

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING THE ECONOMIC DEVELOPMENT IMPACT FEE MITIGATION PROGRAM FOR QUALIFIED TARGET INDUSTRY BUSINESSES; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY, APPLICABILITY; FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR AN EFFECTIVE DATE AND CODIFICATION.

WHEREAS, the Board of County Commissioners of Martin County, Florida, has determined that there is a need to establish an economic development impact fee mitigation program in the County because the imposition of the impact fees herein may place the County in a non-competitive position with other communities, thus hindering efforts by the County and the community to encourage economic development opportunities within the County and to create permanent employment expansion opportunities for the County's citizens; and

WHEREAS, Section 125.045, Florida Statutes, provides the County with the power to enhance and expand economic activity in the County, including the authority to expend and use public funds for grants to private enterprises for the creation of businesses and the expansion of businesses existing in the community.

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

PART ONE. Chapter 71. Finance and Taxation, Article 2. Economic Development Fund, is hereby

amended in the Martin County Code, Volume 1, Code of Ordinance, by creating the “Economic Development Impact Fee Mitigation Program” as follows:

CHAPTER 71. FINANCE AND TAXATION

ARTICLE 2. ECONOMIC DEVELOPMENT FUND

Sec. 71.45. Economic Development Impact Fee Mitigation Program

71.45.A. Creation. There is hereby created an Economic Development Impact Fee Mitigation Program for Qualified Target Industry Businesses to mitigate any real or perceived disadvantage occurring from the imposition of Impact Fees by Martin County.

71.45.B. Definitions. For the purpose of this section, the following terms shall mean:

“Qualified Target Industry Business” or “QTIB” shall mean a new or expanding business in the County that meets the requirements of Section 288.106, Florida Statutes, or its statutory successor in function, as a Qualified Target Industry Business.

“Applicant” shall include any person, company, or research institute that qualifies as a Qualified Target Industry Business and which is seeking to expand in or locate to Martin County.

“Property Owner” shall mean any person or entity owning the land upon which the Qualified Target Industry Business will be expanding on or locating to.

71.45.C. Discretionary Program. This program is not an entitlement program. The program is established in order to provide the Board of County Commissioners the opportunity, in its sole discretion, to grant impact fee mitigation to Qualified Target Industry Businesses.

71.45.D. Minimum Criteria. To be eligible for an Economic Development Impact Fee Mitigation, an Applicant must meet the following minimum criteria:

71.45.D.1. Qualify as a Qualified Target Industry Business and create a minimum of ten (10) new jobs with an average private sector wage (excluding benefits) of at least 115% of the average private sector wage, as identified annually by Enterprise Florida, Inc., for either Martin County or the Metropolitan Statistical Area which includes Martin County and provide a benefit package that includes health insurance and commit to remain in the County at least until such time as obligations of the Economic Development Fund, related to the business, are replenished in accordance with subsection 71.45.L.; or

71.45.D.2. Qualify as a Qualified Target Industry Business and create a minimum of ten (10) new jobs with an average private sector wage (excluding benefits) of 100% of the average private sector wage, as identified annually by Enterprise Florida, Inc., for either Martin County or the Metropolitan Statistical Area which includes Martin County and make a taxable capital investment in the County of \$10 million or greater in construction, renovations, equipment purchases, or other major capital investment items and commit to remain in the County at least until such time as obligations of the Economic Development Fund, related to the business, are replenished in accordance with subsection 71.45.L.; and

71.45.D.3. Agreement. Enter into an agreement with the County and the Property Owner (if the Applicant business is not the Property Owner) wherein the Applicant agrees to locate or expand its business operations within Martin County and will remain in the County at least until such time as obligations of the Economic Development Fund, related to the business, are replenished in accordance with subsection 71.45.L. The Agreement will also require the Applicant to provide the County with the Applicant's Florida Department of Revenue Quarterly Report (UCT-6) form or successor document, and all other documentation to demonstrate that the job creation and salary level commitments were achieved. Provisions for penalties, repayment or suspension of payments for non-performance related to this program shall be clearly established in the agreement.

71.45.D.4. Application. Any Applicant seeking an Economic Development Impact Fee Mitigation shall file an application for mitigation with the County Administrator prior to the issuance of the Building Permit for the subject property or project. The application shall contain:

- a. a designation of the property or project upon which improvements (i.e. structures, site improvements) will be constructed that are subject to an imposition of impact fees under Article 6, Section 6.5 of the Martin County Land Development Regulations, for which the application is being submitted, including a current and complete legal description of the property upon which the Qualified Target Industry Business is proposed to be located;
- b. the name and address of the owner of the property upon which the Qualified Target Industry Business is proposed to be located;
- c. proof that the identified construction or property modification will be for a Qualified Target Industry Business and/or will directly benefit a Qualified Target Industry Business;
- d. a notarized affidavit and all necessary supporting evidence affirming that the requirements of subsection 71.45.D.1. or subsection 71.45.D.2. above will be met within one (1) year of the date the Certificate of Occupancy is issued which term may be extended by the Martin County Administrator upon good cause shown;
- e. and other necessary information as determined by the Martin County Administrator.

71.45.E. Building Permit prior to Application Determination. Any Applicant who submits an

application for Economic Development Impact Fee Mitigation pursuant to this Section and desires the immediate issuance of a Building Permit prior to approval of the application shall pay the Impact Fees imposed herein. Should the Board of County Commissioners approve and accept the mitigation application, the mitigation amount shall be refunded to the Applicant or Property Owner.

