

10/15/2009 / 5:32pm PH

ORDINANCE NUMBER 2009- 36

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA CREATING A NEW CHAPTER 78, ARTICLE IX, SECTIONS 78-316 THROUGH 78-322 OF THE ESCAMBIA COUNTY CODE OF ORDINANCES; ESTABLISHING A LAND PURCHASE INCENTIVE PROGRAM FOR THE PURCHASE OF COUNTY OWNED INDUSTRIAL PROPERTY; PROVIDING FOR DEFINITIONS; PROVIDING FOR INCENTIVE ELIGIBILITY CRITERIA; PROVIDING FOR AMOUNT OF INCENTIVE; PROVIDING FOR PROGRAM ADMINISTRATION; PROVIDING FOR AGENT/BROKER COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, this ordinance is enacted pursuant to the authority granted to the Board of County Commissioners under Article VIII, Section 1(f) of the Florida Constitution, Section 125.01(1) (w), Florida Statutes, and Section 125.045(2) and (3), Florida Statutes; and

**WHEREAS**, the Board of County Commissioners finds that attracting, retaining, and providing favorable conditions for the growth of qualified businesses provides employment opportunities, enhances the economic tax base of the County, and increases the standard of living; and

**WHEREAS**, it is the policy of Escambia County and the goal of this ordinance to encourage economic activity within the County; and

**WHEREAS**, the Board of County Commissioners finds the economic well-being of the citizens of Escambia County and the economic resources of Escambia County would be enhanced by the provision of a land purchase incentive program for the purchase of certain County owned industrial property by qualifying businesses; and

**WHEREAS**, the Board of County Commissioners further finds a land purchase incentive program consistent with the provisions of this ordinance serves a vital public purpose and is in the best interest of the health, safety, and welfare of the citizens of Escambia County.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:**

**Section 1.** Chapter 78, Article IX, Sections 78-316 through 78-322 of the Code of Ordinances of Escambia County, Florida are hereby created to read as follows:

Date: 10/16/2009  
Verified By: K. Ward

## **Sec. 78-316. Land Purchase Incentive Program Established.**

The County hereby establishes the "Land Purchase Incentive Program" and this ordinance shall be known as the "Land Purchase Incentive Program Ordinance."

## **Sec. 78-317. Definitions.**

- (a) *Average annual wage* means the annual average wage established by the Florida Agency for Workforce Innovation (AWI) and utilized by Florida Enterprise, Inc. When calculating the average wage a proposed project will generate, all new jobs created by the project shall be considered as well as any existing jobs in Escambia County.
- (b) *Business or industry* means any business entity authorized to do business in this state and Escambia County, including all members of an affiliated group of corporations as defined in § 220.03(1)(b), Florida Statutes.
- (c) *Expansion of an existing business or industry* means the expansion of a business or industry by or through additions to real and personal property on a site co-located with a target industry or business operation owned by the same owner.
- (d) *Jobs* means full-time equivalent positions, as such terms are consistent with terms used by the Florida Department of Labor and Employment Security and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation. Special emphasis will be made to create jobs that provide health care and other benefits to full time employees. Jobs shall not include temporary construction jobs involved with the construction of facilities for the project or any jobs which have previously been included in any application for benefits in this Ordinance.
- (e) *New business* is a business or industry which heretofore did not exist in Escambia County, and first begins its operations on a site located in the County that is clearly separate from any other operation owned by the same business or industry that has been in existence less than 12 months and has not existed in another form with the same principals or products and is not an expansion of a company presently in operation in Escambia County.
- (f) *Project* means the creation of a new target business or industry or the expansion of an existing target business or industry.

- (g) *Target areas* shall mean areas specifically identified by the Board of County Commissioners, including, but not limited to, Community Development Block Grant Areas, Enterprise Zones and Community Redevelopment Areas.
- (h) *Target business or industry* shall mean business enterprises identified in Section 78-304 of the Code of Ordinances of Escambia County, Florida and identified pursuant to criteria developed by the Board of County Commissioners, and also as identified by the County's designated Lead Economic Development Entity. The Board may revise or augment and adopt the list annually by resolution.
- (i) *Small business* shall mean any business that does not employ over 500 full-time employees or a full-time equivalent (FTE) as defined by the US Department of Labor.

