

From: [Harris, Whitley](#)
To: [Heidi Kurppe](#)
Cc: [County Ordinances](#)
Subject: [EXT.] -
Date: Tuesday, June 8, 2021 4:21:53 PM
Attachments: [Hernando20210608_Ordinance2021_10_Ack.pdf](#)



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

June 8, 2021

Honorable Doug Chorvat, Jr.
Hernando County Clerk's Office
20 North Main Street, Rm. 362
Brooksville, Florida 34601

Attention: Ms. Heidi Kurppe, Deputy Clerk

Dear Mr. Chorvat:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2021-10, which was filed in this office on June 8, 2021.

Sincerely,

Anya Grosenbaugh
Program Administrator

AG/lb

ORDINANCE NO.: 2021 -10

AN ORDINANCE CREATING A NEW ARTICLE III OF HERNANDO COUNTY CODE CHAPTER 11.5, ECONOMIC DEVELOPMENT; CREATING THE “ECONOMIC DEVELOPMENT INVESTMENT INCENTIVE PROGRAM”; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Hernando County, Florida (the “Board”), has made economic development a top priority and is committed to the attraction of high quality development in all areas of the county to expand and diversify the commercial tax base and create high-wage jobs for its citizens; and,

WHEREAS, success in economic development will ensure Hernando County’s long-term financial ability to provide quality services and infrastructure to improve the quality of life for its residential and corporate citizens; and,

WHEREAS, Fla. Stat. § 125.045 authorizes boards of county commissioners to make grants to private enterprises to encourage the expansion of existing businesses or the attraction of new businesses to a community; and,

WHEREAS, on October 21, 2008, the Board enacted Ordinance 2008-21, now codified as Article II of Hernando County Code Chapter 11.5, which created the Hernando County Targeted Industry Job Creation and Incentive Program, pursuant to which the Board awards incentives to targeted industries to locate, relocate or expand within Hernando County; and,

1 WHEREAS, the Board desires to augment the Hernando County Targeted Industry Job
2 Creation and Incentive Program by creating a second business incentive program that is specifically
3 designed to encourage private businesses to make capital investments in assets that are located
4 within Hernando County.

5 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
6 COMMISSIONERS OF HERNANDO COUNTY:

7 **Section 1. Enactment of a New Article III of Hernando County Code Chapter 11.5**

8 A new Article III of Hernando County Code Chapter 11.5, to be entitled “Economic
9 Development Investment Incentive Program,” is hereby created to read as follows:

10 **Short Title**

11 This article shall be entitled the “Hernando County Economic Development
12 Investment Incentive Program Ordinance.”

13 **Statement of Statutory Authority**

14 The Board enacts this article pursuant to Fla. Stat. § 125.045, which authorizes
15 boards of county commissioners to enter into contracts with business entities
16 providing for grant funding and other measures in support of economic development
17 within their respective counties.

18 **Statement of Legislative Purpose and Intent**

19 The Board has enacted this Article for the purpose of creating an incentive to private
20 industries to make capital investments and create quality jobs in Hernando County

1 by helping to defray the cost of capital investments that increase the taxable value of
2 real and tangible property.

3 **Creation of the Economic Development Investment Incentive Program**

4 The Economic Development Investment Incentive Program is hereby created as a
5 mechanism by which Hernando County can provide grants to both new and existing
6 businesses engaged in certain targeted industries to provide funding for capital
7 investments in commercial projects, the completion of which will increase Hernando
8 County's ad valorem real property and tangible personal property tax bases.

9 **Definitions**

10 As used in this Article, the following words and phrases will have the following
11 meanings, unless the context clearly indicates otherwise:

12 *Ad Valorem Tax* means a tax based upon the assessed value of either real property or
13 tangible personal property.

14 *Applicant* means a natural person or business entity that submits an application for
15 an Economic Development Investment Incentive Grant pursuant to this Program.

16 *Application* means an application for a Economic Development Investment Incentive
17 Grant.

18 *Average Annual Wage*, or *AAW*, shall have the same meaning as provided for in
19 Hernando County Code § 11.5-28, as it may be amended from time-to-time.

1 Base Year means the tax year during which construction of the Capital Investment
2 Project described in the Application commences.

3 Base Year Taxable Value means the value of real and/or tangible personal property
4 owned by an applicant for assistance under this article as determined by the Hernando
5 County Property Appraiser during the base year.

