

An ordinance of the City of Sanford, Florida, relating to a referendum election pertaining to the issue of economic development or community development *ad valorem* tax exemptions as permitted by Article VII, Section (3)(c), *Constitution of the State of Florida*, as implemented by Section 196.1995, *Florida Statutes*; providing for legislative findings and recitals; providing for authorization and authority; directing the Supervisor of Elections of Seminole County to hold a referendum election on March 15, 2016; providing for ballot language; providing for actions upon approval at referendum election; providing for the requirements of implementing ordinances; directing the City Clerk to advertise the special referendum election in accordance with controlling law and coordinate activities with the Supervisor of Elections; providing for definitions; providing for matters to be considered in evaluating applications and generalized criteria; providing for processes and procedures and related matters upon passage of referendum relative to the consideration of applications for tax exemptions; providing direction to the City Manager; providing for implementing administrative actions and responsibility for implementation relating to tax exemptions; providing for a savings provision; providing for conflicts; providing for severability; providing for codification as well as the correction of scrivener's errors; providing for severability and providing for an effective date.

Whereas, Article VII, Section (3)(c), *Constitution of the State of Florida*, authorizes local governments to provide for an *ad valorem* tax exemption for certain purposes and provides as follows:

Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development *ad valorem* tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize the county or

municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

; and

Whereas, Section 196.1995, *Florida Statutes*, implements the provisions of Article VII, Section (3)(c), *Constitution of the State of Florida*, and provides, in pertinent part in Subsection (1)(a), as follows:

The . . . governing authority of any municipality shall call a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax exemptions under s. 3, Art. VII of the State Constitution if:

(a) The . . . governing authority of the municipality votes to hold such referendum;

; and

Whereas, accordingly, the above-cited constitutional provision has been implemented in Florida law through Section 196.1995, *Florida Statutes*, by setting forth:

- (1). The process to call for a referendum by petition or vote of the county or city commission; and
- (2). The form of the ballot question; and
- (3). The applicability of the exemption to various types of businesses; and
- (4). The general requirements for a local government application process.

; and

Whereas, the City Commission of the City of Sanford desires to ensure and enhance the economic development of the City and the economic wellbeing of the citizens of the City; and

Whereas, the City Commission of the City of Sanford has determined that the electors of the City of Sanford should be provided the opportunity to authorize *ad valorem* tax exemptions that are aimed at encouraging economic and community development; and

Whereas, the City Commission of the City of Sanford, upon approval of the electors of the City of Sanford, would act on a case-by-case basis, by means of the enactment of ordinances considered at public hearings, to grant any such economic development or community development *ad valorem* tax exemptions; and

Whereas, the City Commission of the City of Sanford has concluded that the citizens of the City of Sanford would receive benefits should the City Commission be authorized to develop a system of economic development and community development

incentives in accordance with State law to draw businesses into the City or cause business expansion within the City that will favorably impact the economy of the City and the economic health of the citizens of the City.

Now, Therefore, Be It Enacted By The People Of The City Of Sanford, Florida:

Section 1. Legislative Findings And Intent.

(a). The City Commission of the City of Sanford hereby adopts and incorporates into this Ordinance the City staff report and City Commission agenda memorandum relating to this Ordinance.

(b). The City of Sanford has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

Section 2. Authorization and Authority. This Ordinance is specifically is authorized by Article VII, Section (3)(c), *Constitution of the State of Florida*, Section 196.1995, *Florida Statutes*, Section 8 of the *City of Sanford Charter*, and other applicable and controlling law.

Section 3. Referendum Election Relating to Economic and Community Development Tax Exemptions.

(a) The Supervisor of Elections of Seminole County is hereby directed to hold a referendum election on March 15, 2016 in accordance with the provisions of this Ordinance and controlling law.

(b) The Supervisor of Elections of Seminole County shall cause the following question to be placed on the ballot before the electors of the City of Sanford:

**CONSTITUTIONALLY PERMITTED TAX EXEMPTIONS TO
NEW BUSINESSES AND EXPANDING BUSINESSES FOR
COMMUNITY AND ECONOMIC DEVELOPMENT.**

Shall the City Commission of the City of Sanford be authorized to grant property tax exemptions based upon City-established criteria, pursuant to Article VII, Section (3)(c), *Constitution of the State of Florida*, to new businesses and expansions of existing businesses to create jobs?

_____ **Yes** -- For authority to grant exemptions.

_____ **No** -- Against authority to grant exemptions.

(c). Should the Supervisor of Elections discern any issue with the ballot question set forth in Subsection (b), the City Clerk and City Attorney are hereby delegated authority to revise the ballot question to conform with the controlling requirements of State law.

Section 4. Actions Upon Approval of Referendum Election.

(a). Upon a majority vote of the electors of the City of Sanford voting at the referendum election called in Section 3 in favor of the authority vested in Article VII, Section (3)(c), *Constitution of the State of Florida*, and Section 196.1995, *Florida Statutes*, the City Commission, at its discretion, by enactment of such ordinances as it may determine to be appropriate, may exempt from ad valorem taxation up to one hundred percent (100%) of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to one hundred percent (100%) of the assessed value of all added improvements to real property made to facilitate the 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 on or after the day the ordinance is enacted. Property acquired to replace existing property shall not be

considered to facilitate a business expansion. The *ad valorem* tax exemption shall apply only to taxes levied by the City of Sanford. The exemption shall not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to Article VII, Section 9(b) or Section 12 of the *Constitution of the State of Florida*. Any such exemption shall remain in effect for up to ten (10) years with respect to any particular facility, regardless of any change in the authority of the City of Sanford to grant such exemptions. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(b). Property annexed into the City shall be controlled by the provisions of State law relating to annexed properties and other controlling law.

(c). Should the referendum election result in an approval by the electorate, the following provisions of the *City Code* shall be added:

Definitions (See Footnotes Below).

