

ORDINANCE NO. 2012 - 042

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 17, ARTICLE VII OF THE PALM BEACH COUNTY CODE (ORDINANCE NO. 2005-004) ENTITLED "ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION ORDINANCE OF PALM BEACH COUNTY"; AMENDING INTENT AND DECLARATION; AMENDING DEFINITION OF TERMS; AMENDING ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION ESTABLISHED; DELETING APPLICATION FOR EXEMPTION; PROVIDING FOR APPROVAL PROCESS; AMENDING APPLICATION CONSIDERATION; AMENDING APPLICATION FEE; AMENDING 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 believes that local government should 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 Palm Beach County and the positive expansion of the economy; and

WHEREAS, the electors of Palm Beach County desired to authorize the offering of ad valorem tax exemptions as evidenced by the successful passage of a referendum held on this issue on August 31, 2004; and

WHEREAS, the goal of this ordinance amendment is to remedy conflicts with Florida Statutes Section 196.1995 due to changes in the statute; and

WHEREAS, this amendment streamlines the eligibility requirements to default to state statute which will eliminate future conflicts should the state statute be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Chapter 17, Article VII of the Palm Beach County Code is hereby amended as follows:

SECTION 1. Title

This Ordinance shall be known as the "Economic Development Ad Valorem Tax Exemption Ordinance of Palm Beach County, Florida."

SECTION 2. Enactment Authority

Article VII, Section 3, of the Constitution of the State of Florida and Section 196.1995, Florida Statutes, 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 August 31, 2004, the voters of Palm Beach County authorized the Board of County Commissioners to grant economic development ad valorem tax exemptions.

SECTION 3. Intent and Declaration

It is the intent of the Board of County Commissioners of Palm Beach County (hereinafter the "Board") in enacting this Ordinance to provide an incentive to those new or expanded businesses which make a positive contribution to the economy of Palm Beach County in terms of new jobs and

1 improvements to real and personal property.

2 The intent of the Board is to promote the economy by creating jobs in Palm Beach County in such
3 a way so as not to disadvantage existing businesses while recognizing that productive competition assists
4 in economic growth.

5 The Board desires to provide incentives to businesses of diverse industries, with the exception of
6 Retail Operations, having a positive impact on the economy of Palm Beach County. The Board declares
7 that the provision of ad valorem tax exemptions pursuant to this Ordinance serves the public purpose of
8 fostering economic growth in Palm Beach County, all to the benefit of Palm Beach County's residents and
9 business owners.

10 This Ordinance shall expire on August 31, 2014.

11 **SECTION 4. Definition of Terms**

12 For the purpose of this Ordinance, Terms are defined in accordance with 196.012, Florida
13 Statutes unless defined below. Where a conflict exists between the Ordinance and the Statute, the
14 Statute shall prevail.

- 15 A. Applicant - Any person, firm, partnership, or corporation who files an application with the Board
16 seeking an economic development ad valorem tax exemption.
- 17 B. Board - The Board of County Commissioners of Palm Beach County.
- 18 C. Business - Any activity engaged in by any person, firm, partnership, corporation, or other
19 business organization or entity, with the object of private or public gain, benefit, or advantage,
20 either direct or indirect.
- 21 D. Department - The Florida Department of Revenue.
- 22 E. Enterprise Zone - As defined in 196.012, Florida Statutes.
- 23 F. Expansion of an Existing Business - As defined in 196.012, Florida Statutes.
- 24 G. Goods - All personalty when purchased primarily for personal, family, or household use, but not
25 including personalty sold for commercial or industrial use.
- 26 H. New Business - As defined in Section 196.012.
- 27 I. Retail Operation - A business regularly engaged in, and whose business consists to a substantial
28 extent of, selling goods to a buyer, not principally for the purpose of resale.
- 29 J. Sales Factor - As primarily defined in Section 220.15(5), Florida Statutes.