6 Board means the Board of County Commissioners of Hernando County, Florida.

7 Capital Investment Project, or Project, means a plan of investment at a project site
8 for the acquisition, construction, renovation, or repair of buildings, machinery, or
9 equipment, or for capitalized costs of basic research and new product development
10 determined in accordance with generally accepted accounting principles, the
11 completion of which will result in an increase in *ad valorem* taxes on real property
12 or tangible personal property.

13 Confidentiality Provisions means the provisions of Section 288.075, Florida Statutes,
14 regarding the confidentiality of information concerning an Applicant's plans,
15 intentions, or interests to locate, relocate, or expand any of its business activities
16 within the County.

17 County means Hernando County, a political subdivision of the State of Florida.

18 County Administrator means the individual appointed by the Board to be the
19 administrative head of the County pursuant to Hernando County Code § 2-28 and
20 Fla. Stat. § 125.73.

1 Director means the Hernando County Director of Economic Development.

2 Fiscal Year means the Hernando County Fiscal Year, which runs from October 1 to
3 September 30 each year.

4 Full-Time Equivalent (FTE) Jobs means full-time equivalent positions, as defined by
5 the Florida Department of Economic Opportunity for purposes of unemployment
6 compensation tax administration and employment estimation, resulting directly from
7 a Project in the County. This term does not include temporary construction jobs
8 involved in the construction of facilities for the Project or any jobs which have
9 previously been included in any application for tax refunds under Sections 288.1045
10 or 288.106, Florida Statutes.

11 Grant means an Economic Development Investment Incentive Grant that is awarded
12 pursuant to the Program.

13 Grant Agreement, or Agreement, means a written agreement between the County and
14 the recipient of an Economic Development Investment Incentive Grant.

15 Grant Recipient, or Recipient, means an applicant to which the County has awarded
16 an Economic Development Investment Incentive Grant.

17 Office of Economic Development, or Department, shall have the same meaning as
18 provided for in Hernando County Code § 11.5-28, as it may be amended from time-
19 to-time.

20 Program means the Hernando County Business Incentive Program.

1 Real Property shall have the same meaning as provided for in Fla. Stat. §
2 192.001(12), as it may be amended from time-to-time.

3 Real Property Assessment Roll shall mean the roll annually prepared by each
4 property appraiser pursuant to Fla. Stat. § 193.114(2) and Rules 12D-8.007 and 12D-
5 8.008, Florida Administrative Code, as they may be amended from time-to-time.

6 Qualified Targeted Industry shall have the same meaning as provided for in
7 Hernando County Code § 11.5-28, as it may be amended from time-to-time.

8 Tangible Personal Property shall have the same meaning as provided for in Fla. Stat.
9 § 192.001(11)(d), as it may be amended from time-to-time.

10 Targeted Industry shall have the same meaning as provided for in Hernando County
11 Code § 11.5-28, as it may be amended from time-to-time.

12 Taxable Value shall have the same meaning as provided for in Rule 12D-8.007(2)(d),
13 Florida Administrative Code, as it may be amended from time-to-time.

14 Year 1 Taxable Value means the value of the property owned by an applicant for
15 assistance under this chapter as determined by the Hernando County Property
16 Appraiser during the first tax roll year following one-hundred percent (100%)
17 completion of the project as defined and outlined in the Application and which
18 reflects the full extent of capital investment.

1 **Targeted Industries**

2 A. It is the intention of the Board in enacting this Article to encourage
3 targeted industries, including but not limited to industries such as aviation, aerospace,
4 manufacturing, distribution/logistics, back-office operations, research &
5 development, and corporate relocations.

6 B. The Board also recognizes the industries identified by Enterprise
7 Florida as qualified target industries.

8 C. Notwithstanding the foregoing, other projects of significant impact to
9 Hernando County's economy will be considered on a case-by-case basis; provided,
10 that such projects satisfy the Program's eligibility requirements as determined by the
11 Department.

12 **Finding of Public Purpose**

13 A. The establishment of the Program, and the corresponding expenditure
14 of public funds, will enhance and increase economic activity in Hernando County by
15 attracting and retaining business activities conducive to economic promotion,
16 preserving and expanding employment opportunities, and improving the welfare and
17 competitive position of the citizens of Hernando County.

18 B. Since the economic development supported by the Program is directed
19 toward specific, measurable objectives, the Board's expenditure of public funds

1 pursuant to the Program serves a valid public purpose as contemplated by Fla. Stat.
2 § 125.045.

3 **No Entitlement Created**

4 A. Nothing herein shall require the Board to budget County funds for the
5 purpose of providing grants pursuant to the Program.

