

Agenda Memorandum

To: Honorable Mayor and City Council Members
Prepared By: Bryan Cobb, City Manager
From: Bryan Cobb, City Manager
Date: January 16, 2024
Subject: **Ordinance No. 1741**, Repeal of City's Economic Development Ad Valorem Tax Exemption Program

Procedure: Call Up Item
Presiding Officer Asks Attorney to Read Ordinance by Title Only
City Manager Background
Public Hearing
Council Motion & Discussion
Council Action

Introduction: This is a request for City Council to approve the deletion of Chapter 2, Article XII, Sections 2-301 through 2-310 in their entirety from the Code of Ordinances of the City of Oviedo, Florida (Code of Ordinances).

Discussion: At its July 17, 2023 meeting, City Council adopted Ordinance No. 1734 approving a public referendum of the City's electorate to be held on November 7, 2023 for the purpose of renewing the City's Economic Development Ad Valorem Tax Exemption program.

The City's Economic Development Ad Valorem Tax Exemption program was approved by referendum on November 6, 2012. The program is authorized under Article VII, Section 3 of the State of Florida Constitution and Section 196.1995, Florida Statutes. A copy of Section 196.1995, Florida Statutes, is provided in Attachment 1. Pursuant to Section 196.1995, Florida Statutes, the authority to provide exemptions expires ten (10) years after the successful referendum and the authority to renew the exemption may be granted for a subsequent ten (10) year period provided the renewal is approved by referendum. City Council's adoption of Ordinance No. 1734 directed Staff to proceed with the process of renewing the Economic Development Ad Valorem Tax Exemption program.

The City's Economic Development Ad Valorem Tax Exemption program is a local option tax incentive for a Qualified Business, which may be granted or refused at the sole and absolute discretion of City Council. The potential exemptions may be applied to the value of new construction, equipment or improvements. The City may only exempt City ad-valorem taxes and may not exempt County taxes, school district assessments or other special district assessments, (MSBU/MSTU), or the City of Oviedo's Streetlight Assessment. The Economic Development Ad Valorem Tax Exemption program is codified in Chapter 2, Article XII, Sections 2-301 through 2-

310 of the Code of Ordinances. A copy of Chapter 2, Article XII, Sections 2-301 through 2-310 is provided in Attachment 2.

A referendum was held on November 7, 2023, that included a ballot question regarding the renewal of the Economic Development Ad Valorem Tax Exemption program. By a vote of 4,772 to 2,722, the voters decided not to renew the program. Therefore, Staff recommends deleting the program from the Code of Ordinances. A copy of the referendum's official results is provided in Attachment 3.

Budget Impact: There is no budget impact associated with adoption of Ordinance No. 1741.

Strategic Impact: Deleting the Economic Development Ad Valorem Tax Exemption from the Code of Ordinances is in accordance with the final results of the November 7, 2023 referendum.

Business Impact Estimate: In accordance with Section 166.041(4), Florida Statutes, a business impact estimate for Ordinance No. 1741 is provided in Attachment 4.

Recommendation: It is recommended that City Council read Ordinance No. 1741 by title only, conduct a public hearing, and adopt Ordinance No. 1741.

Attachment(s):

1. Section 196.1995, Florida Statutes – Economic Development Ad Valorem Exemption.
2. Chapter 2, Article XII, Code of Ordinances of the City of Oviedo, Florida
3. Official Results of November 7, 2023 Election
4. Business Impact Estimate

ATTACHMENT 1

Select Year: 2022 ▼ Go

The 2022 Florida Statutes (including 2022 Special Session A and 2023 Special Session B)

[Title XIV](#)
TAXATION AND FINANCE

[Chapter 196](#)
EXEMPTION

[View Entire Chapter](#)

196.1995 Economic development ad valorem tax exemption. —

(1) The board of county commissioners of any county or 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 board of county commissioners of the county or the governing authority of the municipality votes to hold such referendum;
- (b) The board of county commissioners of the county or the governing authority of the municipality receives a petition signed by 10 percent of the registered electors of its respective jurisdiction, which petition calls for the holding of such referendum; or
- (c) The board of county commissioners of a charter county receives a petition or initiative signed by the required percentage of registered electors in accordance with the procedures established in the county's charter for the enactment of ordinances or for approval of amendments of the charter, if less than 10 percent, which petition or initiative calls for the holding of such referendum.