30 **SECTION 5. Economic Development Ad Valorem Tax Exemption Established**

- 31 A. Establishment - There is herein established an Economic Development Ad Valorem Tax
32 Exemption (hereinafter the "exemption"). The exemption is a local option tax incentive for new or
33 expanding businesses which may be granted or refused at the sole discretion of the Board.
- 34 B. Taxes Applicable - The exemption applies only to taxes levied by Palm Beach County. The
35 exemption does not apply to taxes levied by a municipality, school district, or water management
36 district, or to taxes levied for the payment of bonds or taxes authorized by a vote of the electors
37 pursuant to Section 9 and Section 12, Article VII of the State Constitution.

- 1 C. Exemption Period - The exemption may be for a period up to ten (10) years from the date the
2 Board adopts the ordinance granting the exemption.
- 3 D. Eligibility - The ability for an applicant to be eligible for an exemption under this Program is
4 defined in Title XIV – Taxation and Finance, Chapter 196 – Exemption, Florida Statutes and
5 applies to new businesses locating in Palm Beach County and to expansions of existing
6 businesses presently located in Palm Beach County.
- 7 E. Land - No exemption shall be granted for the land upon which new or expanded businesses are
8 to be located.

9 **SECTION 6. Approval Process Application for Exemption**

- 10 A. Conceptual Application - A Conceptual Application may be applied for through the Palm Beach
11 County Department of Economic Sustainability prior to commencement of improvements, but is
12 not required. A review of the application will be conducted to determine conceptual compliance
13 with s.196.1995 Economic Development Ad Valorem Tax Exemption, Florida Statutes. Any
14 projects to be recommended for conceptual approval shall be placed on the Board's agenda to
15 establish conceptual support for the application and the maximum exemption amounts only.
- 16 B. Formal Application - A Formal Application for Ad Valorem Tax Exemption must be applied for
17 through the Palm Beach County Department of Economic Sustainability, by March 1st in the year
18 that the exemption is desired to take effect and shall file an annual report every year thereafter for
19 the duration of the exemption on the application entitled "Economic Development Ad Valorem
20 Property Tax Exemption, Chapter 196.1995, Florida Statutes Form 418". This application will be
21 reviewed by the Palm Beach County Property Appraiser prior to consideration by the Board. The
22 application shall request that the Board adopt an ordinance granting the applicant the exemption
23 and shall include the information required by Florida Statute Section 196.1995.
- 24 C. Property Appraiser Review - Before the Board takes action on a Formal Application, the Board
25 shall deliver a copy of same to the Property Appraiser for review.
- 26 D. Community Redevelopment Agency - If a new business is locating to, or an expansion of an
27 existing business is occurring in, a community redevelopment area, the community
28 redevelopment agency overseeing such area shall be provided a copy of the application for
29 review and comment. Input from the community redevelopment agency will be considered in
30 deciding whether an application is to be granted. Should a community redevelopment agency
31 object to the grant of an exemption, the agency may submit said objection in the form of a duly
32 adopted resolution to the Board for its consideration.
- 33 E. Property Appraiser Report - The Property Appraiser's report shall include the following:
 - 34 1. The total revenue available to the County for the current fiscal year from ad valorem tax
35 sources, or an estimate of such revenue if the actual total available revenue cannot be
36 determined;

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- 1 2. The amount of revenue lost to the County for the current fiscal year by virtue of
2 exemptions previously granted, or an estimate of such revenue if the actual revenue lost
3 cannot be determined;
- 4 3. An estimate of the amount of revenue which would be lost to the County for the current
5 fiscal year if the exemption applied for was granted had the property for which the
6 exemption is requested otherwise been subject to taxation; and
- 7 4. A determination as to whether the property for which an exemption is requested is to be
8 incorporated into a new business or the expansion of an existing business, or into
9 neither, which determination the Property Appraiser shall also affix to the face of the
10 application. Upon request, the Department will provide the Property Appraiser such
11 information as it may have available to assist in making this determination.

12 F. Ordinance

- 13 1. After consideration of the Formal Application and the report of the Property Appraiser on
14 the application, the Board shall adopt an ordinance granting the exemption to a new or
15 expanding business.
- 16 2. Upon approval of a Formal Application for a tax exemption under this section, the Board
17 shall enter into a written tax exemption agreement, which shall include performance
18 criteria consistent with the Formal Application and state law, including a provision
19 regarding the authority to revoke, in whole or in part, the exemption if the applicant fails to
20 meet expectations and representation and such other provisions as deemed necessary
21 by the Board.

