

Title XI. - ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION

Ch. 1100.	Economic Development Ad Valorem Tax Exemption, §§ 1100.01—1100.15
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CHAPTER 1100. - ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION⁽¹⁾

Footnotes:

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Editor's note— In order to preserve the style of this Code, and at the editor's discretion, ch. 1100 has been added.

Section 1100.01. - Short title.

Title XI shall be known as the Indian River County Economic Development Ad Valorem Tax Exemption Ordinance.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10)

Section 1100.02. - Enactment authority.

Article VII, Section 3, of the Constitution of the State of Florida and F.S. § 196.1995, authorize the county to grant economic development ad valorem tax exemptions to new businesses and expansions of existing businesses after the electors of the county, voting on the question in a referendum, authorize such exemptions.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10)

Section 1100.03. - Findings of fact.

- (a) An important function of local government is the promotion of a strong local economy by providing financial incentives that will encourage new businesses to locate and existing businesses to expand within its jurisdiction, thereby creating new jobs, improvements to real property, and additions to tangible personal property.
- (b) The health, welfare and general well-being of the citizens of Indian River County will be enhanced by the location of new businesses and the expansion of existing businesses within Indian River County.
- (c) The board of county commissioners determines that the granting of economic development ad valorem tax exemptions to new businesses locating in Indian River County and to existing businesses expanding in Indian River County will promote and strengthen the local economy and thereby enhance the health, welfare and general well-being of the citizens of Indian River County.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10)

Section 1100.04. - Definitions of terms.

The following words, phrases, and terms shall have the meanings set forth below. To the extent that such meanings incorporate provisions of Florida Statutes, such meanings are intended to incorporate the provisions of Florida Statutes, as amended from time to time:

- (a) *Applicant.* Any person or entity who files an application requesting an economic development ad valorem tax exemption pursuant to this title.
- (b) *Application.* A written application on the form prescribed by the department, together with any supplemental form prescribed by the county and any additional information requested by the county.
- (c) *Board.* The Board of County Commissioners of Indian River County.
- (d) *Brownfield area.* An area designated as a brownfield area pursuant to F.S. § 376.80.
- (e) *Business.* Any activity engaged in by any person or entity, with the object of private or public gain, benefit or advantage, either direct or indirect.
- (f) *County.* Indian River County, Florida.
- (g) *Department.* The Florida Department of Revenue.
- (h) *Director.* The Indian River County Community Development Director, or his/her designee.
- (i) *Reserved.*
- (j) *Exemption or economic development ad valorem tax exemption.* An ad valorem tax exemption granted by the board in its discretion to a qualifying new business or expansion of an existing business pursuant to this ordinance, and as authorized by Article VII, Section 3 of the Constitution of the State of Florida and F.S. § 196.1995.
- (k) *Expansion of an existing business.*
 - (1) A business establishing ten (10) or more jobs to employ ten (10) or more full-time employees in this county, 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
 - (2) A business establishing twenty-five (25) or more jobs to employ twenty-five (25) or more full-time employees in this county, the sales factor of which, as defined in F.S. § 220.15(5), 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 colocated with a commercial or industrial operation owned by the same Business, resulting in a net increase in employment of not less than ten (10) percent or an increase in productive output of not less than ten (10) percent; or
 - (3) Any business located in a brownfield area that increases operations on a site colocated with a commercial or industrial operation owned by the same business.
- (l) *Exemption agreement.* A written agreement entered into between the county and an applicant receiving an exemption pursuant to this title, as described more fully in Section 1100.09. below.
- (m) *Exemption ordinance.* An ordinance granting an exemption, as described more fully in Section 1100.08 below.
- (n) *Exemption requirements.* All requirements and conditions which must be satisfied for the granting and continuation of an exemption, including those set forth in general law, this title, the exemption ordinance and the exemption agreement.
- (o) *Improvements.* Physical changes made to real property consisting of structures or other improvements placed on or under the land surfaces.

→ (p) **New business.** ←

- (1) **A business establishing ten (10) or more jobs to employ ten (10) or more full-time employees in this county, 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**
 - (2) A business establishing twenty-five (25) or more jobs to employ twenty-five (25) or more full-time employees in this county, the sales factor of which, as defined in F.S. § 220.15(5), for the facility with respect to which it requests an exemption is less than 0.50 for each year the exemption is claimed; or
 - (3) An office space in this county owned and used by a corporation newly domiciled in this state; provided such office space houses fifty (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; or
 - (4) Any business located in a brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.
- (q) *Real property* shall have the meaning set forth in F.S. § 192.001(12).
- (r) *Sales factor*. The sales factor is a fraction the numerator of which is the total sales of the applicant in this state during the taxable year or period and the denominator of which is the total sales of the Applicant everywhere during the taxable year or period, as defined in F. S. § 220.15(5).
- (s) *Tangible personal property* shall have the meaning set forth in F. S. § 192.001(11)(d).
- (t) *Violation of law*. A violation of any federal, state or local law which, in the sole discretion of the board, is sufficiently serious that it would not be in the best interests of the citizens of the county that the violator be granted or continue to receive the benefits of an exemption.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10; Ord. No. 2016-002, § 3, 3-2-16)

Section 1100.05. - Establishment of economic development ad valorem tax exemption.

