PROVIDING FOR COMMISSION CONSIDERATION OF APPLICATION; PROVIDING FOR APPLICATION FEES; PROVIDING FOR CONTINUING PERFORMANCE; PROVIDING FOR COMMISSION REVOCATION OF EXEMPTION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A SUNSET DATE AND PROVIDING FOR AN EFFECTIVE DATE.

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

**SECTION 1.** There is hereby created a new Part II, Chapter 3 of the North Port Code (the "Code"), entitled "Economic Development Ad Valorem Tax Exemption."

**SECTION 2.** Part II Chapter 3 of the Code is hereby created to read as follows:

#### **CHAPTER 3. ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION**

##### **Sec. 3-1. Enactment Authority.**

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 Tax Exemptions to New Businesses and Expansions of Existing Businesses after the electors of the City, voting on the question in a referendum, authorize such exemptions.

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") desires 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 non-arbitrary 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 Ordinance, 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. 3-3. Short title.**

This article shall be known and cited as the "Economic Development Ad Valorem Tax Exemption Ordinance."

### Sec. 3-4. Definitions of Terms.

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

- (a) Applicant – Any person, firm, partnership, or corporation who files an application with the Commission seeking an Economic Development Ad Valorem Tax Exemption.
- (b) Commission – The City Commission of North Port.
- (c) Business – Any for-profit activity engaged in by any person, firm, partnership, corporation, or other business organization or entity.
- (d) City – City of North Port, Florida
- (e) Department – The Florida Department of Revenue.
- (f) Economic Development Ad Valorem Tax Exemption – ad valorem tax exemption granted by the Commission in its discretion to a qualifying New Business and an Expansion of an Existing Business for up to 100 % of the City ad valorem tax levied on the qualifying property of said Business for a period up to ten (10) years; provided, however, the exemption shall not apply to 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.
- (g) Expansion of an Existing Business – A business establishing ten (10) or more jobs to employ ten (10) or more full-time equivalent employees in the City.
- (g) Goods – All personal property when purchased primarily for personal, family, or household use, but not including personal property sold for commercial or industrial use.
- (h) Improvements – Physical changes made to raw land, and structures placed on or under the land surface.
- (i) New Business –
  - (1) A business establishing ten (10) or more jobs to employ ten (10) or more full-time equivalent employees in the City.

- (2) Office space in one or more locations in the City leased [tangible personal property exemption only] or owned and used by a corporation newly domiciled in the City; provided such office space houses fifty (50) or more full-time equivalent employees of such corporation; provided that such business or office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

**Sec. 3-5. 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 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 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 one hundred (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 New Business, or up to one hundred (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 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 1st of the year in which the application will be filed; and (2) the Application for the Exemption is filed with the Department of Finance on or before March 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 non-transferable between businesses.

**Sec. 3-6. 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 prescribed by the Department (DR-418), a copy of which is attached hereto and incorporated herein as Exhibit "A" on or before March 1 of the year the Exemption is sought.
- (b) Review - Upon submittal of the Application, the City Manager or his designee shall review same and, within ten (10) 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 forty five (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 3-5, herein throughout the exemption period.

**Sec. 3-7. 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 fifteen (15) days which includes the following:
  - (1) The total revenue available to the City for the current fiscal year from ad valorem tax sources or an estimate of such 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 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 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 3-4 of this Ordinance.
- (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
  - (2) Average Wage of Employees at City facility
  - (3) Capital Investment
  - (4) Innovative/Green Business
  - (5) Commitment to Local Procurement
  - (6) Net positive contribution to the local economy

In addition to the above factors, the Commission may consider any such other activity or factor proposed by the Applicant or City Manager that can be demonstrated in a satisfactory fashion to the Commission that promotes the sustainability of Economic Development within the City.

- (d) 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 10 years. 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;
  - (2) The name of the owner(s) of the New Business or the Expansion of an Existing Business;
  - (3) 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 attributable to the Exemption granted to the new or expanding business;
  - (4) The expiration date of the Exemption, which is (10) ten years or less (depending upon the duration of the Exemption granted) from the date the Commission enacts the Ordinance granting the Exemption; and

- (5) A finding that the business meets the definition of a New Business or an Expansion of an Existing Business as set forth in Chapter 3-4 herein.

### **Sec. 3-8. Application Fee.**

No fees shall be charged for processing the Exemption Application or any Exemption Ordinance adopted by the Commission.

### **Sec. 3-9. Continuing Performance**

#### **(a) Change in ownership**

- (1) The Business granted the Exemption shall be required to inform the Commission in writing within ten (10) 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 1st of each year for which the Exemption was granted. The Applicant shall also timely comply with all filings required pursuant to Section 196.011, Florida Statutes.

- (a) The Annual Renewal Statement shall certify that information provided in the original Application has not changed.
- (b) 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. 3-10. Commission Revocation.**

Should any New Business or Expansion of an Existing Business fail to file the Annual Renewal Statement and Annual Report with the Commission on or before March 1st of each year the Exemption has been granted as required in Chapter 3-9 of this Ordinance, 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 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.

- (a) Notification – Upon Revocation, the Commission shall immediately notify the Property Appraiser.
- (b) Recover Taxes – If it is determined that for any year within the Exemption period the owner was not entitled to receive such Exemption, the owner of the property shall be subject to the taxes exempted as a result of such failure plus annual interest at the maximum rate allowed by law.
- (c) Reapply – Nothing herein shall prohibit a business from reapplying for an ad valorem tax exemption pursuant to State law.

**Sec. 3-11. Applicability.**

This Ordinance shall be applicable throughout the City of North Port.

**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. 3-13. Sunset Date.**

Pursuant to Section 196.1995, Florida Statutes, this Ordinance shall expire on August 24, 2020, ten (10) years after the date such 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 business shall be allowed to begin receiving such Exemption after that date; however, the expiration shall not affect the operation of any Exemption for which a business has qualified under this Ordinance prior to August 24, 2020.

**Sec. 3-14. Effective Date.**

This Ordinance 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 ordinance shall be null and void.

First Reading July 12, 2010.

PASSED AND ADOPTED as an Ordinance in public session this 26<sup>th</sup> day of July, 2010.

  
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COMMISSIONER DAVID J. GAROFALO, SR.  
CHAIR

ATTEST/  
  
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HELEN RAIMBEAU, MMC  
CITY CLERK

Approved as to form and correctness:  
  
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ROBERT K. ROBINSON  
CITY ATTORNEY