(2) The ballot question in such referendum shall be in substantially the following form:

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions to new businesses and expansions of existing businesses that are expected to create new, full-time jobs in the county (or municipality, or both)?

Yes—For authority to grant exemptions.

No—Against authority to grant exemptions.

(3) The board of county commissioners or the governing authority of the municipality that calls a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax exemptions may vote to limit the effect of the referendum to authority to grant economic development tax exemptions for new businesses and expansions of existing businesses located in an enterprise zone or a brownfield area, as defined in s. [376.79\(5\)](#). If an area nominated to be an enterprise zone pursuant to s. [290.0055](#) has not yet been designated pursuant to s. [290.0065](#), the board of county commissioners or the governing authority of the municipality may call such referendum prior to such designation; however, the authority to grant economic development ad valorem tax exemptions does not apply until such area is designated pursuant to s. [290.0065](#). The ballot question in such referendum shall be in substantially the following form and shall be used in lieu of the ballot question prescribed in subsection (2):

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions for new businesses and expansions of existing businesses that are located in an enterprise zone or a brownfield area and that are expected to create new, full-time jobs in the county (or municipality, or both)?

Yes—For authority to grant exemptions.

No—Against authority to grant exemptions.

(4) A referendum pursuant to this section may be called only once in any 12-month period.

(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent 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 100 percent 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. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area which was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area, may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance adoption, or by ordinance, enacted before December 31, 2015. Property acquired to replace existing property shall not be considered to facilitate a business expansion. All data center equipment for a data center shall be exempt from ad valorem taxation for the term of the approved exemption. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, or up to 20 years for a data center, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Enterprise Zone Act pursuant to chapter 290. 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.

(6) With respect to a new business as defined by s. 196.012(14)(c), the municipality annexing the property on which the business is situated may grant an economic development ad valorem tax exemption under this section to that business for a period that will expire upon the expiration of the exemption granted by the county. If the county renews the exemption under subsection (7), the municipality may also extend its exemption. A municipal economic development ad valorem tax exemption granted under this subsection may not extend beyond the duration of the county exemption.

(7) The authority to grant exemptions under this section expires 10 years after the date such authority was approved in an election, but such authority may be renewed for subsequent 10-year periods if each 10-year renewal is approved in a referendum called and held pursuant to this section.

(8) Any person, firm, or corporation which desires an economic development ad valorem tax exemption shall, in the year the exemption is desired to take effect, file a written application on a form prescribed by the department with the board of county commissioners or the governing authority of the municipality, or both. The application shall request the adoption of an ordinance granting the applicant an exemption pursuant to this section and shall include the following information:

- (a) The name and location of the new business or the expansion of an existing business;
- (b) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;
- (c) A description of the tangible personal property for which an exemption is requested and the dates when such property was or is to be purchased;

(d) Proof, to the satisfaction of the board of county commissioners or the governing authority of the municipality, that the applicant is a new business or an expansion of an existing business, as defined in s. [196.012](#);

(e) The number of jobs the applicant expects to create along with the average wage of the jobs and whether the jobs are full-time or part-time;

(f) The expected time schedule for job creation; and

(g) Other information deemed necessary or appropriate by the department, county, or municipality.

