

ORDINANCE 2024-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CONTINUING AN EXEMPTION FROM CERTAIN AD VALOREM TAXATION FOR CERTAIN NEW AND EXPANDING BUSINESS PROPERTIES TO ENCOURAGE ECONOMIC DEVELOPMENT IN THE COUNTY; PROVIDING FOR ENACTMENT AUTHORITY; PROVIDING FOR INTENT AND DECLARATION; AMENDING CHAPTER 102 – TAXATION, ARTICLE IV. – AD VALOREM PROPERTY TAXATION, DIVISION 3. – ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION ORDINANCE, BREVARD COUNTY CODE OF ORDINANCES; AMENDING SECTION 102-182. – ENACTMENT AUTHORITY; AMENDING SECTION 102-184. – DEFINITION OF TERMS; AMENDING SECTION 102-185. – ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION ESTABLISHED; AMENDING SECTION 102-186. – APPLICATION FOR EXEMPTION; AMENDING SECTION 102-187. – BOARD OF COUNTY COMMISSIONERS’ CONSIDERATION OF APPLICATION; AMENDING SECTION 102-189. – REVOCATION OF EXEMPTION/RECOVERY OF FUNDS; AMENDING SECTION 102-192. – SUNSET REPEALER; PROVIDING FOR APPLICABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners is authorized to support economic growth by providing an incentive for employment opportunities that will lead to the improvement of the quality of life of the residents of Brevard County and the positive expansion of the economy; and

WHEREAS, to this end, the Board of County Commissioners desires to continue to consider applications for ad valorem tax exemptions for new businesses relocating to Brevard County and for expansions of businesses already situated in Brevard County; and

WHEREAS, such exemptions are authorized pursuant to Article VII, Section 3, of the Constitution of the State of Florida and Section 196.1995, Florida Statutes, upon the successful passage of a referendum; and

WHEREAS, the electors of Brevard County have authorized the offering of ad valorem tax exemptions as evidenced by the successful passage of a referendum held on this issue on November 5, 2024.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

SECTION 1. Section 102-182 of the Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 102-182. *Enactment authority.*

Article VII, Section 3, of the Constitution of the State of Florida and F.S. § 196.1995, empowers the county to grant economic development ad valorem tax exemptions after the electors of the county, voting on the question in a referendum, authorize such exemptions. In a referendum held on November 5, 2024~~November 8, 1994~~, the voters of the county authorized the board of county commissioners to grant economic development ad valorem tax exemptions.

SECTION 2. Section 102-184 of the Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 102-184. *Definition of terms.*

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

Applicant. Any person, firm partnership or corporation who files an application with the board seeking an economic development ad valorem tax exemption.

Board. The board of county commissioners of the county.

Business. 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.

Department. The Florida Department of Revenue.

EDC. The Economic Development Commission of Florida's Space Coast, Inc.~~East Central Florida, Inc.~~

~~*Enterprise zone.* An area designated as an enterprise zone pursuant to F.S. § 290.0065.~~

Expansion of an existing business. ~~s~~ Shall have the meaning defined in F.S. § 196.012~~(14)~~, as currently in effect or as amended from time to time.

Full-time job. Shall mean employment of 25 or more hours during a normal workweek.

Improvements. Physical changes made to raw land, and structures placed on or under the land surface.

New business. Shall have ~~has~~ the meaning defined in F.S. § 196.012(14), as currently in effect or as amended from time to time.

Part-time job. Shall mean employment of less than 25 hours during a normal workweek.

~~*Sales factor.* As defined in F.S. § 220.15(5), the sales factor is a fraction of the numerator of which is the total sales of the taxpayer in this county 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.~~

SECTION 3. Section 102-185 of the Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 102-185. *Economic development ad valorem tax exemption established.*

- (a) There is herein established an economic development ad valorem tax exemption (hereinafter the "exemption"). The exemption is a local option tax incentive for new or expanding businesses which may be granted or refused at the discretion of the board.
- (b) The exemptions shall not accrue to improvements to real property made by or for the use of new or expanding businesses when such improvements have been included on the tax rolls prior to the effective date of the ordinance specifically granting a business an exemption as provided in subsection ~~102~~187(h) herein.

(c) No exemption shall be granted for the land upon which new or expanded businesses are to be located.

~~(d)~~ Any exemption granted may apply 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, provided that the improvements to real property are made or the tangible personal property is added or increased on or after the effective date of the ordinance specifically granting a business an exemption as provided in subsection ~~102~~187(h) herein. Property acquired to replace existing property shall not be considered to facilitate a business expansion.

~~(e)~~ The exemption shall be granted by ordinance for every eligible project, as determined by the board at its discretion. The exemption may be granted for a period up to ten (10) years from the date of adoption of the ordinance granting the exemption, or may be granted for

a period up to twenty (20) years from the date of adoption of the ordinance granting the exemption for data centers.