**Sec. 78-318. Minimum Incentive Eligibility Criteria.**

The following criteria may be applied as a basis for determining land purchase incentives for qualifying businesses in the form of discounts to the purchase price of certain County owned industrial property:

- (a) Minimum average wage:

New or Expanding Businesses = 100% or more of Escambia County's Average Annual Wage. Benefits are not included as part of the wage.

Exceptions to the minimum average wage requirement may be approved on a case-by-case basis by the Board of County Commissioners.

- (b) Minimum number of jobs created or retained:

Expanding business = 10 new jobs within one year;  
New business = 10 new jobs within two years.

- (c) The grantee must be designated as a target industry or business by the Board of County Commissioners pursuant to an adopted resolution.

Non-targeted industries may be eligible for consideration if proposed expansion or relocation is scheduled to occur within targeted areas (i.e., CRA areas, Enterprise Zones, other areas

identified by the Board of County Commissioners) pursuant to an adopted Resolution.

- (d) New jobs created must be permanent, full-time positions with employer paid benefits including, but not limited to, health insurance and retirement benefits, or the option to purchase health insurance and retirement benefits.
- (e) New jobs must be created and retained for a period of at least three (3) years from grant award.
- (f) Business must generate at least 51% of its revenue outside of Escambia County.
- (g) Business must either provide and fund employee health insurance and retirement benefits or provide employees the opportunity to purchase said benefits.

**Sec. 78-319. Amount of Incentive.**

- (a) Amount. The amount of the land purchase incentive shall be determined using the "incentive matrix" set forth in Table 1 [attached to Ordinance 2009-\_\_\_ and incorporated herein by reference].
- (b) Incentive Matrix. The incentive matrix shall provide a weighted point system for determining land purchase incentives for qualifying businesses in the form of discounts to the purchase price of certain County owned industrial property.
- (c) Fiscal year. All calculations shall be based on the County's fiscal year.
- (d) Bonuses. A business may be eligible to increase the incentive amount by meeting one or more bonus conditions as set forth in Table 2 [attached to Ordinance 2009-\_\_\_ and incorporated herein by reference].
- (e) Nothing herein shall be construed to obligate Escambia County to provide land purchase incentives as set forth herein. The Escambia County Board of County Commissioners shall have the sole discretion to determine the eligibility of each applicant including the appropriate incentive amount.

**Sec. 78-320. Review of Land Purchase Incentive Applications.**

- (a) Applicants may make application for land purchase incentives with Escambia County's Lead Economic Development Entity. The Lead Economic Development Entity will review the application and make recommendations to the County Administrator with regard to the application. Recommendations shall be made as to whether the incentive application shall be approved and, if so, the amount and conditions to be placed on the incentive. The review shall include a recommendation from the County Administrator. The recommendations shall be provided to the Board of County Commissioners for approval or denial of the application.
- (b) The Lead Economic Development Entity is responsible for providing the County Commission with a report on each application. The Lead Economic Development Entity shall also provide the Board of County Commissioners with periodic reports providing for the monitoring of recipient contracts, new jobs created and, included in such reports, shall be an analysis relating to the success of the Economic Development Program. Such reports shall be reviewed by the County's Management and Budget Services Bureau Chief.
- (c) The incentive application shall be made on an application form approved by the County.
- (d) The applicant shall be required to submit the following information and materials:
  - (1) Detailed project description including anticipated development time frame;
  - (2) Anticipated number of employees and hiring time frames;
  - (3) Number and types of jobs with average salaries and benefits packages;
  - (4) Proof of ability to execute the project under review by providing proof of experience with similar projects in the same industry and/or current income statements and balance sheets. Income statements and balance sheets for the previous two years and applicable bank references shall also be provided upon request; and
  - (5) Other submissions including, but not limited to, financial records, contractual agreements, statements, and affidavits

which are deemed relevant and necessary to review the viability of an application.

**Sec. 78-321. Land Purchase Incentive Agreements.**

1. (a) Each applicant that is approved for an incentive shall execute an incentive agreement. In addition to implementing the award criteria set forth in Section 78-318 each agreement shall specify the criteria and time frames for meeting eligibility requirements. The County shall be provided annual audits and performance reports in a form satisfactory to the County which detail whether the criteria contained in the incentive agreement have been met.  
  