6 B. Nothing herein creates an entitlement of any kind to a developer of a
7 capital improvement project to a grant of any size, amount or duration from the
8 County. Nothing in the Program or otherwise herein creates a preference or
9 advantage for any particular project over any other project. Even though a Project
10 may meet criteria as set forth in the Program, an Application may be denied at the
11 sole discretion of the Board.

12 **Application Procedure**

13 A. The Department shall be responsible for administering all applications
14 and agreements under this article.

15 B. In order to qualify for a grant under this article, an applicant must
16 complete and submit an application to the Department. The Department shall be
17 responsible for preparing application forms relative to the incentives in this article.

18 C. An application fee and other charges may be required for processing
19 the application. The Board may establish an application fee and charge schedule by
20 separate resolution, as may be amended from time-to-time.

1 **Minimum Requirements for Program**

2 A. An Applicant's eligibility for incentives, and the amount of incentives
3 awarded by the County, shall be calculated through the accumulation of points upon
4 review of the Applicant's Grant Application. Points shall be calculated within four
5 categories: job creation, wage level, investment in capital assets, and investment in
6 tangible personal property. Each category shall provide defined criteria by which the
7 County will determine a project's eligibility for public investment and the maximum
8 level of any such investment. An application must receive ten (10) points or above
9 in order to be eligible for a grant.

10 B. To be eligible for grant, the proposed Capital Investment Project that
11 is the subject of an Application must create a minimum of ten (10) new Full-Time
12 Equivalent Jobs. Points shall be awarded based on the creation of new Full-Time
13 Equivalent Jobs as follows:

<u>Number of New Employees</u>	<u>Points</u>
<u>10 to 20</u>	<u>4</u>
<u>21 to 60</u>	<u>6</u>
<u>61 to 100</u>	<u>9</u>
<u>101 to 149</u>	<u>12</u>
<u>150 or More</u>	<u>15</u>

C. Points shall be awarded based on the payment of above-average wage rates for new Full-time Equivalent Jobs in Hernando County, according to the Florida Department of Economic Opportunity, as follows:

<u>Percentage of Average Annual Wage (AAW)</u>	<u>Points</u>
<u>100% of AAW</u>	<u>3</u>
<u>115% of AAW</u>	<u>6</u>
<u>125% of AAW</u>	<u>9</u>
<u>150% or More of AAW</u>	<u>10</u>

D. To be eligible for grant, the proposed Capital Investment Project that is the subject of an Application must add at least \$1,000,000.00 of new taxable value Hernando County’s real property assessment roll. The value of the property shall be that which is determined by the Hernando County Property Appraiser for the tax rolls. Points shall be awarded based on the total amount of qualifying capital investments as follows:

<u>Total Investment</u>	<u>Points</u>
<u>\$1,000,000 to \$2,000,000</u>	<u>3</u>
<u>\$2,000,001 to \$3,500,000</u>	<u>6</u>
<u>\$3,500,001 - \$5,000,000</u>	<u>9</u>
<u>\$5,000,001 - \$9,000,000</u>	<u>12</u>
<u>\$9,000,001 or More</u>	<u>15</u>

1 E. Points shall be awarded based on the total amount of qualifying
2 investments in tangible personal property as follows:

<u>Total Investment</u>	<u>Points</u>
\$1,000,000 to \$2,000,000	<u>1</u>
\$2,000,001 to \$3,500,000	<u>2</u>
\$3,500,001 - \$5,000,000	<u>3</u>
\$5,000,001 or More	<u>4</u>

8 **Application Review and Report**

9 A. In determining whether to recommend that the Board approve an
10 Application for an Economic Development Investment Incentive Program Grant, the
11 Department will consider whether the Project meets the minimum standards set forth
12 in this article and the Project's fiscal, community, and employment impact on the
13 County. The Department shall perform a cost/benefit analysis to determine the return
14 on public investment based on the level of incentive provided for a Project. If the
15 Department determines that more information is needed in order to make a
16 recommendation, it may request that the Applicant supplement the Application with
17 additional information. The Department will not recommend an Application for
18 approval of other incentives that fall outside the scope of the Program unless it finds
19 that the Project will have a positive net benefit for the County.

1 B. The Department shall review all Applications. If the Department
2 determines that the Project meets the minimum criteria for incentive consideration
3 as set forth in this article, the Department shall submit a report to the Board. The
4 report shall make written findings of fact that compare the Application with
5 applicable portions of the Program and shall contain the Department's
6 recommendation with respect to whether the Application should be approved and the
7 amount and terms of the Grant.