~~(e) No exemption shall be granted for the land upon which new or expanded businesses are to be located.~~

- (f) The exemption shall apply only to taxes levied by the county. The exemption shall not apply to taxes levied by a municipality, school district or water management district or 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 Florida Constitution.
- (g) The ability to receive an exemption for the period granted shall be conditioned upon the applicant's ability to maintain the new business or the expansion of an existing business as defined in section 102-~~184~~ herein throughout the entire period. The applicant shall be required to submit a report on an annual basis to the board evidencing satisfaction of this condition. In addition, any business granted an exemption shall furnish to the board or its designee, such information/report as the board or its designee may reasonably deem necessary for the purpose of determining continuing performance by the business of the conditions stated in this division, the ordinance granting the exemption and the representations made in the application process.
- (h) If the county manager or designee receives written notice that a company qualifying for an ad valorem tax abatement under the authority of this division has decided not to undertake or complete the new business activity or expansion of an existing business activity, including construction or equipment purchases, giving rise to an ad valorem tax exemption granted under this section, the exemption granted shall be void, shall not take effect and shall not be implemented. If such a notice is received, the foregoing provision shall be self-executing and no further action of the board of county commissioners will be required to void the granted exemption. Upon the county's receipt of any such notice, the county manager or designee shall forward the notice to the property appraiser along with a copy of this subsection of the ordinance.

SECTION 4. Section 102-186 of the Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 102-186. *Application for exemption.*

- (a) Any eligible person, firm, partnership or corporation which desires an exemption shall file with the county manager or his designee a good faith written application prescribed by the form(s) designated by the county manager or designee department (DR 418). The county manager shall perform initial screening of applicants and an initial recommendation to the board as to eligibility.

- (b) The board finds that ad valorem tax exemptions are granted under this article to induce new businesses to relocate to the county and to induce existing businesses to expand within the county. Any business seeking an exemption shall file an application with the county before the business has made the decision to locate a new business in the county or before the business has made to decision to expand an existing business in the county. Any business decisions, such as announcements, leasing of space or hiring of employees, made prior to final county economic development tax abatement approval (and not made contingent upon county approval) may constitute grounds for disapproval. Projects, which clearly do not require inducement, will not be approved. If the board of county commissioners decides to consider the application, the public hearing on the adopting ordinance will be held within 60 days from the date a completed application has been submitted to the county manager or his designee.
- (c) If the board determines that the applicant is eligible and has an interest in allowing the application to proceed, the board shall pass a resolution:
- (1) Referring the application to the EDC for a review and recommendation of denial or approval specifying the degree and length of exemption recommended; and
 - (2) The property appraiser for evaluation and a report which shall include the following:
 - a. The total revenue available to the county 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;
 - b. The amount of revenue lost to the county 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;
 - c. An estimate of the amount of revenue which would be lost to the county 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
 - 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, 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 this determination.
- (d) The application shall request that the board adopt an ordinance granting the applicant the exemption and shall include, at a minimum, the following:

- (1) The name and location of the new business or the expansion of an existing business;
- (2) A legal description of the real property; a description of the improvements to the real property for which an exemption is requested and the date of intended or actual commencement of construction of such improvements;
- (3) 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;
- (4) Proof, to the satisfaction of the board, that the applicant meets the criteria for a new business or for an expansion of an existing business as defined in section 102-184 hereof;
- (5) The following information:
 - a. The anticipated number of new jobs that will be created~~employees~~;
 - b. The number of current employees;
 - c. Whether the new jobs are full-time or part-time as defined in Section 102-184 hereof;
 - d. ~~b~~ The expected number of employees who will reside in the county;
 - e. ~~c~~ — The percentage of employees who have resided in the county for a period of more than two years;
 - f. ~~d~~ — The average wage of the new job~~employees~~;
 - g. ~~e~~ — The type of industry or business;
 - h. ~~f~~ — The environmental impact of the business;
 - i. ~~g~~ — The anticipated volume of business or production;
 - j. ~~h~~ — Whether relocation or expansion would occur without the exemption;
 - k. ~~i~~ — The cost and demand for services;
 - l. The capital investment to be made;
 - m. ~~j~~ — The source of supplies (local or otherwise);
 - n. ~~k~~ — Whether the business will be/is located in a community redevelopment area; and
- (6) Other information deemed necessary by the EDC county manager or designee.