22 **SECTION 7. Board of County Commissioners Consideration of Application**

- 23 A. The granting of, or the denial of exemptions will be conducted on a rational, nonarbitrary,
24 nondiscriminatory basis by the Board, in furtherance of the economic development goals of Palm
25 Beach County. Any and all exemptions granted must result in an economic benefit to the County.
- 26 B. The granting of an exemption is contingent upon a finding that the business meets the criteria in
27 196.1995, Florida Statutes.

28 **SECTION 8. Application Fees**

29 A non-refundable fee in the amount of \$2,000.00 shall be charged for processing of the
30 conceptual application of an Economic Development Ad Valorem Tax Exemption Application and a
31 \$2,000.00 fee shall be charged for the processing of the formal application of an Economic Development
32 Ad Valorem Tax Exemption Application.

33 **SECTION 9. Revocation of Exemption/Recovery of Funds**

- 34 A. Board - Should any new business or expansion of an existing business fail to file the annual
35 report with the Board on or before **March 1st** of each year the exemption has been granted as
36 required in Sections 5.1.1. and 5.1.2., or fail to continue to meet the definition of a new business
37 or an expansion of an existing business, and/or fail to fulfill any other representation made to the

1 Board during the application process, including the creation and maintenance of the total number
2 of new jobs identified by a business in the application (Exhibit "A"), the Board may adopt an
3 ordinance revoking the ad valorem tax exemption.

4 B. Revocation - The revocation of an ordinance may occur for a business that fails to fulfill its
5 obligations as provided for under the ordinance granting the business an exemption after the
6 expiration of this Ordinance on August 31, 2014. The effective date for revocation of the
7 exemption will be identified in the ordinance.

8 C. Notification - Upon revocation, the Board shall immediately notify the Property Appraiser.

9 D. Recover Taxes - For any year that taxes may have been exempted and the Board finds that the
10 business was not entitled to the exemption, such taxes may be recovered and the Property
11 Appraiser will assist the Board to recover any taxes exempted.

12 E. Property Appraiser - Should any new business or expansion of an existing business fail to file the
13 annual exemption renewal application with the Property Appraiser on or before **March 1st** of
14 each year the exemption has been granted as required in Sections 5. 1.3, and in accordance with
15 Chapter 196.011(1)(a), Florida Statutes, or fail to continue to meet the definition of a new
16 business or an expansion of an existing business, the Property Appraiser may deny the
17 exemption in accordance with Chapter 196.193(5), Florida Statutes.

18 F. Reapply - Nothing herein shall prohibit a business from reapplying for an ad valorem tax
19 exemption pursuant to State law.

20 **SECTION 10. Appeals**

21 The decision of the Board not to grant an exemption to a particular business is subject only to
22 judicial review.

23 **SECTION 11. Applicability**

24 This Ordinance shall be applicable in all areas of Palm Beach County where Palm Beach County
25 is the taxing authority. For purposes of enforcement and revocation, this Ordinance shall survive the
26 expiration date of August 31, 2014.

27 **SECTION 12. Inclusion in the Code of Laws and Ordinances**

28 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
29 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or
30 relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any
31 other appropriate word.

32 **SECTION 13. Severability**

33 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
34 held by a Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of
35 this Ordinance.

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SECTION 14. Repeal of Laws in Conflict

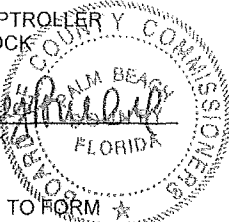
All local ordinances in conflict with any provision of this Ordinance are hereby repealed to the extent of such conflict.


SECTION 15. Effective Date

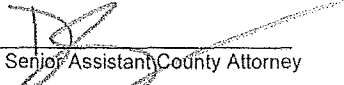
The provisions of this Ordinance shall become effective upon filing with the Secretary of State.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, on the 18th day of December, 2012.

ATTEST:
CLERK & COMPTROLLER
SHARON R. BOCK
By: 
Deputy Clerk



PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS
By: 
Chair **Steven L. Abrams**

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:
By: 
Senior Assistant County Attorney

EFFECTIVE DATE: Filed with the Department of State on the 21st day of December, 2012.