The following words, phrases and terms shall have the meanings set forth below. Except where indicated otherwise such words, phrases and terms shall have the same meanings attributed to them in the *Florida Statutes*¹ and the *Florida Administrative Code*

¹ The definitions set forth in Section 196.012, *Florida Statutes*, are as follows:

Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(1) “Exempt use of property” or “use of property for exempt purposes” means predominant or exclusive use of property owned by an exempt entity for educational, literary, scientific, religious, charitable, or governmental purposes, as defined in this chapter.

(2) “Exclusive use of property” means use of property solely for exempt purposes. Such purposes may include more than one class of exempt use.

(3) “Predominant use of property” means use of property for exempt purposes in excess of 50 percent but less than exclusive.

(4) “Use” means the exercise of any right or power over real or personal property incident to the ownership of the property.

(5) “Educational institution” means a federal, state, parochial, church, or private school, college, or university conducting regular classes and courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Schools, or the

Florida Council of Independent Schools; a nonprofit private school the principal activity of which is conducting regular classes and courses of study accepted for continuing postgraduate dental education credit by a board of the Division of Medical Quality Assurance; educational direct-support organizations created pursuant to ss. 1001.24, 1004.28, and 1004.70; facilities located on the property of eligible entities which will become owned by those entities on a date certain; and institutions of higher education, as defined under and participating in the Higher Educational Facilities Financing Act.

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. 332.004(14) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state, a spaceport as defined in s. 331.303, or which is located in a deepwater port identified in s. 403.021(9)(b) and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation, airport, aerospace, maritime, or port purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose. The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historic preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose. The term "governmental purpose" also includes a direct use of property on federal lands in connection with the Federal Government's Space Exploration Program or spaceport activities as defined in s. 212.02(22). Real property and tangible personal property owned by the Federal Government or Space Florida and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee" as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of "ownership," buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14), and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital.

(7) "Charitable purpose" means a function or service which is of such a community service that its discontinuance could legally result in the allocation of public funds for the continuance of the function or service. It is not necessary that public funds be allocated for such function or service but only that any such allocation would be legal.

(8) "Hospital" means an institution which possesses a valid license granted under chapter 395 on January 1 of the year for which exemption from ad valorem taxation is requested.

(9) "Nursing home" or "home for special services" means an institution which possesses a valid license under chapter 400 on January 1 of the year for which exemption from ad valorem taxation is requested.

(10) "Gross income" means all income from whatever source derived, including, but not limited to, the following items, whether actually owned by or received by, or not received by but available to, any person or couple: earned income, income from investments, gains derived from dealings in property, interest, rents, royalties, dividends, annuities, income from retirement plans, pensions, trusts, estates and inheritances, and direct and indirect gifts. Gross income specifically does not include payments made for the medical care of the individual, return of principal on the sale of a home, social security benefits, or public assistance payments payable to the person or assigned to an organization designated specifically for the support or benefit of that person.

(11) "Totally and permanently disabled person" means a person who is currently certified by two licensed physicians of this state who are professionally unrelated, by the United States Department of Veterans Affairs or its predecessor, or by the Social Security Administration, to be totally and permanently disabled.

(12) "Couple" means a husband and wife legally married under the laws of any state or territorial possession of the United States or of any foreign country.

(13) "Real estate used and owned as a homestead" means real property to the extent provided in s. 6(a), Art. VII of the State Constitution, but less any portion thereof used for commercial purposes, with the title of such property being recorded in the official records of the county in which the property is located. Property rented for more than 6 months is presumed to be used for commercial purposes.

(14) "New business" means:

(a)1. A business or organization establishing 10 or more new jobs to employ 10 or more full-time employees in this state, paying an average wage for such 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, 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 s. 288.106(2)(q);

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 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 business or organization newly domiciled in this state; provided such office space houses 50 or more full-time employees of such business or organization; provided that such 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.

(b) Any business or organization located in 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.

(c) A business or organization that is situated on property annexed into a municipality and that, at the time of the annexation, is receiving an economic development ad valorem tax exemption from the county under s. 196.1995.

(15) "Expansion of an existing business" means:

(a)1. A business or organization establishing 10 or more new jobs to employ 10 or more full-time employees in this state, paying an average wage for such new jobs that is above the average wage in the area, which principally engages in any of the operations referred to in subparagraph (14)(a)1.; 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 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 business increases operations on a site located within the same county, municipality, or both 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 10 percent or an increase in productive output or sales of not less than 10 percent.

(b) Any business or organization located in an enterprise zone 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.

(16) "Permanent resident" means a person who has established a permanent residence as defined in subsection (17).

(17) "Permanent residence" means that place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning. A person may have only one permanent residence at a time; and, once a permanent residence is established in a foreign state or country, it is presumed to continue until the person shows that a change has occurred.

(18) "Enterprise zone" means an area designated as an enterprise zone pursuant to s. 290.0065. This subsection expires on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

(19) "Ex-servicemember" means any person who has served as a member of the United States Armed Forces on active duty or state active duty, a member of the Florida National Guard, or a member of the United States Reserve Forces.

¹ "Tangible personal property" means all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself. "Construction work in progress" consists of those items of tangible personal property commonly known as fixtures, machinery, and equipment when in the process of being installed in new or expanded improvements to real property and whose value is materially enhanced upon connection or use with a preexisting, taxable, operational system or facility. Construction work in progress shall be deemed substantially completed when connected with the preexisting, taxable, operational system or facility. Inventory and household goods are expressly excluded from this definition

¹ "Target industry business" means a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to the following criteria developed by the department in consultation with

as amended from time to time:

Applicant means any person, firm, partnership or corporation who files an application with the City Commission seeking an exemption.

Application means a written application for an exemption on the form prescribed by the department, together with any supplemental form prescribed by the City Manager, or designee, and any additional information requested by the City Manager, or designee,.