- (d) 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.
- (f) Upon submittal of the application, the county manager or his designee shall review same and, within ten days of submission, notify the applicant of any facial deficiencies.
- (g) The county manager or his designee shall review the application, based upon the criteria set forth in section 102-187 of this division. The review shall include an economic impact analysis, applying acceptable multipliers as defined by the ~~s~~State of Florida ~~d~~Department of ~~e~~Commerce, bureau of economic analysis. Impact analysis shall include number of jobs generated, wage rates and capital investments.
- (h) Prior to the public hearing on the ordinance required under section 102-187, the county manager shall provide a statement recommendation to the board as to whether the applicant meets the criteria~~as to approval or denial~~, and degree and length of the exemption.
- (i) All degrees and length of exemption recommendations should be based on guidelines adopted by resolution of the board.

SECTION 5. Section 102-187 of the Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 102-187. *Board of county commissioners' consideration of application.*

- (a) Within 30 days after receipt of the property appraiser's report and the EDC recommendation, the board shall hold a public hearing on the enactment of an ordinance granting the exemption. During the 60-day period, interested agencies and parties shall have an opportunity to review and comment on the application.
- (b) The threshold for consideration of approval shall be a determination as to whether the business meets the definition of a new business or of an expansion of an existing business as provided in section 102-184, and whether the business is a business which is not ineligible as defined in subsection (d) of this section.
- (c) The next levels for consideration of approval shall be:
 - (1) To determine whether the economic benefit test is met;
 - (2) To determine that the improvements or tangible personal property is not on the tax roll; and
 - (3) To determine that the improvements or tangible personal property are not already substantially complete and usable for their intended purpose.

- (d) Any existing business in violation of any federal, state or local law or regulation governing environmental matters may not be eligible for an exemption.
- (e) The board recognizes that a community redevelopment area's funding may be impacted should an exemption be granted in such an area. Therefore, should the board receive an objection to the exemption from a community redevelopment agency, the board may consider the objection in their deliberations.
- (h) After consideration of the EDC preliminary recommendation, the county manager's statement of meeting criteria recommendation, the application and the report of the property appraiser on the application, the board may choose to adopt an ordinance granting the exemption to a new or expanding business. If granted, the ordinance shall include the following information:
 - (1) The name and address of the new business or expansion of an existing business;
 - (2) The total amount of revenue available to the county from ad valorem tax sources for the current fiscal year, the total amount of the revenue lost to the county for the current fiscal year by virtue of exemptions currently in effect, and the estimated amount of revenue attributable to the exemption to the new or expanding business;
 - (3) The expiration date of the exemption, which shall be ten years or less (depending upon the duration of the exemption granted) from the date the board enacts the ordinance granting the exemption; and
 - (4) A finding that the business meets the definition of a new business or an expansion of an existing business as set forth in section 102-184 herein.
- (i) No precedent shall be implied or inferred by the granting of an exemption to a new or expanding business. Applications for exemptions shall be considered by the board on a case-by-case basis for each application, after consideration of the application, the property appraiser's report on the application, and where appropriate, objections from a community redevelopment agency.

SECTION 6. Section 102-189 of the Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 102-189. *Revocation of exemption/recovery of funds.*

Should any new business or expansion of an existing business fail to file the annual report or any other report required in section 102-185(g), or fail to continue to meet the definition of a new business or an expansion of an existing business, and/or fail to fulfill any other representation made to the board during the application process, the County Manager shall bring before the board for consideration ~~may adopt~~ an ordinance revoking the ad valorem tax

exemption. An ordinance revoking the ad valorem tax exemption ~~may~~shall provide that the board recover any taxes waived during the exemption period. Nothing herein shall prohibit a business from reapplying for an ad valorem tax exemption pursuant to state law.

SECTION 7. Section 102-192 of the Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 102-192. *Sunset repealer.*

This division shall stand repealed effective ~~November 4, 2034~~November 8, 2004, unless renewed by a referendum at a general or special election held upon, prior to, or in the same month as that date, as is authorized under the provisions of F.S. § 196.1995(1), (2) and (6) or any successor or amended version of that statute.

SECTION 8. Applicability.

This ordinance shall be applicable in all areas of Brevard County where Brevard County is the taxing authority.

SECTION 9. Inclusion in the Code of Ordinances.

The provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word “ordinance” may be changed to “section”, “article”, or any other appropriate word.

SECTION 10. Severability.

If any section, subsection, paragraph, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such invalid unconstitutional 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, provided the remaining portions effectuate purpose and intent of this ordinance.

SECTION 11. Repealing Clause.

All resolutions or other actions of the County which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

SECTION 12. Effective Date.

This Ordinance shall take effect upon filing as provided by law.

DONE, ORDERED AND ADOPTED by the Board of County Commissioners of Brevard County, in Regular Session, this _____ day of December, 2024.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

Rob Feltner, Chairman

As approved by the Board on _____

Approved as to Form and
Legal Sufficiency

By: _____
COUNTY ATTORNEY

Acknowledgement by the Department of State of the State of Florida, on this, the _____
day of _____, 20____.