(b) An additional mandatory provision in each agreement shall be that repayment is required when a recipient fails to perform any condition of the agreement or violates any provision of law. The County may require security, in the form of irrevocable letters of credit or performance bonds, to ensure compliance with the terms and conditions of the incentive agreement and repayment in the event of non-compliance.
2. Should the grantee fail to comply with the terms and conditions of the incentive agreement, the County may terminate the agreement and impose sanctions including, but not limited to, a refund of the full incentive amount, reimbursement of all costs incurred in the processing and administration of the project and debarment from participation in future County Economic Development Programs.

**Sec. 78-322. Agent/Broker Commission.**

In the event an applicant/buyer is represented by a licensed Florida Real Estate Agent/Broker, the purchase price will be determined as set forth in Table 1 [attached to Ordinance 2009-\_\_\_ and incorporated herein by reference] and five percent (5%) of the non-discounted sales price will be paid to the Agent/Broker at the time of closing. Said commission paid to the applicant/buyer's Agent/Broker may be paid by County/seller from funds available in the Escambia County Economic Incentive Fund.

**Section 2. Severability.**

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 3. Inclusion in the Code.**

It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Escambia County Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

**Section 4. Effective Date.**

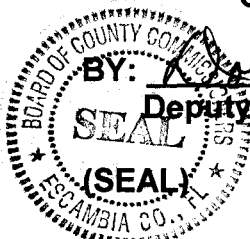
This Ordinance shall become effective upon filing with the Department of State.

**DONE AND ENACTED THIS 15th DAY OF October, 2009.**

**BOARD OF COUNTY COMMISSIONERS  
ESCAMBIA COUNTY, FLORIDA**

BY: Marie Young  
**Marie Young, Chairman**

**ATTEST: ERNIE LEE MAGAHA  
Clerk to the Circuit Court**



BY: Ernie Lee Magaha  
**Deputy Clerk**

Date Executed

10-15-2009

**Enacted: October 15, 2009  
Filed with Department of State: October 20, 2009  
Effective: October 20, 2009**

This document approved as to form and legal sufficiency.

By: Kristin Hual  
Title: Attorney  
Date: 4/22/09

**TABLE 1.**  
**INCENTIVE MATRIX**

The following point system is proposed as a basis for establishing a standardized non arbitrary and non-discriminatory formula for evaluating land purchase incentives for qualifying businesses in the form of discounts to the purchase price of industrial property owned by Escambia County, Florida. This policy provides a weighted point system to discount the base price of County owned industrial property as it relates to the economic impact the proposed purchaser will have on the area. The base price is established through the normal County Property Appraisal process.

The point system is intended to provide a means of evaluating the impact of a proposed economic development project while maintaining flexibility in the evaluation process.

I. Total Capital Investment by Project:

Under \$1,000,000	0
\$1 – 5 Million	10
\$5 – 10 Million	13
\$10 – 15 Million	18
Greater than (>) \$15 Million	25

II. Number of New Escambia County Jobs Generated by New or Expanding Business:

Under 10	0
10-24	10
25-49	15
50-100	25
Greater than (>) 100	35

III. Average Wage Rate for New Employees at New or Expanding Business:

Below Current County Average	0
Average to 115%	5
115% to 135%	10
135% to 150%	20
150% to 175%	30
Greater than (>) 175%	40

Maximum number of points attainable: 100

A project that would create greater than (>) \$15 Million in new capital investment; greater than (>) 100 new Escambia County jobs and pay an average wage of greater than (>) 175% of the current Escambia County Average Wage would score the maximum of 100 points and be eligible for a 100% discount of land cost. A project scoring 25 points would be eligible for a 25% discount of land cost.

**TABLE 2.**

<b>Bonus Condition</b>	<b>Points</b>
Business pays for employee's health insurance for new or retained jobs	3
Business pays for a portion or all of employee's retirement for new or retained jobs	2
Business offers tuition reimbursement to employees for new or retained jobs	1
Business integrates pollution prevention and waste reduction with their technology and production processes	2
Business demonstrates significant corporate citizenship supported by a history of promoting volunteerism and financial participation in local charities or events	1
Business locates or expands in a Community Block Grant Target Area; Florida Enterprise Zone authorized under Florida Statutes, Chapter 290; or a Community Redevelopment Area authorized under Florida Statutes Chapter 163, Part III	5
Percentage of new jobs locally advertised and provided to Escambia County residents:	
Less than 25%	0
25%-50%	1
51% or 75%	2
More than 75%	3