Average annual employment means the sum of the number of full-time equivalent employees as of the last day of each month of the preceding calendar year divided by twelve (12).

Enterprise Florida, Inc.:

1. Future growth.—Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to businesses that export goods to, or provide services in, international markets and businesses that replace domestic and international imports of goods or services.
2. Stability.—The industry should not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather. The industry should also be relatively resistant to recession, so that the demand for products of this industry is not typically subject to decline during an economic downturn.
3. High wage.—The industry should pay relatively high wages compared to statewide or area averages.
4. Market and resource independent.—The location of industry businesses should not be dependent on Florida markets or resources as indicated by industry analysis, except for businesses in the renewable energy industry.
5. Industrial base diversification and strengthening.—The industry should contribute toward expanding or diversifying the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis. Special consideration should also be given to the development of strong industrial clusters that include defense and homeland security businesses.
6. Positive economic impact.—The industry is expected to have strong positive economic impacts on or benefits to the state or regional economies. Special consideration should be given to industries that facilitate the development of the state as a hub for domestic and global trade and logistics.

The term does not include any business engaged in retail industry activities; any electrical utility company as defined in s. 366.02(2); any phosphate or other solid minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any business subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation. Any business within NAICS code 5611 or 5614, office administrative services and business support services, respectively, may be considered a target industry business only after the local governing body and Enterprise Florida, Inc., make a determination that the community where the business may locate has conditions affecting the fiscal and economic viability of the local community or area, including but not limited to, factors such as low per capita income, high unemployment, high underemployment, and a lack of year-round stable employment opportunities, and such conditions may be improved by the location of such a business to the community. By January 1 of every 3rd year, beginning January 1, 2011, the department, in consultation with Enterprise Florida, Inc., economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists, shall review and, as appropriate, revise the list of such target industries and submit the list to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Average annual private sector wage means the lesser of the average annual private sector wage throughout the State of Florida, the Metropolitan Statistical Area or the County.

Average annual wage means the sum of the wages paid to full-time equivalent employees included in the average annual employment, divided by the average annual employment.

Business means any activity engaged in by any person, firm, partnership, corporation, or other business organization or entity, with the object of private or public gain, benefit, or advantage, either direct or indirect.

Capital investment means any expenditure for an expansion of an existing business or a new business to be located in the City of Sanford which can be capitalized under generally accepted accounting principles.

Community Redevelopment Agency means the City's Community Redevelopment Agency operating in the City as prescribed by the City Commission under delegation from the Board of County Commissioners of Seminole County.

Community Redevelopment Area means the City's Community Redevelopment Area operating in the City as prescribed by the City Commission under delegation from the Board of County Commissioners of Seminole County

Economic development ad valorem tax exemption or exemption means an ad valorem tax exemption granted by the City Commission in its sole and absolute discretion to a qualified business pursuant to this Ordinance as authorized by Article VII, Section 3 of the *Constitution of the State of Florida* and Section 196.1995, *Florida Statutes*.

Exemption criteria means the criteria to be applied by the City Commission in

making its determination as to whether to grant an exemption, as provided for in this Ordinance.

Goods means all personal property when purchased primarily for personal, family, or household use, but not including personal property sold for commercial or industrial use.

High value business means an expansion of an existing business or a new business that is expected to have a significant economic impact as a result of the number of its full-time equivalent employees, its average annual wage, the capital investment in the business, or additional jobs subsequently created as a result of such business.

Improvements means physical changes made to raw land, and structures placed on or under the land surface.

Metropolitan Statistical Area or MSA means a geographical region with a relatively high population density at its core and close economic ties throughout the area. For purposes of this Ordinance, the MSA includes City of Sanford.

Qualified business means either a new business or an expansion of an existing business that meets the criteria to be considered for an exemption.

Sales factor means is 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 and as defined in controlling State law.

Tangible personal property shall have the meaning set forth in Section

Target industry business means an expansion of an existing business or a new business that is engaged in a business designated as a target industry business pursuant to Section 288.106(2)(q), *Florida Statutes*, or as identified by the City.

Wages means all compensation including salaries, bonuses, commissions and the value of exercised stock options subject to Federal Income Tax, but excluding fringe benefits; provided, stock options shall be included in the calculation of wages in a manner consistent with the program established pursuant to Section 288.106, *Florida Statutes*.

Establishment of economic development ad valorem tax exemption.

(a). *Incentive*. There is herein established an economic development ad valorem tax exemption ("exemption") for ad valorem taxes levied by the City. The exemption is a local option tax incentive for a qualified business which may be granted or refused at the sole and absolute discretion of the City Commission.

(b). *Ineligible improvements*. The exemption shall not accrue to improvements made by or for the use of a qualified business when such improvements have been included on the tax rolls prior to the effective date of an ordinance specifically granting a business an exemption.

(c). *Eligible improvements*. At the sole and absolute discretion of the City Commission, and except as otherwise provided for in this Ordinance, the exemption

² Tangible personal property" means all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself. "Construction work in progress" consists of those items of tangible personal property commonly known as fixtures, machinery, and equipment when in the process of being installed in new or expanded improvements to real property and whose value is materially enhanced upon connection or use with a preexisting, taxable, operational system or facility. Construction work in progress shall be deemed substantially completed when

may be granted for up to one hundred percent (100%) of the assessed value of all improvements made by or for the use of a qualifying new business and of all tangible personal property of such new business, or up to one hundred percent (100%) of the assessed value of all added improvements 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 are made or the tangible personal property is added or increased on or after the day the Ordinance specifically granting an exemption is adopted. Exemptions for less than one hundred percent (100%) of such assessed values may be granted at the sole and absolute discretion of the City Commission. Property acquired to replace existing property shall not be considered to facilitate a business expansion.

(d). *Land.* No exemption shall be granted for the land upon which a new business or an expansion of an existing business is to be located.

