

THE CITY OF NEW SMYRNA BEACH - CRA/ECONOMIC DEVELOPMENT

ORDINANCE NO. 27-24: CONSIDER THE ADOPTION OF AN ORDINANCE, WHICH IF ADOPTED, WOULD AUTHORIZE THE CITY COMMISSION TO GRANT EXEMPTION FROM CITY AD VALOREM PROPERTY TAXES FOR UP TO TEN YEARS FOR CERTAIN NEW AND EXPANDED BUSINESSES; CALLING A REFERENDUM NOVEMBER 5, 2024, TO AUTHORIZE EXEMPTIONS.

April 23, 2024

Background:

City's Economic Development Property Tax Exemption History

On March 19, 2014, the Economic Development Advisory Board approved a recommendation to the City of New Smyrna Beach City Commission to approve an ordinance calling for a referendum to be placed on the November 4, 2014, General Election Ballot. The ballot question that was included for voters to decide was whether the City Commission should have the authority to offer tax exemptions (in accordance with Article VII, section 3, of the Florida Constitution and as described in Florida Statutes 196.1995 below) to encourage existing businesses to expand and encourage new businesses from outside the area to locate here.

Florida Statutes 196.1995 weblink: [196.1995](#)

Article VII, Section 3 of the Florida Constitution weblink: [Article_VII,_Florida_Constitution](#)

On May 27, 2014, the City Commission approved a second reading of Ordinance 37-14 authorizing the City Commission to grant a 10-year exemption from ad valorem property taxes and to call a referendum on the November 4, 2014, General Election Ballot. On July 29, 2014, the Economic Development Advisory Board met and discussed proposed "requirements and criteria" for the Tax Exemption Program and made recommendations to the City Commission at a Special City Commission Meeting on August 27, 2014.

The comments from the August 27, 2014, Special Commission Meeting included the following:

- The creation of another category where there are more points given for locations on US 1 and less points given for SR 44
- Target areas like US 1, Tionia Rd., and the Airport Industrial Park that would stimulate the entire area
- Give more points to areas we want to target
- A company bringing in 150 jobs near I-95 many would get 0 points for location but extra points for job creation
- The program should give 5 years tax exemption as the maximum number of years

rather than 10 years

- In the future, there should be incentives for small businesses

On October 28, 2014, the City Commission approved a second reading of Ordinance 73-14 amending the city code, Chapter 74, Article VI, by creating a new division 1 entitled Economic Development Tax Exemption to establish eligibility criteria for granting exemptions from ad valorem property taxes for new and existing businesses under section 196.1995.

City Economic Development Tax Exemption Use

To date, the city has been able to qualify one applicant for the program. On May 23, 2017, the City Commission approved Ordinance 37-17 authorizing a three-year ad valorem property tax exemption for TAF USA, LLC, of 100% of the assessed value of the net increase in qualifying improvements and tangible personal property commencing with tax year 2018. However, the company failed to comply with the terms of a performance agreement. On June 25, 2019, the City Commission approved Ordinance 33-19 revoking the exemption for the remaining tax years of 2019 and 2020 and repealed Ordinance 37-17 as allowed by Florida Statutes. Florida Statutes allow the city to enter into an agreement with performance requirements for the business and provides the City Commission the authority to revoke the agreement if the business fails to meet the requirements.

Economic Development Property Tax Exemption Qualification Process

If the voters authorize exemptions, a company must first meet the definitions of a new or expanding business as stated in s. 196.012 (14) and (15), F.S. Click the following link to access the statute: [196.012](#)

If a business meets the statutory definitions of a new or expanding business, it must then file this application with the county or city commission or both. After the city or county commission receives this application (Form DR-418), it must submit the application to the county Property Appraiser for review. After the Property Appraiser makes the report as to the fiscal impact of granting the exemption, the county or city commission shall then adopt an ordinance in the usual manner granting the exemption, if it chooses to do so.

A business cannot receive exemption from school taxes or water management district taxes. Also, a business must pay taxes that were voted by the voters of a city or county to pay for bond issues and other special tax levies authorized by the voters of a city or county. The exemption can only be for the improvements to the real property and for tangible personal property. The land on which the new or expanding business is to be

located will still be taxed and taxes must be paid on it. The action taken by a city or county commission can only exempt the taxes paid to that governmental body. A city can only exempt its taxes; a county can only exempt its taxes. All other taxes must be paid.

Existing City Economic Development Tax Exemption Program Overview

Under the City's Economic Development Tax Abatement program, only the City ad valorem taxes are eligible for exemption. This does not include school taxes, county taxes, hospital district, water management, etc. Land is not eligible for exemption.

Eligibility

- For a new business, up to 100% of the assessed value of improvements to real property and all tangible personal property of such new businesses are eligible.
- For an expanding business, up to 100% of the assessed value of all added improvements to real property made to facilitate the expansion and of the net increase in all tangible personal property acquired to facilitate such expansion.

Program Reporting

- A report is required by Florida Statutes 196.1995 (9) from the County Property Appraiser notating the lost revenue if the exemption is approved, as well as the value of exemptions previously granted.

Application Requirements

Currently, exemption applications must meet threshold performance criteria established by Ordinance 73-14 and would be considered by the City Commission on a case-by-case basis. An ad valorem tax exemption cannot exceed 10 years.

