

ORDINANCE NO. 22-5394

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA, AMENDING AND RESTATING ARTICLE IV, OF CHAPTER 32, OF THE SARASOTA CITY CODE, WHICH ESTABLISHES A PROCESS FOR CONSIDERATION OF APPLICATIONS FOR AN EXEMPTION FROM CERTAIN AD VALOREM TAXATION FOR NEW BUSINESSES AND EXPANSIONS OF EXISTING BUSINESSES AS APPROVED AT REFERENDUM; PROVIDING FOR ADDITIONAL DEFINITIONS; PROVIDING FOR UPDATED ELIGIBILITY CRITERIA; PROVIDING FOR AN UPDATED SUNSET DATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VII, Section 3, of the Constitution of the State of Florida and Section 196.1995, Florida Statutes, empower the City to grant Economic Development Ad Valorem Tax Exemptions to new businesses and expansions of existing businesses after the electors of the City, voting on the question in a referendum, authorize such exemptions; and,

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

WHEREAS, in 2010, the City Commission called for a special referendum seeking authorization to grant Economic Development Ad Valorem Tax Exemptions to qualifying businesses, and on August 24, 2010, the voters of the City of Sarasota passed such referendum to enable the City to grant Economic Development Ad Valorem Tax Exemptions; and,

WHEREAS, Article IV, Chapter 32, of the Sarasota City Code, which creates the exemption from certain ad valorem taxation for new businesses pursuant to the 2010 referendum, had an original sunset date of August 24, 2020; and,

WHEREAS, the City Commission in 2020 desired to continue to offer Economic Development Ad Valorem Tax Exemptions to qualifying businesses in the City of Sarasota, and the Commission adopted Ordinance 20-5330, which set a referendum for the electors to be able to grant the authority to the City to continue to provide the Economic Development Ad Valorem Tax Exemption for another ten year period; and

WHEREAS, on November 3, 2020, the electors of the City of Sarasota passed the referendum and thus authorized the City to continue to offer the Economic Development Ad Valorem Tax Exemptions to qualifying businesses in the City of Sarasota for an additional ten years.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

SECTION 1. Article IV of Chapter 32, of the Sarasota City Code (the "Code"), entitled "Economic Development Ad Valorem Tax Exemption," is hereby restated and amended as follows:

(Additions to text are indicated by underline; deletions by ~~strikeout~~.)

ARTICLE IV. - ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION

Sec. 32-70. - Short title.

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

Sec. 32-71. - Definitions of terms.

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

- (1) Annual renewal statement. Statement which business shall provide to the City, on an annual basis, to certify that information provided in the original application has not changed.
- (2) Annual report. The report which the business shall provide to the City, on an annual basis, evidencing the status of the business and satisfaction of the Business Maintenance and Continued Performance conditions set forth in the application.
- (4~~3~~) Applicant. Any person, firm, partnership, or corporation who files an application with the Commission seeking an Economic Development Ad Valorem Tax Exemption.
- (4) Application. The appropriate completed forms and supporting documentation required by the City and the Department which the applicant must submit to the City for Commission consideration in determining whether to grant an Economic Development Ad Valorem Tax Exemption.

- (25) *Business*. Any for-profit activity engaged in by any person, firm, partnership, corporation, or other business organization or entity.
- (36) *City*. City of Sarasota, Florida.
- (47) *Commission*. The City Commission of the City of Sarasota.
- (58) *Department*. The Florida Department of Revenue.
- (69) *Economic Development Ad Valorem Tax Exemption (EDAVTE)*. Ad valorem tax exemption granted by the Commission in its discretion to a qualifying new business and/or an expansion of an existing business for up to one hundred (100) percent of the City ad valorem tax levied on the qualifying property of said business for a period up to ten (10) years; provided, however, the exemption shall not apply to taxes levied for the payment of bonds or taxes authorized by a vote of the electors pursuant to Section 9 and Section 12, Article VII of the State Constitution.
- (710) *Enterprise zone*. An area designated as an enterprise zone pursuant to ~~F.S. § 290.0065~~, chapter 290 of the Florida Statutes, as of December 30, 2015.
- (811) *Expansion of an existing business*.
- a. A business establishing ten (10) or more new jobs to employ ten (10) or more full-time employees in the City, paying an average wage for such jobs that is above the average wage in the Metropolitan Statistical Area (MSA), which principally 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 twenty-five (25) or more new jobs to employ twenty-five (25) or more full-time employees in the City, the sales factor for which, as defined by section 32-71(4317), herein, for the facility which requests an ad valorem tax exemption, is less than fifty (50) percent inside the MSA for each year the exemption is claimed; provided that such business increases operations on a site within the City or co-located with a commercial or industrial operation owned by the same business, resulting in a net increase in employment of not less than ten (10) percent or an increase in productive output or sales of not less than ten (10) percent; or

