

**ORDINANCE NO. 4019-A**

**AN ORDINANCE AMENDING THE CITY OF MUSKOGEE CODE OF ORDINANCES BY AMENDING CHAPTER 74, TAXATION, ARTICLE VIII, USE TAX, BY AMENDING SECTION 74-237, ECONOMIC DEVELOPMENT FUND, MODIFYING APPORTIONMENT OF TAX TO THE ECONOMIC DEVELOPMENT FUND GENERAL ACCOUNT AND THE ECONOMIC OPPORTUNITY ACCOUNT FOR FISCAL YEAR 2018 ONLY; ADDING AUTHORIZATION FOR EXPENDITURES FOR DEBT SERVICE ON ECONOMIC DEVELOPMENT PROJECTS; ADDING AUTHORIZATION FOR PAYMENT OF LEVIED TAXES ON BEHALF OF THE CITY OF MUSKOGEE URBAN RENEWAL AUTHORITY; PROVIDING FOR REPEALER, SEVERABILITY AND DECLARING AN EMERGENCY.**

**AN EMERGENCY ORDINANCE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, AS FOLLOWS:**

Section 1. Section 74-237, Economic Development Fund, in the City of Muskogee Code of Ordinances is hereby amended as follows:

Sec. 74-237. - Economic development fund.

- (a) There is hereby created an "economic development fund" for the city as fund is defined in section 2-551 of the Code. The fund shall consist of all monies, including interest thereon, deposited therein pursuant to section 74-236 and as may from time to time be appropriated by the city council. The monies accruing to the credit of the fund may be budgeted and expended only for the following purposes:
- (1) To provide revenue to provide incentives to be used to create new jobs and retain existing jobs for high-impact business projects as defined below;
  - (2) To pay for debt service on obligations issued to assist in the establishment of manufacturing or distribution facilities;
  - (3) To fund job creation incentives and capital improvements, including the acquisition of land and facilities;
  - (4) To fund infrastructure improvements serving the proposed development area;
  - (5) To fund marketing of the city to prospective companies or to implement such program through contractual services with other agencies; and
  - (6) To provide for necessary city staff or consultants and supplies to implement this activity.
- (b) Within the economic development fund there shall be a general account. The account shall consist of all such monies, including interest thereon, deposited therein pursuant to this

section. Monies accruing to the credit of the general account may be budgeted and expended for any purpose of the economic development fund.

- (c) Within the economic development fund there shall be an economic opportunity account. The account shall consist of all such monies, including interest thereon, deposited therein pursuant to this section. Monies accruing to the credit of the economic opportunity account may be budgeted and expended for only those purposes set out in subsection (1) below.
  - (1) a. For the purpose of assisting in the development of a high-impact business project or facility or retaining such project or facility, a high-impact business project is defined as a retail or nonretail development activity that creates new, high-skill, high-wage jobs which foster the sound growth of the local economy. "New jobs" includes both the expansion of existing local firms, as well as relocation of firms from outside the area;
  - b. For the purpose of assisting in the development or redevelopment activities located in areas targeted for development and redevelopment in the city's comprehensive plan, such as, but not limited to, blighted areas or urban renewal project areas; or
  - c. For the purpose of assisting in projects that will make a unique or unequaled contribution to development or redevelopment efforts in the city, due to the project's magnitude, significance to the community or aesthetic quality.
- (2) A two-thirds majority vote (six votes) of all the members of the city council is required to authorize any expenditure of monies from the economic opportunity account.
- (3) The city council shall not consider approval of any payments from the economic opportunity account unless the city has received the following information, as appropriate, and presented the same to the city council:
  - a. The number of jobs created by a new business establishment;
  - b. The number of jobs retained by the existing business establishment;
  - c. The average salary of jobs to be created by a new establishment;
  - d. The average salary of jobs to be retained by an existing business;
  - e. The total capital investment to be made by the business establishment;
  - f. The likelihood of other business establishments locating within the same vicinity or within the Muskogee metropolitan area as a result of the business activity; and
  - g. Such other factors as the city council may determine to be relevant including, but not limited to:
    - 1. Cost of the development assistance (including labor costs of city staff);
    - 2. Cost of city services such as police and fire;
    - 3. Wear and tear on city streets and roads serving the proposed development;
    - 4. Increased burden on water, sewer and storm systems;
    - 5. Estimated "transfer losses" from existing merchants.

- (d) For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, all revenue deposited within the economic development fund shall be distributed and apportioned monthly as follows:
- (1) Sixty percent shall be deposited into the general account; and
  - (2) Forty percent shall be deposited into the economic opportunity account until such time as the amount of said account equals \$5,000,000.00. All monies directed to the economic opportunity account by this subsection not necessary to maintain this balance shall be deposited into the general fund of the city.
  - (3) For a one-year period only, beginning July 1, 2017, the distribution referenced in subsections (1) and (2) shall be modified as follows:
    - (i) Seventy-Five percent shall be deposited into the general account; and
    - (ii) Twenty-Five percent shall be deposited into the economic opportunity account.
- (e) All monies accruing to the credit of the economic development fund that are not expended by the end of the then current fiscal year shall be redeposit within said fund for use in the next fiscal year.
- (f) Amounts set aside in the city budget as "economic development fund" may be expended for purposes other than those established in subsections (a), (b) and (c) of this section only when certain specific circumstances exist. The circumstances requiring the expenditure of economic development funds are not expected to recur on a routine basis. The circumstances when it is necessary to appropriate or spend economic development fund amounts are subject to the objective criteria outlining the parameters of acceptable uses of these funds are as follows and must be declared by a two-thirds majority vote of all of the members of the governing body establishing that one or more of the criteria listed below exists:
- (1) Expenditures for emergency situations as defined above for life, health, or public safety issues for which no existing appropriation exists;
  - (2) Situations where an expense or unexpected revenue decline or arises that could not have reasonably been foreseen, and for which new revenue is not available to offset and transfers of existing appropriations are not considered feasible or appropriate in maintaining existing service levels;
  - (3) Situations where the proposed use is of a nonoperational nature involving capital or equipment purchases having a useful life of greater than five years;
  - (4) Situations where the proposed use is of a nonrecurring nature, such as a study, or for start-up costs of a program whose ongoing costs are otherwise funded;
  - (5) To temporarily satisfy a judgment from a court of competent jurisdiction that will be reimbursed from property tax levies; ;
  - (6) To pay debt service on economic development projects;
  - (7) To pay levies of ad valorem taxes on behalf of the City of Muskogee Urban Renewal Authority.

Section 2. REPEALER. All other ordinances or parts of ordinances in direct conflict herewith are repealed to the extent of the conflict only.

Section 3. SEVERABILITY. Should any part section, subsection, sentence, provision, clause or phrase hereof be held invalid, void, or unconstitutional for any reason, such holding shall not render invalid, void, or unconstitutional any other section, subsection, sentence, provision, clause, or phrase of this ordinance, and the same are deemed severable for this purpose.

Section 4. EMERGENCY. This ordinance being designated to protect the public health, safety and welfare of the inhabitants of the City of Muskogee, Oklahoma, and its passage being immediately necessary, an emergency is hereby declared to exist and by reason whereof this ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE,  
OKLAHOMA, THIS 22ND DAY OF MAY, 2017.

CITY OF MUSKOGEE

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JOHN R. COBURN, MAYOR

ATTEST:

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TAMMY TRACY, CITY CLERK

(seal)

Approved as to form and legality this 22nd day of May, 2017.

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ROY TUCKER, CITY ATTORNEY