

## ATTACHMENT 5

### ARTICLE XII. - ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION

#### Sec. 2-301. - Definitions.

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 and the Florida Administrative Code as amended from time to time:

*Administrator* means the city manager, or his or her designee.

*Applicant* means any person, firm, partnership or corporation who files an application with the council 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 administrator and any additional information requested by the administrator.

*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 12.

*Average annual private sector wage* means the lesser of the average annual private sector wage throughout the State of Florida, the MSA 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.

*Brownfield area* means an area designated as a brownfield area pursuant to F.S. § 376.80.

*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 Oviedo which can be capitalized under generally accepted accounting principles.

*Community redevelopment agency* means a public agency created by or designated pursuant to F.S. § 163.356 or 163.357.

*Community redevelopment area* means an area designated as a community redevelopment area pursuant to F.S. ch. 163, pt. III.

*Council* means the Oviedo City Council, Oviedo, Florida.

*County* means Seminole County, Florida.

*Department* means the Florida Department of Revenue.

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

*Exemption criteria* means the criteria to be applied by the council in making its determination as to whether to grant an exemption, as provided for in subsection 2-304(d) of this article.

*Expansion of an existing business* means:

- (1) a. A business establishing ten or more jobs to employ ten or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or
- b. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which for the facility with respect to which it requests an exemption is less than 0.50 for each year the exemption is claimed; provided that such business increases operations on a site collocated with a commercial or industrial operation owned by the same business, resulting in a net increase in employment of not less than ten percent or an increase in productive output of not less than ten percent.
- (2) Any business located in an enterprise zone or brownfield area that increases operations on a site co-located with a commercial or industrial operation owned by the same business.

*Full-time equivalent employee* means a person who is employed by a business that works at least 35 hours per week and is eligible to receive benefits, including health benefits, through their employer, subject to any eligible vesting periods.

*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 article, the MSA includes City of Oviedo.

*New business* means:

- (1) a. A business establishing ten or more jobs to employ ten or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant or a business that is a target industry business as defined in F.S. § 288.106(2)(t);

- b. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which for the facility with respect to which it requests an exemption is less than 0.50 for each year the exemption is claimed; or
  - c. An office space in this state owned and used by a corporation newly domiciled in this state; provided such office space houses 50 or more full-time 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.
- (2) Any business 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.
  - (3) A business that is situated on property annexed into the city and that, at the time of the annexation, is receiving an exemption from the county.

*Qualified business* means either a new business or an expansion of an existing business, as defined herein and in F.S. § 196.012 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, as set forth in F.S. § 220.15(5).

*Tangible personal property* shall have the meaning set forth in F.S. § 192.001(11)(d).

*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 F.S. § 288.106 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 F.S. § 288.106.

( [Ord. No. 1575, § 4](#), 9-5-2013)

Sec. 2-302. - 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 council.
- (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 council, and except as otherwise provided for in this article, the exemption may be granted for up to 100 percent

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 100 percent 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 article specifically granting an exemption is adopted. Exemptions for less than 100 percent of such assessed values may be granted at the sole and absolute discretion of the council. 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 article, the exemption may be for a period of up to ten years from the date the council 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 county, a county municipal services taxing or benefit unit (MSTU/MSBU), school district, water management district, or 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.
- (g) *Maximum amount of annual exemptions.* Notwithstanding any other provision of this article, the exemptions granted by the council 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 council, 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.

( [Ord. No. 1575, § 5](#), 9-5-2013)

Sec. 2-303. - Application for exemption.

- (a) *Application.* Any eligible person, firm, partnership or corporation which desires an exemption shall file with the council a written application on a form approved by the city.
- (b) *Review.* Upon submittal of the application, the administrator shall review same and, within ten days of submission, notify the applicant of any facial deficiencies. The administrator shall promptly deliver a copy of the application to the Seminole County Property Appraiser who shall promptly notify the applicant and the administrator 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 council no later than 45 days following receipt by the administrator of the property appraiser's report provided for in this article. 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 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 council.
- (d) *Community redevelopment agency.* If a new business is locating to, or an expansion of an existing business is occurring in, a 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 council in deciding whether an exemption is to be granted, provided, however, that the council may waive this procedure.

