



WS __ RM <u>X</u> Item No. _____

**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 (abatement) 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