- c. Any business located in an enterprise zone that increases operations on a site co-located with a commercial or industrial operation owned by the same business.
- (912) *Facility*. The real property of the business located in the City of Sarasota for which the business that is requesting an ad valorem tax exemption at which the new jobs are established and at which a minimum capital investment may be required by the Commission.
- (103) *Goods*. All personal property when purchased primarily for personal, family, or household use, but not including personal property sold for commercial or industrial use.
- (144) *Improvements*. Physical changes made to raw land, and structures placed on or under the land surface.
- (125) *Metropolitan statistical area (MSA)*. The area consisting of Sarasota and Manatee Counties.
- (136) *New business*.
- a. A business establishing ten (10) or more new jobs to employ ten (10) or more full-time employees in the City, paying an average wage for such jobs that is above the average wage in the MSA, which; principally 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 which is a target industry as defined in section 288.106(2)(q), Florida Statutes; or
 - b. A business establishing twenty-five (25) or more new jobs to employ twenty-five (25) or more full-time employees in the City, the sales factor for which, as defined by section 32-71(1317), herein, for the facility which requests an ad valorem tax exemption, is less than fifty (50) percent inside the MSA for each year the exemption is claimed; or
 - c. An office space in the City leased ~~or~~ owned and used by a corporation business newly domiciled in the City State; provided such office space houses fifty (50) or more full-time employees of such ~~corporation business~~; 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; or

- d. Any business located in an enterprise zone or a brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business; or
- e. A business 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 F.S. § 196.1995.

(147) *Sales factor.* Pursuant to F.S. § 220.15(5), the sales factor is a fraction the numerator of which is the total sales of the facility in the MSA during the taxable year or period and the denominator of which is the total sales of the facility everywhere during the taxable year or period.

(158) *Total Sales.* Those sales that are processed and shipped through the facility's doors in the taxable year or period.

Sec. 32-72. - Establishment of Economic Development Ad Valorem Tax Exemption.

- (a) There is herein established an Economic Development Ad Valorem Tax Exemption (hereinafter the "exemption") for ad valorem taxes levied by the City. The exemption is a local option tax incentive for a qualifying new business or expansion to an existing business which may be granted or refused at the sole discretion of the Commission.
- (b) The exemption shall not accrue to improvements to real property made by or for the use of a qualifying new business or expansion to an existing business when such improvements have been included on the tax rolls prior to the effective date of the ordinance specifically granting a business an exemption.
- (c) At the discretion of the Commission, the exemption may be granted for up to one hundred (100) percent of the assessed value of all improvements to real property 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 (100) percent of the assessed value of all added improvements to real property made to facilitate the qualifying expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business, provided that the improvements to real property are made or the tangible personal property is added or increased on or after the day the ordinance granting the exemption is adopted. Property acquired to replace existing property shall not be considered to facilitate a business expansion.

- (d) No exemption shall be granted for the land upon which a new business or expansion of an existing business is to be located.
- (e) Any exemption granted for a new business or expansion of an existing business is nontransferable between businesses; provided, however, if the only change to the business is one of ownership and all other provisions of the original application remain in effect, the exemption may be transferred, subject to compliance with section 32-76.
- (f) For those qualifying businesses located within any portion of the City comprising a tax increment financing district for which City ad valorem revenues have been pledged as payment for the debt service on outstanding bonds, the Commission shall consider applications for only a tangible personal property tax exemption until the bonds are paid in full. Thereafter, applications from qualifying businesses for an exemption for tangible personal property and/or improvements to real property will be considered, providing that such property and improvements meet the statutory criteria.
- (g) No precedent shall be implied or inferred by the granting of an exemption to a new or expanding business.

