

ORDINANCE 2018-04

AN ORDINANCE OF THE CITY OF MARY ESTHER, FLORIDA, ESTABLISHING PURSUANT TO SECTION 196.1995, FLORIDA STATUTES, FOR TEN YEARS, THE AUTHORITY TO GRANT CERTAIN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTIONS; PROVIDING THAT APPROVAL OF THE EXEMPTION AUTHORITY OCCURRED BY REFERENDUM OF THE VOTERS OF THE CITY ON MARCH 13, 2018; PROVIDING FOR GRANTING OF CERTAIN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Mary Esther of Okaloosa County, Florida, is a municipal corporation duly created and existing pursuant to the Constitution and laws of the State of Florida; and,

WHEREAS, it is the intent of the City to establish and further a sound business and industrial tax base in the City of Mary Esther, of which said tax base will benefit all residents in the City by better broadening the distribution of the burden of said taxes; and,

WHEREAS, this intent and purpose is accomplished by attracting those businesses and industries that pay greater than the average annual Okaloosa County wage to locate in the City; and,

WHEREAS, the Legislature of the State of Florida enacted Section 166.021(8) of the Florida Statutes to facilitate the growth and creation of business enterprises in the municipalities of the State of Florida; and,

WHEREAS, the City desires to participate in and promote economic development incentive programs that will assist in accomplishing the purposes of attracting targeted industries with value-added employment opportunities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARY ESTHER, FLORIDA:

SECTION 1. TITLE.

This ordinance shall be known and may be cited as the "City of Mary Esther Economic Development Incentive Ordinance."

SECTION 2. PURPOSES AND FINDINGS OF FACT.

The preceding recitals are true and correct, and are incorporated herein. It is the intent and purpose of this ordinance to provide the authority and mechanisms within the parameters of federal, state and local laws, to allow the expenditure of public funds for promotions and incentives to attract industries or businesses to locate within the City and through expansion of certain existing industries or businesses, particularly when such industries and businesses pay above average annual wage to locate or expand in the City.

SECTION 3. DEFINITIONS.

For the purpose of this ordinance, the following definitions shall apply.

- A. *Above average annual wage* means one hundred ten percent (110%) or greater of the average annual wage for Okaloosa County.
- B. *Average annual wage* means the average annual wage paid to workers in Okaloosa County as published by the State of Florida, Department of Economic Opportunity, Bureau of Labor Market Statistics, for the most current year published.
- C. *Applicant* means the industrial or business entity seeking to be verified by the City as an eligible industry or business pursuant to this ordinance.
- D. *Attributable tax increment* means the increased increment in the City's ad valorem and tangible property tax base attributable or apportionable to new development, redevelopment or expansion of an industry or business.
- E. *Business or industry* means any business entity authorized to do business in the state, county and the city, including all members of an affiliate group of corporations as defined in Section 220.03 (1)(b) of the Florida Statutes.
- F. *Expansion of an Existing Business* means the expansion of a business or industry resulting in the increase in jobs and wages as defined herein.
- G. *Full-time* means any full-time equivalent position(s) including, but not limited to, positions obtained through co-employment under a professional employer organization agreement.
- H. *Jobs* means full-time equivalent positions, as such terms are consistent with terms used by the Florida Department of Economic Opportunity and U.S. Department of Labor for purposes of unemployment compensation tax administration and employment estimation. Jobs shall not include temporary construction jobs involved with the construction of facilities for the project or any jobs which have been previously included in any incentive benefit provided pursuant to this ordinance.
- I. *New business* means a business or industry which does not exist within the City, first begins its operations on a site located within the City and is clearly separate from any other operation owned by the same business or industry.
- J. *New job* means the addition of a new full-time job which is wholly based in the City and which previously did not exist as part of the City's total job base.
- K. *Project* means the creation of a new business or industry or the expansion of an existing business or industry.

SECTION 4. ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION.

Subject to the provisions of this ordinance, certain new businesses or expansions of an existing business or industry due to relocation to the City or through expansion of existing facilities within the City may be granted an ad valorem property tax exemption of up to 100% of the increased value added to the tax roll for up to ten (10) years.