(e). *Exemption.* Except as otherwise provided for in this Ordinance, the exemption may be for a period of up to ten years from the date the City Commission adopts the ordinance specifically granting an exemption.

(f). *Taxes applicable.* The exemption shall apply only to taxes levied City-wide by the City. The exemption shall not apply to taxes levied by a the County, a County municipal services taxing or benefit unit (MSTU/MSBU), the Seminole County School District, a water management district, or any other special district or to taxes levied for the payment of bonds or taxes authorized by a vote of the electors pursuant to Section 9(b) or 12, Article VII of the *Constitution of the State of Florida*.

connected with the preexisting, taxable, operational system or facility. Inventory and household goods are expressly excluded from this definition

(g). *Maximum amount of annual exemptions.* Notwithstanding any other provision of this Ordinance, the exemptions granted by the City Commission for each fiscal year shall not result in an estimated aggregate annual amount of forgone ad valorem tax revenues in excess of \$2,000,000.00 or such other amount approved by a supermajority vote of the City Commission, which amount shall be calculated based on the property appraiser's estimates on the revenue lost to the City during the then particular fiscal year by virtue of exemptions previously granted plus exemptions under consideration in such particular fiscal year.

(h). *Mandatory Criteria.* The City Commission, in making decisions and determinations under the provisions of this Ordinance, shall require that the following be demonstrated by the City Manager, or designee:

(1). That the successful applicant is a business or operation which a targeted industry as listed in the most recent Enterprise Florida Targeted Industries List.

(2). That the successful applicant will receive a level of tax abatement that may be up to the maximum authorized by controlling law initially, but shall be calculated by the City Manager, or designee, to be such that the total amount of the exemption shall be no more than to average an overall total abatement of 50% calculated over the entire period of tax exemption.

(i). *Other Considerations/Criteria.* The City Commission, in making decisions and determinations under the provisions of this Ordinance, shall be guided by the following considerations and criteria in a manner which provides for flexibility in accordance with the best interests of the City as determined solely and exclusively by the City Commission:

(1). The minimum expected amount of capital investment to be made by an

applicant shall be \$3,000,000.00.

(2). The average annual wage of the new jobs, number of new jobs, minimum salary, average annual salary with executives' salaries excluded, executives' salaries and number of jobs in each \$10,000 salary range will be considered during the course of evaluating applications.

(3). The expected time schedule for job creation and the period (total number of years) needed to fill all of the new jobs will be considered during the course of evaluating applications.

(4). The current and anticipated volume (in dollars) of business or production will be considered during the course of evaluating applications.

(5). The total length (number of years) of the exemption period being requested may be from 1 to 10 years as may be authorized by controlling law and all as set forth in the agreement relating to the implementation of the exemption.

(6). Preference may be given to redevelopment or infill projects during the course of evaluating applications.

(7). If known that a project require any variances from *City Land Development Regulation* standards, that issue will be considered during the course of evaluating applications.

(8). The likely compatibility of the project with the surrounding neighborhood and community will be considered during the course of evaluating applications.

(9). The likely environmental impact of the proposed business or operation will be considered during the course of evaluating applications.

(10). Whether the project will be or is located in a Brownfield will be considered during the course of evaluating applications.

(11). The likely cost and demand for public services will be considered during the course of evaluating applications.

(12). The likelihood that the project relocation or expansion would have occurred without the award of an exemption will be considered during the course of evaluating applications.

(13). If any other publicly funded economic development incentives have been granted for the project, that fact and the level of such incentives will be considered.

Application for exemption.

(a). *Application.* Any eligible person, firm, partnership or corporation which desires an exemption shall file with the City Commission a written application on a form approved by the City. The City Commission may adopt a resolution which establishes criteria for applicants and projects relative to which the City Commission desires to consider for the award of the exemption provided for in this Ordinance.

(b). *Review.* Upon submittal of the application, the City Manager, or designee, shall review same and, within ten (10) days of submission, notify the applicant of any facial deficiencies. The City Manager, or designee, shall promptly deliver a copy of the application to the Seminole County Property Appraiser who shall promptly notify the applicant and the City Manager, or designee, of any additional information he or she determines to be necessary for adequate consideration of the application. Complete applications shall be scheduled for a public hearing before the City Commission no later than 45 (forty-five) days following receipt by the City Manager, or designee, of the Property Appraiser's report provided for in this Ordinance. The applicant shall be notified of the date and time of the public hearing. The City Manager may grant time extensions as needed to appropriately address any application.

(c). *Agreement.* As a condition to receiving an exemption, a business will be required to enter into an agreement with the City, in a form approved by the City Attorney, to ensure that the business satisfies all requirements associated with the creation of jobs in the City, the fulfillment of other representations made in applying for the exemption and the granting of the exemption by the City Commission.

(d). *Role Of Community Redevelopment Agency.* If a new business is locating to, or an expansion of an existing business is occurring in, the City's Community Redevelopment Area, the Community Redevelopment Agency overseeing such area shall be provided a copy of the application for review and comment. Input from the Community Redevelopment Agency will be considered by the City Commission in deciding whether an exemption is to be granted, provided, however, that the City Commission may waive this procedure.

City Commission consideration of applications.

(a). *Property Appraiser review and report.* Before the City Commission takes action on an application, a copy of the application, once deemed complete, shall be delivered to the Property Appraiser for review. After careful consideration of the application, the Property Appraiser shall provide a report to the City Commission which shall include 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 revenue available cannot be determined;

(2). The amount of any 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 during the current fiscal year if the exemption applied for 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 such 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 and satisfies any other economic-related characteristics or criteria deemed necessary or relevant by the City Commission that promotes the sustainability of economic development within the City.

(c). *Ineligible business.* Any business in violation of any Federal, State, or local law, rule, code, ordinance or regulation, including without limitation, environmental matters, will not be eligible for an exemption.