71.45.F. Economic Development Impact Fee Mitigation Amounts. If the Applicant meets the requirements provided above for mitigation, the Applicant shall be eligible for the following:

71.45.F.1. If the Applicant qualifies under subsection 71.45.D.1 above, it shall be eligible to receive an Economic Development Impact Fee Mitigation in the following amounts; provided, however, that the Board may proportionally increase these mitigation amounts in the event the Applicant exceeds these requirements:

<u>Number of Jobs Created</u>	<u>% of Average Private Sector Wage</u>	<u>Mitigation Amount</u>
<u>Minimum of 10</u>	<u>115% plus benefits</u>	<u>\$3,500 per job created</u>
<u>Minimum of 10</u>	<u>150% plus benefits</u>	<u>\$5,000 per job created</u>
<u>Minimum of 10</u>	<u>200% plus benefits</u>	<u>\$7 500 per job created</u>

71.45.F.2. If the Applicant qualifies under subsection 71.45.D.2. above, it shall be eligible to receive an Economic Development Impact Fee Mitigation in the following amounts; provided, however that the Board may proportionally increase these mitigation amounts in the event the Applicant exceeds these requirements:

<u>Number of Jobs Created</u>	<u>Total Capital Investment</u>	<u>Mitigation Amount</u>
<u>Minimum of 10</u>	<u>\$10,000,000 to \$14,999,999.99</u>	<u>40% of total County Impact Fees</u>
<u>Minimum of 10</u>	<u>\$15,000,000 to \$19,999,999.99</u>	<u>50% of total County Impact Fees</u>
<u>Minimum of 10</u>	<u>\$20,000,000 or more</u>	<u>60% of total County Impact Fees</u>

71.45.G.      *Restriction to One Criteria Category.* Each Applicant shall only be eligible for mitigation under either subsection 71.45.D.1. or subsection 71.45.D.2., but not both.

71.45 H.      *Payment Limits.* In no case shall mitigation benefits exceed the amount of the actual impact fees due to the County as a result of expansion or location of the QTIB project as specified in the application.

71.45.I.      *Utilization with Other Incentive Programs.* If at any time before or during the required Economic Development Fund replenishment period outlined in subsection 71.45.L, the Applicant is awarded funds under any other State or County incentive program(s) that are paid from the Economic Development Fund, the repayment period shall be extended to include replenishment of all the incentive amounts paid by the Economic Development Fund.

71.45.J.      *County Administrator and Board of County Commissioners Review.* If the County Administrator finds that the Applicant meets the requirements provided herein for mitigation, the County Administrator shall agenda an Impact Fee Mitigation Agreement before the Board of County Commissioners which shall contain the Martin County Impact Fee Mitigation Application for Qualified Target Industries and any other documents as requested by the County Administrator. Because this Program is not an entitlement program, the Board may accept or reject the request for mitigation without cause.

71.45.K.      *Available Funds.* Any incentive approved pursuant to the Economic Development Impact Fee Mitigation Program shall be paid from the Economic Development Fund, whose funding sources shall include any legally available funds, but shall not include impact fees.

71.45.L. Replenishment of Economic Development Fund. Any funds withdrawn from the Economic Development Fund to pay for impact fee mitigation shall be replenished by the County from available funds pursuant to subsection 71.45.K. The amount deposited in any year into the Economic Development Fund to replenish expenditures related to an individual QTIB shall not exceed the difference between the ad valorem taxes paid each year on the property and improvements utilized for the QTIB and the ad valorem taxes assessed on the same property or portion thereof in the year prior to construction of the improvements. In addition, the Board of County Commissioners may authorize payment from the attributable revenues that exceed the impact fee mitigation to insure the financial solvency and continuation of the Economic Development Fund. The source of any such additional payment shall be specifically identified and the amount or term of these deposits into the Economic Development Fund shall be fixed prior to the commencement of any deposits.

71.45.M. Deferment of Impact Fee Payment. In addition, the Board of County Commissioners may defer payment by the Economic Development Fund of impact fees mitigated by the Impact Fee Mitigation Program for a period not to exceed ten (10) years.

71.45.N. Application Submittal. Any request for Economic Development Impact Fee Mitigation must be submitted to the County by the Applicant prior to the Applicant deciding whether or not they will expand or locate in Martin County.

Note to Publisher: Under Section 6.51.D of the Martin County Land Development Regulations, please include the following: See Section 71.45. et. seq. of the Martin County Code regarding the discretionary Economic Development Impact Fee Mitigation Program for Qualified Target Businesses.

**PART TWO. Conflicting Provisions.**

Special acts of the Florida legislature applicable only to unincorporated areas of Martin County,

Martin County ordinances, and Martin County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict except for ordinances concerning either adoption or amendment of the Martin County comprehensive plan, pursuant to Chapter 163, Part II, Florida Statutes.

**PART THREE. Severability.**

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

**.PART FOUR. Applicability of Ordinance.**

This ordinance shall be applicable throughout Martin County's jurisdiction.

**PART FIVE. Filing with the Department of State.**

The Clerk be and hereby is directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code, Department of State, R.A. Gray Building, Room 101, 500 S. Bronough Street, Tallahassee, Florida 32399-0250.

**PART SIX. Effective Date.**

This ordinance shall take effect upon filing with the Department of State.

PART SEVEN.       **Codification.**

Provisions of this ordinance shall be incorporated in the County Code and the word “ordinance” may be changed to “section,” “article” or other word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that parts Two to Seven shall not be codified.

PASSED AND DULY ADOPTED this \_\_\_\_ day of August, 2008.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

\_\_\_\_\_  
MARSHA EWING, CLERK

\_\_\_\_\_  
DOUG SMITH, CHAIR

APPROVED AS TO FORM AND  
CORRECTNESS

\_\_\_\_\_  
STEPHEN FRY, COUNTY ATTORNEY