

## **ORDINANCE NO. 2023-15**

**AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, CREATING SECTION 2-4 TO IMPLEMENT THE STATE'S STATUTORY MANDATE TO PREPARE BUSINESS IMPACT ESTIMATES PRIOR TO ADOPTION OF PROPOSED ORDINANCES PURSUANT TO SECTION 166.041(4), FLORIDA STATUTES; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SCRIVNERS ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Port Orange has been conferred broad legislative powers to enact ordinances to perform governmental functions and exercise power to promote the health, welfare, safety, and quality of life of a local government's residents by both the Florida Constitution and the Florida Legislature;

**WHEREAS**, the procedures for adopting municipal ordinances are set forth in Section 166.041, Florida Statutes;

**WHEREAS**, the Florida Constitution grants cities broad authority to take actions furthering citizens' health, welfare, safety, and quality of life called "home rule," and this authority includes legislative powers to enact local laws;

**WHEREAS**, Florida cities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide municipal services, and exercise any power for municipal purposes, except as otherwise provided by law.

**WHEREAS**, the Florida Legislature adopted a statutory mandate that, beginning October 1, 2023, cities must produce a "business impact estimate" prior to passing an ordinance, subject to certain exemptions and exceptions;

**WHEREAS**, the statute (Chapter 2023-309, Laws of Florida, codified as Section 166.041(4), Florida Statutes) mandates that the estimate must be

published on the city's website and include certain information, such as the proposed ordinance's purpose, estimated economic impact on businesses, and compliance costs;

**WHEREAS**, the state has created a number of exemptions for certain specified ordinances, including:

- Ordinances required to comply with federal or state laws or regulations
- Ordinances relating to the issuance or refinancing of debt
- Ordinances relating to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget
- Ordinances required to implement a contract or agreement, including grants or financial assistance
- Emergency ordinances
- Ordinances relating to procurement
- Ordinances enacted to Implement: Part II, Ch. 163, including land development regulations, zoning, development orders, development agreements, and development permits; Sections 190.005 and 190.046 (CDDs); the Florida Building Code; the Florida Fire Prevention Code.

**WHEREAS**, the City Council has provided all necessary public notice and held the requisite public hearings, providing the public an opportunity to be heard for purposes of making these findings and determining to adopt this ordinance;

**WHEREAS**, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AS FOLLOWS:**

**SECTION 1. RECITALS.** The foregoing findings are incorporated herein by reference and made a part hereof.

**SECTION 2. CREATION OF SECTION 2-4, CODE OF ORDINANCES: IMPLEMENTATION OF STATUTORY MANDATE TO PERFORM BUSINESS IMPACT ESTIMATES.**

The City Council of the City of Port Orange, Florida, hereby amends Chapter 2, Article I of the Code of Ordinances to establish a new section, 2-4 which shall read as follows:

**Sec. 2-4. Implementation of Statutory Mandate to Perform Business Impact Estimates.** The city council hereby implements the Florida statutory mandate contained in Section 166.041(4), Florida Statutes, to perform business impact estimates prior to the adoption of certain ordinances as specified in the statute. Prior to the enactment of a proposed ordinance, city council, by and through the city manager or their designee, shall cause to be prepared a business impact estimate in accordance with the requirements of the statute for all proposed ordinances not exempted by Section 166.041(4)(c), Florida Statutes, on a form approved by the city attorney and may in the city manager's sole discretion determine to perform a business impact statement for any ordinance that is exempt under the statute. The business impact estimate must be posted on the city's website no later than at least 10 days prior to adoption of said ordinance. Nothing contained herein is intended to create additional mandates for performing the business impact estimates of exempt ordinances or to waive any exemption.

**SECTION 3.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION 4.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provision or applications of this ordinance which can be given effect without the invalid provision or application, and to this and the provisions of this ordinance are declared severable.

**SECTION 5.** Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected.

**SECTION 6.** This ordinance shall take effect upon adoption.

  
MAYOR DONALD O. BURNETTE

ATTEST:

  
Robin L. Fenwick, MMC, City Clerk



Passed on first reading on the 3 day of October, 2023.

Passed and adopted on second and final reading on the 17 day of October, 2023.

Reviewed and Approved:   
Shannon K. Balmer, Assistant City Attorney