(d). *Exemption criteria.* In making its determination as to whether to grant the exemption, and, if granted, the duration and percentage of the exemption, the City Commission shall apply the mandatory criteria and other criteria and considerations set forth in this Ordinance.

(e). *City Commission ordinance.* After consideration of the application, the Property Appraiser's report, input from a community Redevelopment Agency, if applicable, and such other information it deems relevant, and the application of the

exemption criteria, the City Commission may choose in its sole and absolute discretion to enact an ordinance granting an exemption to the applicant. If the City Commission decides to adopt such an ordinance, the ordinance shall be adopted in the same manner as any other general ordinance of the City, and shall include, at a minimum, the following:

(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 to which the exemption is granted;

(3). The total amount of revenue available to the City from ad valorem tax source for the current fiscal year, the total amount of revenue lost to the City for the current fiscal year by virtue of exemptions currently in effect, and the estimated revenue loss to the City for the current fiscal year attributable to the exemption of the business named in the ordinance;

(4). The percentage of the ad valorem tax exemption approved;

(5). The period of time for which the exemption will remain in effect and the expiration date of the exemption;

(6). A finding that the business named in the ordinance meets the requirements of controlling State law; and

(7). A provision conditioning the exemption upon the execution by the business of, and the ongoing compliance with, an agreement, in a form approved by the City Attorney, setting forth, among other things, continuing performance obligations of the business associated with the creation of jobs in the City, the fulfillment of other representations made in applying for the exemption and the granting of the exemption

by the City Commission.

(f). *Precedent; standard for consideration of applications.* No precedent shall be implied or inferred by the granting of an exemption. Each application shall be considered by the City Commission in its legislative capacity on a case by case basis, after considering the Property Appraiser's report on the application and the exemption criteria.

Continuing performance.

(a). *Change in ownership.* The business granted an exemption shall inform the City Commission in writing within ten (10) days as to any changes in ownership of the business granted an exemption and it is prohibited and unlawful to fail to do so. Moreover, the transferee business shall continue to comply with all exemption requirements and shall assume in writing all of the obligations of the transferor business provided for in the agreement required by this Ordinance. Failure of the business granted an exemption to notify the City Commission of any such changes in ownership is cause for revocation of the ordinance granting the exemption, at the City Commission's discretion.

(b). *Annual filings.* The ability to receive an exemption for the period granted shall be conditioned upon the applicant's ability to maintain the qualified business throughout the entire period. The applicant shall be required to submit an annual renewal statement and an annual report to the City Manager, or designee, on or before March 1 of each year for which the exemption was granted. The applicant shall also timely comply with all filing required pursuant to Section 196.011, *Florida Statutes*.³ The

³ **196.011 Annual application required for exemption.**— (1)(a) Every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the

county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

1(b) The form to apply for an exemption under s. 196.031, s. 196.081, s. 196.091, s. 196.101, s. 196.173, or s. 196.202 must include a space for the applicant to list the social security number of the applicant and of the applicant's spouse, if any. If an applicant files a timely and otherwise complete application, and omits the required social security numbers, the application is incomplete. In that event, the property appraiser shall contact the applicant, who may refile a complete application by April 1. Failure to file a complete application by that date constitutes a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

(2) However, application for exemption will not be required on public roads rights-of-way and borrow pits owned, leased, or held for exclusive governmental use and benefit or on property owned and used exclusively by a municipality for municipal or public purposes in order for such property to be released from all ad valorem taxation.

(3) It shall not be necessary to make annual application for exemption on houses of public worship, the lots on which they are located, personal property located therein or thereon, parsonages, burial grounds and tombs owned by houses of public worship, individually owned burial rights not held for speculation, or other such property not rented or hired out for other than religious or educational purposes at any time; household goods and personal effects of permanent residents of this state; and property of the state or any county, any municipality, any school district, or community college district thereof.

(4) When any property has been determined to be fully exempt from taxation because of its exclusive use for religious, literary, scientific, or charitable purposes and the application for its exemption has met the criteria of s. 196.195, the property appraiser may accept, in lieu of the annual application for exemption, a statement certified under oath that there has been no change in the ownership and use of the property.

(5) The owner of property that received an exemption in the prior year, or a property owner who filed an original application that was denied in the prior year solely for not being timely filed, may reapply on a short form as provided by the department. The short form shall require the applicant to affirm that the use of the property and his or her status as a permanent resident have not changed since the initial application.

(6)(a) Once an original application for tax exemption has been granted, in each succeeding year on or before February 1, the property appraiser shall mail a renewal application to the applicant, and the property appraiser shall accept from each such applicant a renewal application on a form prescribed by the Department of Revenue. Such renewal application shall be accepted as evidence of exemption by the property appraiser unless he or she denies the application. Upon denial, the property appraiser shall serve, on or before July 1 of each year, a notice setting forth the grounds for denial on the applicant by first-class mail. Any applicant objecting to such denial may file a petition as provided for in s. 194.011(3).

(b) Once an original application for tax exemption has been granted under s. 196.26, in each succeeding year on or before February 1, the property appraiser shall mail a renewal application to the applicant on a form prescribed by the Department of Revenue. The applicant must certify on the form that the use of the property complies with the restrictions and requirements of the conservation easement. The form shall include a statement that the exemption granted under s. 196.26 will not be renewed unless the application is returned to the property appraiser.

(7) The value adjustment board shall grant any exemption for an otherwise eligible applicant if the applicant can clearly document that failure to apply by March 1 was the result of postal error.