(9) Before it takes action on the application, the board of county commissioners or the governing authority of the municipality shall deliver a copy of the application to the property appraiser of the county. After careful consideration, the property appraiser shall report the following information to the board of county commissioners or the governing authority of the municipality:

(a) The total revenue available to the county or municipality 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;

(b) Any revenue lost to the county or municipality for the current fiscal year by virtue of exemptions previously granted under this section, or an estimate of such revenue if the actual revenue lost cannot be determined;

(c) An estimate of the revenue which would be lost to the county or municipality 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

(d) 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, as defined in s. [196.012](#), or into neither, which determination the property appraiser shall also affix to the face of the application. Upon the request of the property appraiser, the department shall provide to him or her such information as it may have available to assist in making such determination.

(10) In considering any application for an exemption under this section, the board of county commissioners or the governing authority of the municipality must take into account the following:

(a) The total number of net new jobs to be created by the applicant;

(b) The average wage of the new jobs;

(c) The capital investment to be made by the applicant;

(d) The type of business or operation and whether it qualifies as a targeted industry as may be identified from time to time by the board of county commissioners or the governing authority of the municipality;

(e) The environmental impact of the proposed business or operation;

(f) The extent to which the applicant intends to source its supplies and materials within the applicable jurisdiction; and

(g) Any other economic-related characteristics or criteria deemed necessary by the board of county commissioners or the governing authority of the municipality.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. [196.012](#)(14) or (15).

(12) Upon approval of an application for a tax exemption under this section, the board of county commissioners or the governing authority of the municipality and the applicant may enter into a written tax exemption agreement, which may include performance criteria and must be consistent with the requirements of this section

or other applicable laws. The agreement must require the applicant to report at a specific time before the expiration of the exemption the actual number of new, full-time jobs created and their actual average wage. The agreement may provide the board of county commissioners or the governing authority of the municipality with authority to revoke, in whole or in part, the exemption if the applicant fails to meet the expectations and representations described in subsection (8).

History.—s. 2, ch. 80-347; s. 1, ch. 83-141; s. 30, ch. 84-356; s. 11, ch. 86-300; s. 1, ch. 90-57; s. 68, ch. 94-136; s. 1477, ch. 95-147; s. 57, ch. 95-280; s. 110, ch. 99-251; s. 5, ch. 2006-291; s. 3, ch. 2010-147; s. 2, ch. 2011-182; s. 6, ch. 2013-77; s. 1, ch. 2014-40; s. 5, ch. 2016-184; s. 3, ch. 2016-220.

¹**Note.**—Section 14, ch. 2014-40, provides that “[a] local ordinance enacted pursuant to s. 196.1995, Florida Statutes, before the effective date of this act shall not be invalidated on the ground that improvements to real property were made or that tangible personal property was added or increased before the date that such ordinance was adopted, as long as the local governing body acted substantially in accordance with s. 196.1995(5), Florida Statutes, as amended by this act.”

ATTACHMENT 2

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)

**CHRIS ANDERSON**

SEMINOLE COUNTY

SUPERVISOR OF ELECTIONS

CERTIFICATE OF COUNTY CANVASSING BOARD

STATE OF FLORIDA, SEMINOLE COUNTY

We, the undersigned, Judge Carsandra Buie, Canvassing Board Chairman; Christopher Anderson, Supervisor of Elections; and Amy Lockhart, Canvassing Board Member; constituting the Board of County Canvassers in and for said county, do hereby certify that we met on the **9thth day of November, 2023**, and proceeded publicly to canvass the votes given for the **2023 Municipal Election** held on the **7th day of November, 2023**, as shown by the returns on file in the office of the Supervisor of Elections. We certify that pursuant to Section 102.112, Florida Statutes, the canvassing board has compared the number of persons who voted with the number of ballots counted and that the certification includes all valid votes cast in the election. Total ballots cast in Seminole County was **9,199** for a **22.05** percent turnout.