( [Ord. No. 1575, § 6](#), 9-5-2013)

Sec. 2-304. - Council consideration of applications.

- (a) *Property appraiser review and report.* Before the council 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 council 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 as provided in this article and in F.S. § 196.012 and satisfies any other economic-related characteristics or criteria deemed necessary or relevant by the council that promotes the sustainability of economic development within the city.

- (c) *Ineligible business.* Any business in violation of any federal, state, or local law 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 council shall apply the following guidelines which shall include, at a minimum, the following factors:
  - (1) Total number of net new jobs to be created by the applicant;
  - (2) Average annual wage of the new jobs to be created by the applicant;
  - (3) Capital Investment to be made by the applicant;
  - (4) Type of business or operation and whether it qualifies as a targeted industry;
  - (5) Environmental impact of the proposed business or operation;
  - (6) Extent to which the applicant intends to source its supplies and materials within the city and county; and
  - (7) Any other economic-related characteristics or criteria deemed necessary or relevant by the council that promotes the sustainability of economic development within the city.
- (e) *Council 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 council may choose in its sole and absolute discretion to adopt an ordinance granting an exemption to the applicant. If the council 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 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 F.S. § 196.012(15) or (16); and

- (7) A provision conditioning the exemption upon the execution by the business of, and the ongoing compliance with, an agreement 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 council.
- (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 council in its legislative capacity on a case by case basis, after considering the property appraiser's report on the application and the exemption criteria.

( [Ord. No. 1575, § 7](#), 9-5-2013)

Sec. 2-305. - Application fees.

No fees shall be charged for processing applications or any exemption ordinance adopted by the Council.

( [Ord. No. 1575, § 8](#), 9-5-2013)

Sec. 2-306. - Continuing performance.

- (a) *Change in ownership.* The business granted an exemption shall be required to inform the council in writing within ten days as to any changes in ownership of the business granted an exemption. 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 pursuant to subsection 2-303(c) of this article. Failure of the business granted an exemption to notify the council of any such changes in ownership is cause for revocation of the ordinance granting the exemption, at the council'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 administrator 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 F.S. § 196.011.
- (1) The annual renewal statement shall certify that the information provided in the original application has not changed.
  - (2) The annual report shall provide a report on the status of the business, evidencing satisfaction of the business maintenance and continued performance conditions set forth in the application. The report shall be prepared in substantially the form approved by the administrator and shall contain such information as the administrator may reasonably deem necessary for the purpose of determining

continuing performance by the business of the conditions provided for in this article, the ordinance specifically granting the business an exemption and the representations made in the application.

( [Ord. No. 1575, § 9](#), 9-5-2013)

Sec. 2-307. - Council revocation.

Should any business granted an exemption pursuant to this article 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 article, fail to continue to meet the definition of a new business or an expansion of an existing business, fail to timely inform the council 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 council during the application process, and/or fail to comply with any other requirement provided for in this article, the council, 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.

- (1) *Notification.* Upon revocation, the council shall immediately notify the property appraiser.
- (2) *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.
- (3) *Reapplication.* Nothing herein shall prohibit a business from reapplying for an ad valorem tax exemption pursuant to state law.

( [Ord. No. 1575, § 10](#), 9-5-2013)

Sec. 2-308. - Applicability.

This article shall be applicable in all areas of City of Oviedo.

( [Ord. No. 1575, § 11](#), 9-5-2013)

Sec. 2-309. - Sunset date.

Pursuant to F.S. § 196.1995, this article shall expire on November 6, 2022, ten years after the date such authority to grant economic development ad valorem tax exemptions was approved by the electors of the City of Oviedo voting on the question in a referendum; provided that for purposes of enforcement and revocation, this article 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 article prior to November 6, 2022.

( [Ord. No. 1575, § 14](#), 9-5-2013)

Sec. 2-310. - Review.

The decision of the council, in its sole discretion, to not grant an exemption shall not be reviewable by the value adjustment board pursuant to F.S. ch. 194.

( [Ord. No. 1575, § 17](#), 9-5-2013)