

From: [Harris, Whitley](#)
To: [Heidi Kurppe](#)
Cc: [County Ordinances](#)
Subject: [EXT.] -
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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 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.