We do hereby certify from said returns as follows:

City of Lake Mary, Commissioner, Seat #2:George Duryea: **804**Kristina Renteria: **719****City of Oviedo, Mayor:**Brady Duke: **3,103**Megan Sladek: **4,155**Judith Dolores Smith: **394****City of Oviedo, Referendum Question 1:**Yes - For authority to grant exemption: **2,722**No - Against authority to grant exempt: **4,772****City of Oviedo, Referendum Question 2:**Yes - For Bonds: **2,734**No - Against Bonds: **4,778**

Judge Carsandra Buie, Canvassing Board Chairman

Chris Anderson, Seminole County Supervisor of Elections

Amy Lockhart, Canvassing Board Member

ATTACHMENT 4

BUSINESS IMPACT ESTIMATE FOR PROPOSED ORDINANCE NO. 1741

The following Business Impact Estimate was prepared in accordance with Section 166.041(4), Florida Statutes (F.S.) This Estimate may be revised following its initial posting.

1. Summary of Ordinance and statement of public purpose to be served:

Ordinance No. 1741 is proposed for the purpose of deleting Chapter 2, Article XII, Sections 2-301 through 2-310 in their entirety from the *Code of Ordinances of the City of Oviedo, Florida* (Code of Ordinances). Code of Ordinances Chapter 2, Article XII, Sections 2-301 through 2-310 is the codification of the City's Economic Development Ad Valorem Tax Exemption program. The program is authorized under Article VII, Section 3 of the State of Florida Constitution and Section 196.1995 Florida Statutes. Pursuant to Section 196.1995, Florida Statutes, the authority to provide exemptions expires ten (10) years after the successful referendum, and the authority to renew the exemption may be granted for a subsequent ten (10) year period provided the renewal is approved by referendum.

At its July 17, 2023 meeting, the Oviedo City Council adopted Ordinance No. 1734 approving a public referendum of the City's electorate to be held on November 7, 2023 for the purpose of renewing the City's Economic Development Ad Valorem Tax Exemption program. A referendum was held on November 7, 2023, that included a ballot question regarding the renewal of the Economic Development Ad Valorem Tax Exemption program. By a vote of 4,772 to 2,722, the voters decided not to renew the program. Therefore, Ordinance No. 1741 is proposed to delete the program from the Code of Ordinances.

2. Estimated direct impact of Ordinance No. 1741 on private, for-profit businesses in the City of Oviedo, if any:

a. Estimate of direct compliance costs that businesses may reasonably incur:

Ordinance No. 1741 deletes Code of Ordinances Chapter 2, Article XII, Sections 2-301 through 2-310, City's Economic Development Ad Valorem Tax Exemption program, from the Code of Ordinances. Upon adoption of Ordinance No. 1741, the Economic Development Ad Valorem Tax Exemption program will no longer be available to prospective new, qualifying businesses and expansions of existing, qualifying businesses.

b. Identification of any new charge or fee on businesses subject to Ordinance No. 1741 for which businesses will be financially responsible (if applicable):

Upon adoption of Ordinance No. 1741, the Economic Development Ad Valorem Tax Exemption program will no longer be available to prospective new, qualifying businesses and expansions of existing, qualifying businesses. Therefore, these qualifying businesses will pay 100% of their ad valorem taxes beginning in the first tax year after the issuance of a certificate of occupancy.

- c. Estimate of City of Oviedo's regulatory costs associated with Ordinance No. 1741, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:**

The City may incur minimal regulatory costs associated with the deletion of Code of Ordinances Chapter 2, Article XII, Sections 2-301 through 2-310 by Municipal Code Corporation.

3. Good faith estimate of the number of businesses likely to be impacted by the ordinance:

Since the program's establishment in 2012, only one (1) qualifying business has utilized the Economic Development Ad Valorem Tax Exemption program. With the adoption of Ordinance No. 1741, the program will no longer be available to prospective new, qualifying businesses and expansions of existing, qualifying businesses.