- (a) Subject to the remaining provisions of this title, there is hereby established an economic development ad valorem tax exemption for certain ad valorem taxes levied by the county. The exemption is a local option tax incentive for a qualifying new business or expansion of an existing business which may be granted or refused at the sole discretion of the board.
- (b) At the sole discretion of the board, the exemption may be granted for (i) up to one hundred (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, and (ii) up to one hundred (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 day the exemption ordinance is adopted.
- (c) The term of the exemption shall be up to ten (10) years, as set forth in the exemption ordinance; provided, however, that the continuation of the exemption from year to year shall be contingent upon the applicant's continued compliance with the exemption requirements.
- (d) The exemption shall not apply to improvements to real property or to tangible personal property which were included on the tax rolls prior to the effective date of the exemption ordinance.
- (e) Property acquired to replace existing property shall not be considered to facilitate an expansion of an existing business.

- (f) No exemption shall be granted for the land upon which a new business or expansion of an existing business is to be located.
- (g) Any exemption granted for a new business or expansion of an existing business is transferable between businesses, provided, the transferee business (i) continues to comply with all exemption requirements; and (ii) assumes in writing all of the obligations of the transferor business under the exemption agreement.
- (h) The exemption shall apply only to taxes levied by the county, except that the exemption shall not apply to taxes levied for the payment of bonds, or to taxes authorized by a vote of the electors pursuant to Section 9(b) or Section 12 of Article VII of the Constitution of the State of Florida.
- (i) The exemption shall not be available to any business which, at any time within two (2) years prior to filing of the application, or at any time subsequent to filing of the application but prior to adoption of the exemption ordinance, was found guilty of a violation of law.
- (j) The decision of the board to grant or deny an exemption shall be a legislative decision. No precedent shall exist by reason of any decision to grant or deny an exemption.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10)

Section 1100.06. - Application for exemption.

- (a) Any business requesting an exemption shall file an application with the Indian River County Community Development Department.
- (b) The application must be filed no later than March 1 of the year in which the exemption is desired to take effect.
- (c) There shall be no fee for filing the application.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10)

Section 1100.07. - Consideration of application.

- (a) Within ten (10) days of receipt of a completed application, the director shall review the application and determine whether it facially meets all requirements to qualify for an exemption. If the director determines that the application facially does not meet all requirements to qualify for an exemption, the director shall so notify the applicant in writing and the applicant will have thirty (30) days from the date of such notice to appeal the director's determination directly to the board.
- (b) If the director determines that the application facially does meet all requirements to qualify for an exemption, the director shall promptly deliver a copy of the application to (1) the property appraiser who, within thirty (30) days of receipt, shall provide a report as set forth in subsection (c) below, (2) the Indian River County Economic Development Council which, within thirty (30) days of receipt, shall provide written comments, if any, (3) the Indian River County Chamber of Commerce which, within thirty (30) days of receipt, shall provide a report of the positive economic impacts of the proposed new business or expansion of an existing business, and (4) if applicable, any incorporated municipality, Community Development Agency, Brownfield Area Advisory Committee, or other such agency or committee having jurisdiction with respect to the subject real property. Within thirty (30) days of receipt, such municipality, agency or committee shall provide written comments, if any. All written comments shall be provided to the director. Within sixty (60) days of receipt of the completed application, the director, consulting with other departments of the county as necessary, shall conduct an analysis of the application and prepare a written recommendation to the board.
- (c) The property appraiser's report shall include the following:

- (1) 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 revenue available cannot be determined;
 - (2) Any revenue lost to the county 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;
 - (3) An estimate of the revenue which would be lost to the county 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, as defined in F.S. § 196.012(15) or (16) 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/her such information as it may have available to assist in making such determination.
- (d) Within thirty (30) days of completion of the reports or comments set forth in subsections (b) and (c) above, the director shall present the application to the board together with the property appraiser's report, the director's analysis and recommendation, and any written comments received. Based upon the materials received, and applying the guidelines set forth in subsection (e) below, the board shall decide in its sole discretion either to proceed forward toward the adoption of an ordinance granting the exemption, or to deny the application.
- (e) Any recommendation of the director or decision of the board shall take into consideration the following factors:
- (1) The number of new jobs projected to be established in the county;
 - (2) The average wage paid with respect to the new jobs;
 - (3) The estimated amount of capital investment to be made by the business in the county;
 - (4) The extent to which the business may qualify as:
 - (i) An innovation business, as defined in F.S. § 288.1089(2)(j);
 - (ii) A business in a targeted industry as identified from time to time by the board; or
 - (iii) A business which may otherwise encourage the location or expansion of other businesses in the county;
 - (5) The extent to which the business is likely to procure materials or supplies from local businesses;
 - (6) The net positive contribution to the local economy.

In addition to the above factors, the board may consider any other activity or factor that relates to economic development within the county.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10)

Section 1100.08. - Ordinance granting exemption.

An exemption ordinance shall be adopted in the same manner as any other ordinance of the county, 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 from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county for the current fiscal year by virtue of

exemptions currently in effect, and the estimated revenue loss to the county for the current fiscal year attributable to the exemption of the business named in the ordinance;

- (c) The amount of the exemption, stated as a percentage of the assessed value of all improvements or tangible personal property subject to the exemption;
- (d) The period of time for which the exemption will remain in effect and the expiration date of the exemption; and
- (e) A finding that the business named in the exemption ordinance meets the requirements of F.S. § 196.012(15) or (16).

(Ord. No. 2010-014, §§ 1, 2, 6-22-10)

Section 1100.09. - Exemption agreement.

No Exemption granted hereunder shall be effective until the business enters into an exemption agreement with the county. The exemption agreement shall contain:

- (1) A clear acknowledgment by the business that the exemption shall continue to exist only for so long as the business continues to meet all exemption requirements; and
- (2) Such other matters required by the county.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10)

Section 1100.10. - Continuing performance.

- (a) The business shall continue to meet all exemption requirements during the term of the exemption;
- (b) No later than March 1 of each year during the term of the exemption, the business shall provide an annual report to the director which shall certify and, if requested by the director, contain satisfactory proof, that the business continues to meet all exemption requirements;
- (c) The business shall timely comply with all requirements of F.S. § 196.011, during the term of the exemption; and
- (d) The business shall immediately advise the county of any failure by the business to meet all exemption requirements.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10)

Section 1100.11. - Revocation of exemption.

- (a) The board may revoke or revise the exemption at any time if the board determines in its sole discretion that (1) the business no longer meets all of the exemption requirements, (2) the application or any annual report contains a material false statement, such that the exemption likely would not have been granted or continued if the true facts had been known, or (3) the business is found guilty of a violation of law; and
- (b) If it is determined that the business was not in fact entitled to an exemption in any year for which the business received an exemption, the county, property appraiser or tax collector shall be entitled to recover all taxes not paid 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.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10)

Section 1100.12. - Applicability.

This title shall be applicable throughout the incorporated and unincorporated areas of Indian River County.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10)

Section 1100.13. - Sunset date.

Pursuant to F.S. § 196.1995, this title shall expire on November 3, 2030, ten (10) years after the date such authority to grant exemptions was submitted to the electors of the county voting in a referendum. The expiration of the title shall not affect the continued existence of any exemption granted prior to November 3, 2030.

(Ord. No. 2010-014, §§ 1, 2, 6-22-10; Ord. No. 2020-008, § 2, 7-14-20)

Section 1100.14 - Economic development ad valorem tax exemption granted to Ineos New Planet Bioenergy, LLC ("business").

- (1) An economic development ad valorem tax exemption is hereby granted to business whose address is 925 74th Avenue SW, Vero Beach, Florida. The exemption shall apply to its new improvements to real property and its new tangible personal property related to its new business located at 925 74th Avenue SW, Vero Beach, Florida. This exemption shall apply only to the improvements to real property and the tangible personal property described in business' application for such exemption, on file in the county community development department.
- (2) The exemption shall be for a term of ten (10) years commencing in 2013, the first year the new improvements and new tangible personal property will be added to the assessment roll. The amount of the exemption shall be a specified percentage of county ad valorem taxes for the general fund. Municipal services taxing units, and emergency services district which would otherwise be due with respect to the new improvements and new tangible personal property in the absence of the exemption. The approved exemption percentages are, as follows:

Year 1	(January 1, 2013 tax roll)	.....100%
Year 2	(January 1, 2014 tax roll)	.....100%
Year 3	(January 1, 2015 tax roll)	.....100%
Year 4	(January 1, 2016 tax roll)	.....90%
Year 5	(January 1, 2017 tax roll)	.....80%
Year 6	(January 1, 2018 tax roll)	.....70%
Year 7	(January 1, 2019 tax roll)	.....60%
Year 8	(January 1, 2020 tax roll)	.....50%
Year 9	(January 1, 2021 tax roll)	.....40%
Year 10	(January 1, 2020 tax roll)	.....30%
- (3) The total amount of revenue available to the county from ad valorem tax sources for the current fiscal year is seventy-two million, eight hundred forty-five thousand, six hundred sixty dollars (\$72,845,660.00); the total amount of revenue lost to the county for the current fiscal year by virtue of

economic development ad valorem tax exemptions currently in effect is \$0.00; and the estimated revenue loss to the county for the current fiscal year if the exemption's first year had been in effect is one hundred ninety-three thousand, nine hundred fifty-one dollars (\$193,951.00).

- (4) The exemption shall be subject to all provisions set forth in sections 1100.01 through 1100.13. Without limitation, the continuation of the exemption shall be contingent upon business' compliance with section 1100.10 relating to "continuing performance."
- (5) The board specifically finds that business meets the requirements of F.S. § 196.012(15).

(Ord. No. 2011-011, § 3, 12-20-11)

Section 1100.15. - Economic development ad valorem tax exemption granted to PCP Tactical, LLC ("business").

- (1) An economic development ad valorem tax exemption is hereby granted to business whose address is 3895 39th Square, Vero Beach, FL 32960. The exemption shall apply to its new improvements to real property and its new tangible personal property related to planned expansion of its existing business to be located at 4155 49th Avenue, Vero Beach, Florida, 32967, described as lots 2, 3, and 4, Indian River Industrial Center, according to the plat thereof recorded in Plat Book 23, Page 9, of the Public Records of Indian River County, Florida. This exemption shall apply only to the improvements to real property and the tangible personal property described in business' application for such exemption.
- (2) The exemption shall be for a term of ten (10) years commencing with the first year the new improvements or new tangible personal property are added to the assessment roll. The amount of the exemption shall be a specified percentage of county ad valorem taxes for the general fund, municipal services taxing units, and emergency services district, which would otherwise be due with respect to the new improvements or new tangible personal property in the absence of the exemption. The approved exemption percentages are, as follows:
 - Year 1 (January 1, 2023 tax roll)100%
 - Year 2 (January 1, 2024 tax roll)100%
 - Year 3 (January 1, 2025 tax roll)100%
 - Year 4 (January 1, 2026 tax roll)90%
 - Year 5 (January 1, 2027 tax roll)80%
 - Year 6 (January 1, 2028 tax roll)70%
 - Year 7 (January 1, 2029 tax roll)60%
 - Year 8 (January 1, 2030 tax roll)50%
 - Year 9 (January 1, 2031 tax roll)40%
 - Year 10 (January 1, 2032 tax roll)30%
- (3) On or before January 15th of each year, beginning in 2023, PCP Tactical, LLC shall submit to the county community development department an annual report providing evidence of continued compliance with the definition of an expanding business and the Indian River County Ad Valorem Tax Abatement Application Scoring Guidelines used to set the exemption percentages set forth above for each of the ten years during which PCP Tactical, LLC is eligible to receive ad valorem tax exemption. If the annual report is not received, or if the annual report indicates PCP Tactical, LLC no longer meets the criteria of F.S. § 196.012, or no longer meets the Indian River County Ad Valorem Tax Abatement

Application Scoring Guidelines used to set the exemption percentages set forth above, the county community development director shall make a report to the board of county commissioners for consideration of revocation or reduction of the tax exemption awarded under this section.

- (4) The total amount of revenue available to the county from ad valorem tax sources for the current fiscal year is one hundred nineteen million, seven hundred ninety-six thousand, three hundred fifty-two dollars (\$119,796,352.00); the total amount of revenue lost to the county for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect is zero dollars (\$0.00); and the estimated revenue loss to the county for the current fiscal year attributable to the exemption granted in this section is zero dollars (\$0.00). The estimated revenue loss to the county for fiscal year 2023 is twenty-six thousand, eight hundred sixty-five dollars and seven cents (\$26,865.07).
- (5) The exemption shall be subject to all provisions set forth in sections 1100.01 through 1100.13. Without limitation, the continuation of the exemption shall be contingent upon business' compliance with section 1100.10 relating to "continuing performance."
- (6) The board specifically finds that business meets the requirements of F.S. § 196.012(15).

(Ord. No. 2020-014, § 3, 10-28-20)