To comply with statutory requirements, eligible applicants must meet the job creation threshold of 10 full-time (or full-time equivalent) jobs for a business that 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; 25 full time (or full-time equivalent) jobs for other industries with a sales factor less than 0.50 for each year that the exemption is claimed; 50 full time (or full-time equivalent) jobs for an office use provided that such business or organization office first begins operation on a site clearly separate from any other commercial

or industrial operation owned by the same business or organization; or any business or organization 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 or organization.

The City Council, in its sole discretion, shall determine and set guidelines to insure continued consistency with statutory requirements and to integrate local input within the guidelines to achieve the desired results of offering this incentive. No precedent shall be implied or inferred by the granting of an exemption to a New Business or Expansion of an Existing Business.

SECTION 5. ADMINISTRATION AND PROCEDURES.

A supporting set of guidelines to implement the exemptions and incentives provided for in this ordinance shall be developed after adoption of this ordinance setting forth the procedures to accept, review, and process requests for granting of an Economic Development Ad Valorem Tax Exemption for the City.

SECTION 6. PERFORMANCE DEMONSTRATION AND REVIEW.

Following adoption of an ordinance granting an Economic Development Ad Valorem Tax Exemption or following execution of a grant of exemption agreement as required by this ordinance, the City may periodically conduct site visits and audits of the New Business or Expansion of an Existing Business to ensure that the business is satisfactorily performing under the ordinance or grant of exemption agreement and this ordinance. As a prerequisite of receiving an exemption or incentive from the City in year one and each year thereafter, the New Business or Expansion of an Existing Business shall demonstrate:

- A. That it has fully satisfied all terms and conditions contained in the agreement as described in this ordinance continuing through the subject funding period;
- B. That it has not been, nor is, in breach or default of the grant of exemption agreement or any other incentive agreement with the City pursuant to this ordinance; and,
- C. That it has created the number of eligible new jobs promised within the time frames set forth below:
 1. For any new construction or expansion of a building or facility to be used and occupied by the New Business or Expansion of an Existing Business, the New Business or Expansion of an Existing Business shall demonstrate that it has created the number of eligible new jobs promised no later than twelve (12) months from receiving the certificate of occupancy for its primary building or facility, or from the date of completing its multi-year expansion.
 2. For any existing building or facility, the New Business or Expansion of an Existing Business shall demonstrate that it has created the number of eligible new jobs promised no later than twelve (12) months from moving into its building or facility and commencing operations, or from the date of completing its multi-year expansion.

SECTION 7. CESSATION OF OPERATIONS DURING EXEMPTION TERM.

In the event the New Business or Expansion of an Existing Business ceases its operations, closes its business, moves out of the City, loses its status as a New Business or Expansion of an

Existing Business at any time during the ordinance or agreement period, or is in breach or default of any ordinance or grant of exemption agreement with the City under this ordinance, then the New Business or Expansion of an Existing Business shall forfeit any and all funding/incentives which may be remaining under its agreement and any other incentive pursuant to this ordinance.

SECTION 8. INCENTIVES NON-EXCLUSIVE.

The incentive in this ordinance is not exclusive, and eligible businesses or industries may apply for as many incentives as they qualify for under other resolutions, ordinances or provisions of the Code. Further, the incentive in this ordinance does not preclude an industry or business from applying or qualifying in other federal, state or local programs. City Council, in its sole discretion, reserves the right to limit or restrict the number of applicants and the total number and dollar amount of all grants of exemption, deferrals and incentives under this ordinance which may be awarded in any given City fiscal year.

SECTION 9. REFERENDUM ELECTION.

The authority to grant economic development tax exemptions established by this ordinance was approved by a majority of the electors of the City of Mary Esther voting in the referendum election on March 13, 2018.

SECTION 10. INCORPORATION INTO CODE OF ORDINANCES.

This ordinance shall be incorporated into the City of Mary Esther's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 11. CONFLICTING PROVISIONS.

Special Acts of the Florida Legislature applicable to the incorporated area of the City of Mary Esther, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 12. SEVERABILITY.

Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

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SECTION 13. EFFECTIVE DATE.

This ordinance shall take effect immediately upon approval on second reading by City Council and signature of the Mayor.

SO DONE this 4th day of JUNE 2018.

By: Margaret McLemore
Margaret McLemore, Mayor

ATTEST:



Dana L.S. Williams, CMC
City Clerk

First Reading: May 7, 2018
Published: May 25, 2018
Second Reading: June 4, 2018