Sec. 32-73. - Application for exemption.

- (a) *Application.* Any eligible person, firm, partnership or corporation which desires an Economic Development Ad Valorem Tax Exemption shall file with the City Auditor and Clerk a written application prescribed by the City staff and the Department of Revenue Department (which shall also be provided to the property appraiser by the City). The application must be filed no later than February 1 of the year the exemption is desired to take effect, however, the application may be for a business that became an eligible new business or expansion of existing business under this Article within the preceding five years prior to the year in which the exemption is being sought.
- (b) *Review.* Upon submittal of the initial application, the City Manager or his or her designee shall review same and, within ten (10) business days of submission, notify the applicant of any facial deficiencies. The City Manager shall also within ten (10) days of submission provide a copy of the initial application to the property appraiser for review. Before the Commission takes action on an application, it must receive and review the forthcoming report of the property appraiser regarding the application. Complete applications shall be scheduled for a public hearing before the Commission no later than forty-five (45) days following receipt by the City. Applicant will be notified of the date and time of the public hearing.

Sec. 32-74. - Commission consideration of applications.

- (a) *Property appraiser review.* After consideration of the application, the property appraiser shall provide a report to the Commission which includes the following:
 - (1) The total revenue available to the City for the current fiscal year from ad valorem tax sources, or an estimate of such revenue if the actual total available revenue cannot be determined;
 - (2) The amount of revenue lost to the City for the current fiscal year by virtue of exemptions previously granted, or an estimate of such revenue if the actual revenue lost cannot be determined;
 - (3) An estimate of the amount of revenue which would be lost to the City for the current fiscal year if the exemption applied for was granted had the property for which the exemption is requested otherwise been subject to taxation; and
 - (4) A determination as to whether the property for which an exemption is requested is to be incorporated into a new business or the expansion of an existing business, or into neither, which determination the property appraiser shall also affix to the face of the application. Upon request, the City will provide the property appraiser such information as it may have available to assist in making this determination.
- (b) *Eligibility threshold.* The threshold for eligibility is whether the business meets the definition of a new business or of an expansion of an existing business as provided in section 32-71 of this article.
- (c) *Economic Development Ad Valorem Tax Exemption policy guidelines and minimum eligibility criteria.* In making its determination as to whether to grant the exemption, and, if granted, the duration and percentage of the exemption, the Commission ~~may~~ shall consider the following factors:
 - ~~(1) Number of current and projected employees of the facility;~~
 - ~~(2) Average wage of employees of the facility;~~
 - ~~(3) Amount of capital investment;~~
 - ~~(4) Innovative business;~~
 - ~~(5) Commitment to local procurement;~~
 - ~~(6) Net positive contribution to the local economy;~~
 - ~~(7) Location in an enterprise zone;~~
 - ~~(8) Whether the facility would contribute to the redevelopment of a brownfield site.~~

- (1) The total number of net new jobs to be created by the applicant;
- (2) The average wage of the new jobs;
- (3) The capital investment to be made by the applicant;
- (4) The type of business or operation and whether it qualifies as a targeted industry as may be identified from time to time by the Commission;
- (5) The environmental impact of the proposed business or operation;
- (6) The extent to which the applicant intends to source its supplies and materials within the applicable jurisdiction; and
- (7) Any other economic-related characteristics or criteria deemed necessary by the Commission.