8 C. If the Department determines that a Project does not meet minimum
9 criteria for incentive consideration based on the information provided in the
10 Application, the Department will provide the Applicant with a written decision
11 specifying the reason for the denial of the Application. The Department shall submit
12 a copy of the decision to the Board as a non-action item.

13 D. If the Confidentiality Provisions have been requested by an Applicant,
14 the Department's report shall not contain information that would expressly identify
15 the Applicant or disclose the Applicant's interest in making capital investments in
16 the County. Except as otherwise provided herein, the Department shall not release
17 or disclose the report to anyone other than the Applicant unless:

18 1. The Department receives a written request from the Applicant
19 to release the report to the Board; or,

1 2. The Application and report are no longer exempt from
2 disclosure under the provisions of Fla. Stat. § 288.075; or,

3 3. Disclosure of the Application and report is ordered by a court
4 of competent jurisdiction or by any other state or Federal agency authorized under
5 Florida law to order the disclosure of confidential information.

6 E. If the Confidentiality Provisions have been requested by an Applicant,
7 the Department shall inform each Board member of the identity of the Applicant
8 prior to any Board action being taken so that the Board member can determine
9 whether a conflict of interest exists with respect to the Application. A Board member
10 that receives information regarding the identity of an Applicant who has requested
11 the Confidentiality Provisions shall not release or disclose any information regarding
12 the Application, except as provided for herein.

13 F. The Department, upon completing its report, shall prepare a grant
14 agreement that provides for the incentives that the Department's report recommends
15 that the Board award for the Applicant's Capital Investment Project.

16 **Calculation of Incentive Amounts and Duration of Grant Agreements**

17 A. All grants shall be calculated as a percentage of the ad valorem taxes
18 paid on real and/or tangible personal property owned by the applicant in any given
19 year of the agreement time horizon, as set forth herein.

B. The duration and the grant amounts for each year of the agreement shall be calculated by subtracting the “Hernando County General” portion of ad valorem taxes owed in the base year from that same portion of ad valorem taxes derived from the year 1 taxable value and multiplying that incremental value by the appropriate percent formula provided in the table set forth below.

<u>Total Points</u>	<u>Grant Value % of Increase in Ad Valorem Tax Base</u>	<u>Length of Eligibility</u>
<u>10 to 15</u>	<u>50%</u>	<u>5 Years</u>
<u>16 to 22</u>	<u>50% for First Five Years 25% for Second Five Years</u>	<u>10 Years</u>
<u>23 to 30</u>	<u>50%</u>	<u>10 Years</u>
<u>31 or More</u>	<u>75% for First Five Years 50% for Second Five Years</u>	<u>10 Years</u>

C. At no time shall the amount of the grant, in any given fiscal year, exceed the amount derived by multiplying the percent formula for the given year by the actual “Hernando County General” portion of ad valorem taxes paid by the recipient during that same year.

Board of County Commissioners Meeting

A. At a duly noticed public hearing, the Board shall consider the Department’s report and the proposed grant agreement. Following discussion, the Board, in its legislative discretion, may vote to approve, amend or deny the proposed

1 grant agreement. The Board, in making this decision, may consider the Department's
2 recommendation, the Program's minimum standards, the proposed Capital
3 Investment Project's overall impact on Hernando County, or any other relevant
4 factors in the Board's exclusive discretion. Nothing herein shall create an entitlement
5 on the part of an Applicant for the receipt of a Grant, even if the Application meets
6 the minimum standards set forth in this article. The approval of any incentives under
7 this article shall be subject to funding availability as determined by the County
8 Administrator.

9 B. If the Board awards a grant to an Applicant, the Applicant shall be
10 eligible for expedited plan review and permitting pursuant to Hernando County Code
11 § 11.5-30(d), as it may be amended from time-to-time.

12 **Annual Claim for Grant Payment**

13 A. The County shall not make a grant payment to a recipient in any
14 County Fiscal Year until the grant recipient submits a claim for the grant payment
15 and the claim is approved by the the Economic Development Director in the manner
16 set forth in this section.

17 B. A grant recipient may submit a claim for a scheduled grant payment
18 to the Economic Development Director once during each County Fiscal Year. The
19 claim for each year's grant payment shall be made on or after the date specified in the
20 applicable grant agreement.

1 C. A grant recipient must provide with its claim for an annual grant
2 payment documentation of its achievement of each performance item that is specified
3 in the applicable grant agreement, including copies of all receipts and any other
4 relevant data. The Economic Development Director may not approve an application
5 for an annual grant payment, and the Board may not make any such payment, unless
6 the grant recipient achieves each of the performance items specified in the applicable
7 grant.