Information required by Florida Statute in each exemption application includes the following:

- The total number of new jobs to be created by the applicant
- The average wage of the new jobs
- The capital investment made by the applicant
- The type of business and whether it qualifies as a targeted industry consistent with the city's adopted economic development strategic plan
- The type of business and whether it qualifies as a targeted industry
- The environmental impact of the proposed business
- The extent to which the applicant the applicant intends to source its supplies and materials with the city, and
- Any other economic-related characteristics or criteria deemed necessary by the City Commission

Florida Statutes require that each ordinance granting a tax exemption must provide information including:

- The name and address of the new or expanding business to which the exemption is granted
- The total revenue to be exempted with the ordinance
- A finding that the business meets the program requirements
- The period of time for which the exemption will remain in effect and the expiration date

Program Performance Requirements

Florida Statutes allow the city to enter into an agreement with performance requirements for the business and provides the City Commission the authority to revoke the agreement if the business fails to meet the requirements.

Ordinance 73-14 Tax Exemption Calculation Examples

If a business meets criteria by creating 10 jobs (3 points), with an above the area average for the average wage of the new jobs (4 points), it will need a capital investment of at least \$300,000 (3 points) for a total of ten points in order to be eligible for a one-year tax exemption. A \$300,000 investment in a new building, building expansion, or new equipment (for the new business or business expansion, not replacement equipment) would qualify for a one-year tax exemption. The City's FY 23-24 operating millage rate is 4.4150. The tax exemption for one year for a \$300,000 qualified capital investment is \$1,324.50. (Formula: $0044150 \times \$300,000 = \$1,324.50$).

If a business meets the Brownfield criteria (10 points) and meets the state statute criteria for a business with 50 jobs (9 points), with a payroll 25% above average (6 points), and a capital investment of \$3 million (9 points), the business will qualify for 34 points, or a four-year tax exemption. The tax exemption for a \$3,000,000 qualified capital investment is \$13,245 per year x 4 years is \$52,980. (Formula: $0044150 * \$3M = \$13,245$)

If a business does not meet the Brownfield criteria but meets the state statute criteria for a business with 25 jobs (6 points), 100% above average wages (12 points), and a \$14 million qualified capital investment (12 points), the business would qualify for 30 points for a four-year exemption. The tax exemption for one year for a \$14 million qualified

capital investment is $\$61,810 \times 4 = \$247,240$ (Formula: $0044150 * \$14M = \$61,810$)

Why extend the Economic Development Property Tax Exemption Program?

Per recent presentations by the State's Department of Commerce Executives, the State is not looking to expand state economic development incentives. Therefore, local incentives will become necessary for local communities to compete for desired economic development projects. Currently, except for the Economic Development Tax Abatement Program, the city does not have citywide incentive programming. For example, there have been Team Volusia confidential project leads (per Statute 288.075) that have included inquiries about the community's local incentive programs.

With the City's established priority to diversify its economic or tax base, increased targeted industry business recruitment and expansion project development activities will have to occur. The program will serve as another local economic development incentive to help the city compete for new or expanding business development projects. Also, the program is performance based and will require companies to perform relative to capital investment and high-wage job generation.

Despite economic cycles relative to COVID-19 and inflation, the city staff has continued to include the program in submittals to the Team Volusia Economic Development Corporation, and other business recruitment leads seeking local incentive programs. If the program is renewed by referendum, staff proposes to aggressively market the incentive program to targeted industries and reach the program success that other Florida communities such as the Cities of Edgewater and Port St. Lucie have experienced.

To date, Boston Whaler (Edgewater) has invested \$63 million and have grown their workforce from 700 to approximately 1,300 employees over time. Meanwhile, cities like Port St. Lucie have renewed their program and have received applications from manufacturers seeking business expansion. The employers include Cheney Brothers and Accel International. To date, Cheney Brothers proposes to create 275 jobs and invest over \$72 million. Also, Accel International proposes to create 125 jobs and invest over \$43 million.

Findings:

On February 21, 2024, the Economic Development Task Force recommended approval to extend the existing City of New Smyrna Beach Economic Development Ad Valorem Property Tax Exemption Program by ordinance for up to Ten Years for New and Expanded Businesses and Calling a Referendum by General Election Ballot on November 5, 2024.

If the City wants to extend the Economic Development Property Tax Exemption Program Time, A Referendum Is Needed

According to s. 196.1995 (7), Florida Statutes, 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. As a result, the city's current exemption program is set to expire November 5, 2024. If approved by voter referendum, the program would expire in 10 years or November 2034.

Ad Valorem property tax exemptions can be granted to new and expanding businesses only after the voters of a city and/or county vote in a referendum to allow that city or county to grant exemptions. Section 196.1995, Florida Statutes, requires that a referendum be held if: (1) The Board of County Commissioners or governing authority of a municipality (city or county commission) votes to hold such a referendum, or (2) if the county or city commission receives a petition signed by ten percent of the registered voters of the county or city.

A referendum question can then be placed before the voters of a city or county at any regular election or special election called for voting on the tax incentive referendum or for any other purpose. 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 Section 3 of the Florida State Constitution, property tax exemptions to new businesses and expansions of existing businesses that are expected to create new, full-time jobs in the City of New Smyrna Beach?

Yes—For authority to grant exemptions.

No—Against authority to grant exemptions.

City staff recommends that the City Commission adopt Ordinance 27-24, which if adopted, would authorize the City Commission to grant exemption from City Ad Valorem Property Taxes for up to ten years for certain new and expanded businesses; calling a referendum November 5, 2024, to authorize exemptions

Fiscal Analysis:

No budget source is needed. The funding of this program is determined on a case-by-case basis by the City Commission based upon the tax exemption applications approved by the City Commission. If a referendum to extend the program passes in November 2024, the program would be granted a 10-year extension to expire in November 2034.

Strategic Plan Item:

No

Staff Report Created By: Christopher Edwards

Attachments:

[Tax Abatement Ordinance 37-14.pdf](#)

[Tax Abatement Ordinance 73-14.pdf](#)

[Ordinance No. 33-19 repeal taf usa llc 3 yr exemption.pdf](#)

[Ord. No. 27-24 Economic Development Exemption.pdf](#)