(8) Any applicant who is qualified to receive any exemption under subsection (1) and who fails to file an application by March 1, must file an application for the exemption with the property appraiser on or before the 25th day following the mailing by the property appraiser of the notices required under s. 194.011(1). Upon receipt of sufficient evidence, as determined by the property appraiser, demonstrating the applicant was unable to apply for the exemption in a timely manner or otherwise demonstrating extenuating circumstances judged by the property appraiser to warrant granting the exemption, the property appraiser may grant the exemption. If the applicant fails to produce sufficient evidence demonstrating the applicant was unable to apply for the exemption in a timely manner or otherwise demonstrating extenuating circumstances as judged by the property appraiser, the applicant may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the exemption be granted. Such petition must be filed during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in s. 194.011(1). Notwithstanding the provisions of s. 194.013, such person must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the exemption and demonstrates particular extenuating circumstances judged by the value adjustment board to warrant granting the exemption, the value adjustment board may grant the exemption for the current year.

(9)(a) A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for exemption of property within the county after an initial application is made and the exemption granted. The waiver under this subsection of the annual application or statement requirement applies to all exemptions under this chapter except the exemption under s. 196.1995. Notwithstanding such waiver, refiling of an application or statement shall be required when any property granted an exemption is sold or otherwise disposed of, when the ownership changes in any manner, when the applicant for homestead exemption ceases to use the property as his or her homestead, or when the status of the owner changes

annual renewal statement shall certify that the information provided in the original

so as to change the exempt status of the property. In its deliberations on whether to waive the annual application or statement requirement, the governing body shall consider the possibility of fraudulent exemption claims which may occur due to the waiver of the annual application requirement. The owner of any property granted an exemption who is not required to file an annual application or statement shall notify the property appraiser promptly whenever the use of the property or the status or condition of the owner changes so as to change the exempt status of the property. If any property owner fails to so notify the property appraiser and the property appraiser determines that for any year within the prior 10 years the owner was not entitled to receive such exemption, the owner of the property is subject to the taxes exempted as a result of such failure plus 15 percent interest per annum and a penalty of 50 percent of the taxes exempted. Except for homestead exemptions controlled by s. 196.161, the property appraiser making such determination shall record in the public records of the county a notice of tax lien against any property owned by that person or entity in the county, and such property must be identified in the notice of tax lien. Such property is subject to the payment of all taxes and penalties. Such lien when filed shall attach to any property, identified in the notice of tax lien, owned by the person who illegally or improperly received the exemption. If such person no longer owns property in that county but owns property in some other county or counties in the state, the property appraiser shall record a notice of tax lien in such other county or counties, identifying the property owned by such person or entity in such county or counties, and it shall become a lien against such property in such county or counties.

(b) The owner of any property granted an exemption under s. 196.26 shall notify the property appraiser promptly whenever the use of the property no longer complies with the restrictions and requirements of the conservation easement. If the property owner fails to so notify the property appraiser and the property appraiser determines that for any year within the preceding 10 years the owner was not entitled to receive the exemption, the owner of the property is subject to taxes exempted as a result of the failure plus 18 percent interest per annum and a penalty of 100 percent of the taxes exempted. The provisions for tax liens in paragraph (a) apply to property granted an exemption under s. 196.26.

(c) A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application be made for the veteran's disability discount granted pursuant to s. 6(e), Art. VII of the State Constitution after an initial application is made and the discount granted. The disabled veteran receiving a discount for which annual application has been waived shall notify the property appraiser promptly whenever the use of the property or the percentage of disability to which the veteran is entitled changes. If a disabled veteran fails to notify the property appraiser and the property appraiser determines that for any year within the prior 10 years the veteran was not entitled to receive all or a portion of such discount, the penalties and processes in paragraph (a) relating to the failure to notify the property appraiser of ineligibility for an exemption shall apply.

(d) For any exemption under s. 196.101(2), the statement concerning gross income must be filed with the property appraiser not later than March 1 of every year.

(e) If an exemption for which the annual application is waived pursuant to this subsection will be denied by the property appraiser in the absence of the refiling of the application, notification of an intent to deny the exemption shall be mailed to the owner of the property prior to February 1. If the property appraiser fails to timely mail such notice, the application deadline for such property owner pursuant to subsection (1) shall be extended to 28 days after the date on which the property appraiser mails such notice.

(10) At the option of the property appraiser and notwithstanding any other provision of this section, initial or original applications for homestead exemption for the succeeding year may be accepted and granted after March 1. Reapplication on a short form as authorized by subsection (5) shall be required if the county has not waived the requirement of an annual application. Once the initial or original application and reapplication have been granted, the property may qualify for the exemption in each succeeding year pursuant to the provisions of subsection (6) or subsection (9).

(11) For exemptions enumerated in paragraph (1)(b), granted for the 2001 tax year and thereafter, social security numbers of the applicant and the applicant's spouse, if any, are required and must be submitted to the department. Applications filed pursuant to subsection (5) or subsection (6) may be required to include social security numbers of the applicant and the applicant's spouse, if any, and shall include such information if filed for the 2001 tax year or thereafter. For counties where the annual application requirement has been waived, property appraisers may require refiling of an application to obtain such information.

(12) Notwithstanding subsection (1), if the owner of property otherwise entitled to a religious exemption from ad valorem taxation fails to timely file an application for exemption, and because of a misidentification of property ownership on the property tax roll the owner is not properly notified of the tax obligation by the property appraiser and the tax collector, the owner of the property may file an application for exemption with the property appraiser. The property appraiser must consider the application, and if he or she determines the owner of the property would have been entitled to the exemption had the property owner timely applied, the property appraiser must grant the exemption. Any taxes assessed on such property shall be canceled, and if paid, refunded. Any tax certificates outstanding on such property shall be canceled and refund made pursuant to s. 197.432(11).

application has not changed. 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 the form approved by the City Manager, or designee, and shall contain such information as the City Manager, or designee, may reasonably deem necessary for the purpose of determining continuing performance by the business of the conditions provided for in this Ordinance, the ordinance specifically granting the business an exemption and the representations made in the application.

City Commission revocation.