4. Additional information (optional):

The City's Economic Development Ad Valorem Tax Exemption program was approved by referendum on November 6, 2012. The program is authorized under Article VII, Section 3 of the State of Florida Constitution and Section 196.1995 Florida Statutes. Pursuant to Section 196.1995, Florida Statutes, the authority to provide exemptions expires ten (10) years after the successful referendum, and the authority to renew the exemption may be granted for a subsequent ten (10) year period provided the renewal is approved by referendum. City Council's adoption of Ordinance No. 1734 approved a public referendum of the City's electorate to be held on November 7, 2023 for the purpose of renewing the City's Economic Development Ad Valorem Tax Exemption program. Ordinance No. 1741 implements the direction of the voters not to renew the program.

ORDINANCE NO. 1741

AN ORDINANCE OF THE CITY OF OVIEDO, FLORIDA, DELETING CHAPTER 2, ARTICLE XII, SECTIONS 2-301 THROUGH 2-310 IN THEIR ENTIRETY FROM THE *CODE OF ORDINANCES OF THE CITY OF OVIEDO, FLORIDA* RELATING TO AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION PURSUANT TO SECTION 196.1995, FLORIDA STATUTES; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, THE CORRECTION OF SCRIVENER'S ERRORS AND AN EFFECTIVE DATE

WHEREAS, the City of Oviedo is granted the authority under Section 2(b), Article VIII of the State Constitution to exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, Section 196.1995, Florida Statutes, authorizes, upon approval by the municipal electorate in a referendum, a municipality to grant Ad Valorem tax exemptions to new businesses and expanding existing businesses; and

WHEREAS, the City's Economic Development Ad Valorem Tax Exemption program was approved by referendum on November 6, 2012; and

WHEREAS, pursuant to Section 196.1995, Florida Statutes, the authority to provide exemptions expires ten (10) years after the successful referendum, and the authority to renew the exemption may be granted for a subsequent ten (10) year period provided the renewal is approved by referendum; and

WHEREAS, at its July 17, 2023 meeting, City of Oviedo City Council adopted Ordinance No. 1734 approving a public referendum of the City's electorate to be held on November 7, 2023 for the purpose of renewing the City's Economic Development Ad Valorem Tax Exemption program; and

WHEREAS, a referendum was held on November 7, 2023, that included a ballot question regarding the renewal of the Economic Development Ad Valorem Tax Exemption program; and

WHEREAS, by a vote of 4,772 to 2,722, the voters decided not to renew the Economic Development Ad Valorem Tax Exemption program; and

WHEREAS, in accordance with the decision of the City's electorate on November 7, 2023, the City Council has put forth this ordinance to delete the Economic Development Ad Valorem Tax Exemption program from the City's Code of Ordinances; and

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF OVIEDO, FLORIDA, AS FOLLOWS

SECTION 1. RECITALS. The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Council of the City of Oviedo.

SECTION 2. DELETION OF CODE OF ORDINANCES CHAPTER 2, ARTICLE XII, SECTIONS 2-301 THROUGH 2-310. Chapter 2, Article XII, Sections 2-301 through 2-310 are hereby deleted in their entirety from the *Code of Ordinances of the City of Oviedo, Florida*.

SECTION 3. IMPLEMENTING ADMINISTRATIVE ACTIONS. The City Manager, City Clerk, and City Attorney are hereby authorized and directed to take such actions as deemed necessary and appropriate in order to implement the provisions of this Ordinance. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. CONFLICTS. All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase, word, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. CODIFICATION. Since the electorate did not approve the ballot question set forth by Ordinance No. 1734, Chapter 2, Article XII, Sections 2-301 through 2-310 are hereby deleted in their entirety from the *Code of Ordinances of the City of Oviedo, Florida* in such a manner and with such notes as are deemed desirable by the code codifier.

SECTION 7. SCRIVENER'S ERRORS. 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 8. EFFECTIVE DATE. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Oviedo, Florida.

FIRST READING: December 4, 2023

SECOND READING: January 16, 2024

PASSED AND ADOPTED this 16th day of January, 2024.

ATTEST:

MEGAN SLADEK
MAYOR of the City of Oviedo, Florida

ELIANNE RIVERA
CITY CLERK