8 D. Upon receiving a recipient's claim for an annual grant payment, the
9 Economic Development Director shall conduct an appropriate evaluation to confirm
10 that the recipient has met and complied with all of the conditions of the applicable
11 grant agreement and that the Board has appropriated the necessary funds to make the
12 payment. If the Economic Development Director confirms that the recipient has
13 satisfied all of the conditions of the applicable grant agreement, the County
14 Administrator shall approve the payment of the annual grant.

15 E. Notwithstanding the foregoing, a recipient may not apply for an
16 annual grant payment unless it has paid the ad valorem taxes on the Capital
17 Improvement Project for that County Fiscal Year. The amount paid by the County as
18 a grant payment may not exceed the amount of the increase in the general County
19 portion of the ad valorem taxes paid by a recipient during the County Fiscal Year.

1 F. If a grant recipient does not file a claim for an annual grant payment
2 within one year of the time provided in the applicable grant agreement, only the
3 Board may consider and approve an untimely claim for an annual grant payment
4 upon written request by the recipient; provided, a grant recipient may not receive
5 payment for more than one untimely submitted claim during the term of the
6 applicable grant agreement. Nothing in this subsection shall create any obligation on
7 the part of the Board to approve an untimely claim for an annual grant payment.

8 G. A grant recipient shall lose the ability to collect an annual grant
9 payment if:

10 1. The recipient fails to apply for the payment within one year of
11 the time provided in the grant agreement, except as provided in subsection (F) above;
12 and,

13 2. The recipient either does not submit a written request to the
14 Board for payment of an untimely submitted claim or has had its request for payment
15 of an untimely submitted claim denied by the Board. Unclaimed grant funds will be
16 released to the County's general fund to be used for any lawful purpose.

17 Notwithstanding the foregoing, a grant recipient that loses the ability to collect an
18 annual grant payment in a particular fiscal year shall not lose the ability to collect
19 grant payments in subsequent fiscal years if such payments are provided for in the
20 applicable grant agreement.

1 H. No disbursement of the grant amount to the recipient shall be made
2 unless the payment is first approved by the Board. No payment shall be paid by the
3 County to an awarded applicant until the time for an appeal of the assessed value to
4 the Value Adjustment Board has expired.

5 **Grant Awards Not Enforceable Through Mandatory Levy of Ad Valorem Taxes**

6 The Program shall neither constitute a debt, liability or obligation of the
7 County within the meaning of any constitutional or statutory limitation, nor a pledge
8 of the faith and credit or the taxing power of the County. Instead, the grants awarded
9 pursuant the Program shall be payable solely from the funds provided for that
10 purpose. All grant agreements shall state that the County shall not be obligated to pay
11 any grant or any installment thereof except from funds appropriated by the Board for
12 that purpose, and that the County has not pledged its faith and credit or its taxing
13 power in awarding the grant. All grant agreements shall also state that no person
14 shall ever have the right, directly or indirectly, to compel the exercise of the ad
15 valorem taxing power of the County for the payment of a grant or any installment
16 thereof.

17 **Financial Reward Report**

18 The Economic Development Director shall prepare an annual report which
19 records any economic development incentives in excess of \$25,000.00 given to any
20 recipient during the County's previous fiscal year. Such report shall be submitted to

1 the Board of County Commissioners no later than November 1 of any calendar year,
2 and shall report on the previous fiscal year. By January 15 of any given year, the
3 Board shall submit such report to the Florida Office of Economic and Demographic
4 Research as required by Fla. Stat. § 125.045(5)(a). As required by Fla. Stat. §
5 125.045(4), the Board shall post a copy of each such report on the County's website.

6 **Section 2. Severability.** It is declared to be the intent of the Board of County
7 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
8 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the
9 validity of the remaining portions of this ordinance.

10 **Section 3. Inclusion in the Code.** It is the intention of the Board of County Commissioners
11 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall
12 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the
13 sections of this Ordinance may be renumbered or relettered to accomplish such intention, and that
14 the word “ordinance” may be changed to “section,” “article,” or other appropriate designation.

15 **Section 4. Conflicting Provisions Repealed.** All ordinances or parts of ordinances in
16 conflict with the provisions of this ordinance are hereby repealed.

17 **Section 5. Effective Date.** This ordinance shall take effect immediately upon receipt of
18 official acknowledgment from the office of the Secretary of State of Florida that this ordinance has
19 been filed with said office.