Should any business granted an exemption pursuant to this Ordinance fail to file the annual renewal statement and/or annual report on or before March 1 of each year the exemption has been granted as required by this Ordinance, fail to continue to meet the definition of a new business or an expansion of an existing business, fail to timely inform the City Commission of a change of ownership, fail to file a new application upon any change in the information provided in the original application, fail to fulfill any other representation made to the City Commission during the application process, and/or fail to comply with any other requirement provided for in this Ordinance, the City Commission, may, upon 30 days' written notice to the respective business, adopt an ordinance revoking the exemption or take such other action with respect to the exemption as it deems appropriate.

Notification. Upon revocation, the City Commission shall immediately notify the Property Appraiser.

Recovery of taxes. If it is determined that a business was not in fact entitled to an exemption in any year for which the business received an exemption, the City,

Property Appraiser or tax collector or any other governmental agency shall be entitled to recover all taxes not paid on tangible personal property as a result of the exemption, plus interest at the maximum rate allowed by law, plus all costs of collection, including, without limitation, reasonable attorney's fees.

Reapplication. Nothing herein shall prohibit a business from reapplying for an ad valorem tax exemption pursuant to controlling State law.

Sunset date.

This Ordinance shall expire ten (10) years after the date of the election granting authority to grant economic development ad valorem tax exemptions, as set forth herein, was approved by the electors of the City of Sanford voting on the question in the referendum called by this Ordinance; provided that for purposes of enforcement and revocation, this Ordinance shall survive such expiration date. No business shall be allowed to begin receiving an 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 expiration. Authority, as set forth in this Ordinance, may be renewed for subsequent periods of ten (10) years in a referendum called and held pursuant to the provisions of Florida law.

Review.

The decision of the City Commission, in its sole discretion, to not grant an exemption shall not be reviewable by the Value Adjustment Board or any other body.

Section 5. Advertisement/Duties of City Manager and City Clerk. The City Manager is hereby directed to provide for such administrative actions as may be necessary and convenient in order to implement the provisions of this Ordinance. The City Clerk is hereby directed to ensure that the referendum election occurs in

accordance with the provisions of all controlling law such as that notice of this referendum shall be advertised in accordance with the provisions of Section 100.342, *Florida Statutes*.⁴ Proof of publication shall be provided to the City Manager by the City Clerk. The City Clerk shall also coordinate all activities necessary to conduct the referendum election called for in Section 3 of this Ordinance with the Supervisor of Elections for Seminole County in order to ensure the effective implementation of the referendum election.

Section 6. Savings; Effect Of Ordinance.

The prior actions of the City of Sanford relating to economic development and the collection of ad valorem taxes, as well as any and all related matters and processes and procedures of the City pertaining thereto, are hereby ratified and affirmed.

Section 7. Conflicts.

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

Section 8. Severability.

If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise to be invalid, unlawful, or unconstitutional.

Section 9. Codification.

⁴ 100.342 Notice of special election or referendum.—In any special election or referendum not otherwise provided for there shall be at least 30 days' notice of the election or referendum by publication in a newspaper of general circulation in the county, district, or municipality, as the case may be. The publication shall be made at least twice, once in the fifth week and once in the third week prior to the week in which the election or referendum is to be held. If there is no newspaper of general circulation in the county, district, or municipality, the notice shall be posted in no less than five places within the territorial limits of the county, district, or municipality.

(a). This Ordinance shall be codified, as determined to be appropriate by the Code codifier, if the referendum election called for in Section 3 results in a positive vote of the electors of the City of Sanford. If the election results in a non-affirmative vote of the electors of the City of Sanford, none of the provisions of this Ordinance shall be codified.

(b). The sections, divisions, etc., and provisions of this Ordinance may be renumbered or re-lettered as deemed appropriate by the Code codifier.

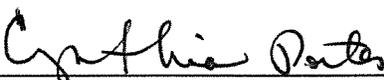
(c). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

Section 10. Effective Date.

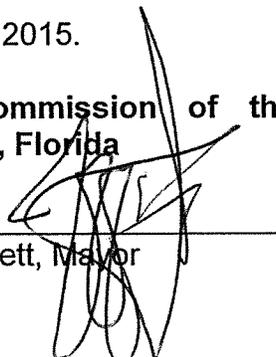
This Ordinance shall take effect immediately upon passage and adoption.

Passed and adopted this 16th day of November, 2015.

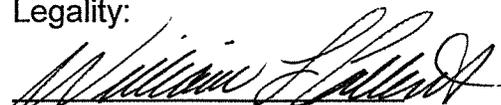
Attest:


Cynthia Porter, City Clerk

City Commission of the City of
Sanford, Florida


Jeff Triplett, Mayor

Approved as to form and
Legality:


William L. Colbert, Esquire
City Attorney



WS	__	RM	<u>X</u>
Item No.	<u>7.A</u>		

**CITY COMMISSION MEMORANDUM 15-197
NOVEMBER 16, 2015 AGENDA**

TO: Honorable Mayor and Members of the City Commission
PREPARED BY: Cynthia Porter, City Clerk
SUBMITTED BY: Norton N. Bonaparte, Jr., City Manager
SUBJECT: Tax Abatement (Exemption) Program Ordinance

STRATEGIC PRIORITIES:

- Unify Downtown & the Waterfront
- Promote the City's Distinct Culture
- Update Regulatory Framework
- Redevelop and Revitalize Disadvantaged Communities

SYNOPSIS:

Ordinance No. 2015-4358, relating to a tax abatement (exemption) program to complement the City's existing economic development programming and stimulate job-creation and investment in the City, is being submitted for second reading and adoption.

FISCAL/STAFFING STATEMENT:

The proposed tax abatement program will be submitted to the City's electors on March 15, 2016, which is the date of the Statewide Presidential Primary Election; thus, the costs of submitting the proposal for approval will be nominal. The program would go into effect only after a successful referendum election. The economic impact, upon a successful referendum election, would be controlled by the City Commission as it evaluates each application for tax relief under the program on a case-by-case basis while evaluating the potential economic benefits to the City.