~~In addition to the above factors, the Commission may consider any such other activity or factor that promotes the sustainability of economic development within the City.~~

(d) *Ordinance.* After consideration of the application and the property appraiser's review, the Economic Development Ad Valorem Tax Exemption policy guidelines and minimum eligibility criteria set forth by the Commission, ~~and such other information it deems relevant~~, the Commission may choose to adopt an ordinance granting the exemption to the applicant for up to one hundred (100) percent of the assessed value of the qualifying property for up to ten (10) years. The ordinance shall include the following information:

- (1) The name and address of the new business or the expansion of an existing business;
- (2) The name of the owner(s) of the new business or the expansion of an existing business;
- (3) The total amount of revenue available to the City from ad valorem tax sources for the current fiscal year, the total amount of the revenue lost to the City for the current fiscal year by virtue of exemptions currently in effect, and the estimated amount of revenue attributable to the exemption granted to the new or expanding business;
- (4) The expiration date of the exemption, which is ten (10) years or less (depending upon the duration of the exemption granted) from the date the Commission enacts the ordinance granting the exemption;
- (5) A finding that the business meets the definition of a new business or an expansion of an existing business as set forth in section 32-71 herein;

- (6) The percentage of the ad valorem tax exemption approved;
- (7) Whether the exemption applies to the improvements on the property, to tangible personal property, or to both; and
- (8) Any conditions of approval imposed by the Commission.

Sec. 32-75. - Application fee.

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

Sec. 32-76. - Continuing performance.

(a) *Change in ownership.*

- (1) The business granted the exemption shall ~~be required to~~ inform the Commission in writing ~~within ten (10)~~ 45 business days as prior to any changes in ownership of the business granted an exemption.
- (2) Failure of the business granted an exemption to notify the Commission in writing of any such changes in ownership is cause for revocation of the ordinance granting the exemption, at the Commission's discretion.

(b) *Annual filings.*

- (1) ~~The applicant~~ Any business granted the exemption shall be required to submit an annual renewal statement and an annual report to the City on or before February 1st of each year for which the exemption is to be in effect:
 - a. The annual renewal statement shall certify that information provided in the original application has not changed.
 - b. The annual report shall provide a report on the status of the business, evidencing satisfaction of the business maintenance and continued performance conditions set forth in the application.
- (2) ~~The applicant~~ business granted the exemption shall also timely comply with all annual filings required pursuant to F.S. § 196.011.

Sec. 32-77. - Commission revocation.

Should any business granted an exemption pursuant to this article fail to file the annual renewal statement and/or annual report with the Commission on or before February 1st of each year the exemption is in effect as required in section 32-76 of this article, fail to continue to meet the definition of a new business or an expansion of an existing business as set forth herein, fail to timely file a written report of change of ownership and/or fail to file a new application upon any other change in the information provided in the original application, and/or fail to fulfill any other representation made to the Commission during the application process, including the creation and maintenance of the total number of new jobs identified by a business in the application, the Commission, may, upon thirty (30) days written notice to the respective business, adopt an ordinance revoking the ad valorem tax exemption or take such other action with respect to the exemption it deems appropriate.

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

Sec. 32-78. - Applicability.

This article shall be applicable throughout the City of Sarasota.

Sec. 32-79. - Severability.

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

Sec. 32-80. - Sunset date.

Pursuant to F.S. § 196.1995, this article shall expire on ~~August 24, 2020~~, November 3, 2030, such date being ten (10) years after the date such authority to grant Economic Development Ad Valorem Tax Exemptions was approved by the electors of the City of Sarasota voting on the question in a referendum. No business shall be allowed to begin receiving such exemption after that date; however, the expiration shall not affect the operation of any exemption for which a business has qualified under this article prior to ~~August 24, 2020~~ November 3, 2030.

SECTION 2. Should any section, sentence, clause, part or provision of this Ordinance be declared invalid or unenforceable by a court of competent jurisdiction, the same shall not affect the validity of this Ordinance as a whole, or any part hereof other than the part declared to be invalid. Said provision declared to be invalid shall be deemed severed from the remaining provisions of this Ordinance.

SECTION 3. Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. Effective Date: This Ordinance shall take effect on January 3, 2022.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this ____ day of December, 2021.

PASSED on second reading and finally adopted this ____ day of January, 2022.

CITY OF SARASOTA, FLORIDA

Erik Arroyo, Mayor

ATTEST:

Shayla Griggs
City Auditor and Clerk

Mayor Erik Arroyo
Vice Mayor Kyle Battie
Commissioner Jen Ahearn-Koch
Commissioner Alpert
Commissioner Brody