By direction of the City Commission, the proposed ordinance limits the exemptions granted by the City Commission for each fiscal year such that they shall not result in an estimated aggregate annual amount of forgone ad valorem tax revenues in excess of \$2,000,000 or such other amount approved by a supermajority vote of the City Commission. This amount shall be calculated based on the property appraiser's estimates on the revenue lost to the City during the then particular fiscal year by virtue of exemptions previously granted plus exemptions under consideration in such particular fiscal year.

Also, the City Commission directed that successful applicants will receive a level of tax abatement that may be up to the maximum authorized by controlling law initially (100%), but shall be such that the total amount of the exemption awarded to a successful applicant shall be no more than to average an overall total abatement of 50% calculated over the entire period of tax exemption.

BACKGROUND:

• What is the legal authority?

Tax abatement programs, such as the one proposed, are authorized pursuant to Article VII, Section 3 of the *Constitution of the State of Florida* and Section 196.1995, *Florida Statutes*. The proposed ordinance would implement a tax abatement program as authorized by the City's electors. The tax abatement program would be part of the City's continued economic development programming which is aimed at creating jobs and stimulating capital investment in the City.

• What is the Tax Abatement program?

The tax abatement program is part of the City's continued economic development programming aimed at creating jobs and stimulating capital investment in the City. The tax abatement program is a local option tax incentive for a businesses which may be granted or refused at the sole and absolute discretion of the City Commission. The potential exemptions may be applied to the value of new construction, equipment or improvements to the site. Land is not eligible for tax abatement. The City may only abate City ad-valorem taxes and may not abate County taxes, School District assessments, Community Redevelopment Agency (CRA) assessments or other special district assessment.

• Who can participate?

Expanding or new businesses that make physical improvements or additions to their facilities may apply.

• How does the process work?

Applicants would apply for tax relief under the program and all applications would be evaluated and approved or rejected by the City Commission which would act in its sound discretion without an obligation to approve any application.

Upon applications being submitted to the City for tax relief, the proposed ordinance establishes eligibility requirements including the following mandatory criteria:

- (1). That the successful applicant is a business or operation which a targeted industry as listed in the most recent Enterprise Florida Targeted Industries List.
- (2). That the successful applicant will receive a level of tax abatement that may be up to the maximum authorized by controlling law initially, but shall be calculated by the City Manager, or designee, to be such that the total amount of the exemption shall be no more than to average an overall total abatement of 50% calculated over the entire period of tax exemption.

Similarly, the proposed ordinance provides that the City Commission, in making decisions and determinations, would be guided by the following other considerations and criteria:

- (1). The expected amount of capital investment to be made by an applicant shall be a minimum \$3,000,000.
- (2). The average annual wage of the new jobs, number of new jobs, minimum salary, average annual salary with executives' salaries excluded, executives' salaries and number of jobs in each \$10,000 salary range will be considered during the course of evaluating applications.
- (3). The expected time schedule for job creation and the period (total number of years) needed to fill all of the new jobs will be considered during the course of evaluating applications.
- (4). The current and anticipated volume (in dollars) of business or production will be considered during the course of evaluating applications.
- (5). The total length (number of years) of the exemption period being requested may be from 1 to 10 years as may be authorized by controlling law and all as set forth in the agreement relating to the implementation of the exemption.
- (6). Preference may be given to redevelopment or infill projects during the course of evaluating applications.
- (7). If known that a project requires any variances from City Land Development Regulation standards, that issue will be considered during the course of evaluating applications.
- (8). The likely compatibility of the project with the surrounding neighborhood and community will be considered during the course of evaluating applications.
- (9). The likely environmental impact of the proposed business or operation will be considered during the course of evaluating applications.
- (10). Whether the project will be or is located in a Brownfield will be considered during the course of evaluating applications.
- (11). The likely cost and demand for public services will be considered during the course of evaluating applications.
- (12). The likelihood that the project relocation or expansion would have occur without the award of an exemption will be considered during the course of evaluating applications.
- (13). If any other publicly funded economic development incentives have been granted for the project, that fact and the level of such incentives will be considered.

Upon approval of an application, the City Commission would draft and enact an ordinance granting an exemption (abatment) to the successful applicant. The ordinance should contain at a minimum:

- The name and address of the new business or expansion of an existing business.
- The name of the owner(s) of the business.
- The total amount of revenue available to the City from ad-valorem sources for the current fiscal year, the total revenue lost to the City for the current fiscal year attributable to the exemption of the business named in the ordinance.
- The percentage of the ad-valorem exemption approved.
- The period of time for which the exemption will remain in effect and the expiration date of the exemption.

- A finding that the business named in the ordinance meets the requirements of controlling State law and the Ordinance which is now proposed for enactment.
- A provision that conditions the exemption on on-going compliance with performance terms and fulfillment of other representation made by the business in applying for the exemption (i.e., the number of new jobs created, salary levels of new jobs, retention of new jobs, etc.).

Again, the overall goal of the program is to provide the City Commission with another tool in its tool box to ensure and enhance the economic development of the City and the economic wellbeing of the citizens of the City. The City Commission is not bound to grant tax relief to any applicant, but may do so when determining that the tax abatement approval will benefit the City and its citizens.

The City Commission approved the first reading of Ordinance No. 2015-4358 on October 26, 2015.

The City Clerk published notice of the public hearing in the Sanford Herald on October 25, 2015.

LEGAL REVIEW:

The City Attorney's office participated in drafting the proposed ordinance and provided legal guidance as the proposed program was developed.

STAFF RECOMMENDATION:

It is Staff's recommendation that the City Commission adopt Ordinance No. 2015-4358.

SUGGESTED MOTION:

"I move to adopt Ordinance No. 2015-4358."

Attachment: Ordinance No. 2015-4358