

ARTICLE V. ECONOMIC DEVELOPMENT IMPACT FEE MITIGATION PROGRAM

Sec. 159.501. Short title, authority, and applicability.

- (A) This article shall be known and may be cited as the "Impact Fee Mitigation Ordinance."
- (B) The City of Port St. Lucie has authority to adopt this article pursuant to its home rule powers under its City Charter granted by Article VIII of the Constitution of the State of Florida and Chapter 166 Florida Statutes.
- (C) The City of Port St. Lucie has the power to enhance and expand economic activity in the City, including the authority to expend and use public funds toward achievement of the City's economic development goals.
- (D) Economic growth and the creation of high quality jobs is in the best interest of the health, safety and welfare of the citizens of the City.

(Ord. No. 17-80, § 2, 11-27-17)

Sec. 159.502. Purpose and intent.

- (A) Imposition of impact fees pursuant to Section 159 of this Code may place the City in a non-competitive position with other local governments that have chosen not to require growth to pay its fair share of needed capital facilities, thus hindering efforts by the City and the community to encourage economic development opportunities within the City and to create permanent employment expansion opportunities for the City's residents.
- (B) The purpose of the economic development impact fee mitigation program is to mitigate any real or perceived disadvantage occurring from the imposition of impact fees to certain Qualified Target Industry Businesses.
- (C) This program is not intended as an entitlement program. The program is intended to provide the City Council the opportunity, in its sole discretion, to grant impact fee mitigation to Qualified Target Industry Businesses.

(Ord. No. 17-80, § 2, 11-27-17)

Sec. 159.503. Definitions.

- (A) **Qualified Target Industry Business:** A new or expanding business in the City that has a positive economic and fiscal impact on the City and meets the requirements of F.S. § 288.106, or its statutory successor in function, as a qualified target industry business.
- (B) **Applicant:** Any person, company, research institute or business park developer that will house qualified target industry businesses.
- (C) **Locally Owned and Operated Small Business:** A Qualified Target Industry Business continually operated in the City for at least three years which is owned and operated by a St. Lucie, Martin, Indian River or Okeechobee County resident whose homestead is located in St. Lucie, Martin, Indian River or Okeechobee County, and which employs 50 or fewer employees.

(Ord. No. 17-80, § 2, 11-27-17)

Sec. 159.504. Eligibility.

- (A) To be eligible for an economic development impact fee waiver, an Applicant must meet the following requirements:
- (1) Qualify as a Qualified Target Industry Business and create a minimum of ten new jobs or a ten percent increase in existing employment (whichever is greater) with an average private sector wage (excluding benefits) of at least 107 percent of the City's average private sector wage (excluding the top two executive salaries) and provide a benefit package that includes health insurance and remain in the City for a minimum of ten years; or
 - (2) Qualify as a Qualified Target Industry Business and create a minimum of ten new jobs or a ten percent increase in existing employment (whichever is greater) with an average private sector wage (excluding benefits) of 100 percent of the City's average private sector wage (excluding the top two executive salaries) and make a capital investment in the City of \$10,000,000.00 or greater in construction, renovations, equipment purchases, or other major capital investment items and remain in the City for a minimum of ten years; or
 - (3) Qualify as a Locally Owned and Operated Small Business and create a minimum of ten new jobs with an average private sector wage (excluding benefits) of 100 percent of the City's average private sector wage (excluding the top two executive salaries) and provide a benefit package that includes health insurance and remain in the City for a minimum of ten years; and
 - (4) Enter into an agreement with the City wherein the Applicant agrees to locate or expand its business operations to/within the City for a period of at least ten years. The agreement will also require the Applicant to provide the City with the Applicant's quarterly report (UCT-6) and all other documentation to demonstrate that the job creation and salary level commitments were achieved. Provisions for repayment or suspension of payments for nonperformance related to this program shall be clearly established in the agreement.

(Ord. No. 17-80, § 2, 11-27-17)

Sec. 159.505. Economic development impact fee mitigation program application.

- (A) Any Applicant seeking an economic development impact fee waiver shall file an application for waiver with the City Manager prior to the issuance of the building permit for the subject capital facilities impact construction. The application shall contain:
- (1) A designation of the capital facilities impact construction 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;
 - (2) The name and address of the owner of the property upon which the Qualified Target Industry Business is proposed to be located;
 - (3) Proof that the capital facilities impact construction will be a Qualified Target Industry Business;
 - (4) A notarized affidavit and all necessary supporting evidence affirming that the applicable requirements of section 159.504 will be met within one year of the date the certificate of occupancy is issued which term may be extended by the City Council upon good cause shown; and
 - (5) Other necessary information as determined by the City Manager.
- (B) 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

Created: 2021-11-02 14:05:24 [EST]

(Supp. No. 88)

the impact fees imposed by Chapter 159 of the Code. Should the City Council approve and accept the mitigation application, the mitigation amount shall be refunded to the Applicant or owner.

- (C) If the City Manager finds that the Applicant meets the requirements provided herein for mitigation, the City Manager shall agenda an impact fee mitigation agreement before the City Council, which shall contain, but not be limited to, the City impact fee mitigation application for Qualified Target Industries and any other documents as requested by the City Manager. Since this is not an entitlement program and instead is discretionary, policy-making decision involving the allocation of public resources, the City may reject the request for mitigation for any reason, including fiscal and practical budgetary considerations.
- (D) Any request for economic development impact fee mitigation must be submitted to the City by the Applicant prior to the Applicant deciding whether or not they will expand or locate in the City.

(Ord. No. 17-80, § 2, 11-27-17)

Sec. 159.506. Economic development impact fee mitigation.

- (A) If the Applicant meets the requirements provided above for mitigation, the Applicant shall be eligible for the following:
 - (1) If the Applicant qualifies under subsection 159.504(1) of this section (Qualified Target Industry Business), it shall be eligible to receive an economic development impact fee mitigation in the following amounts; provided, however, that the City Council may increase these waiver amounts in the event the Applicant exceeds these requirements:

| Number of Jobs Created | Percent of Average Private Sector Wage | Waiver Amount |
|------------------------|--|-------------------------|
| Minimum of 10 | 107% plus benefits | \$3,500 per job created |
| Minimum of 10 | 150% plus benefits | \$5,000 per job created |
| Minimum of 10 | 200% plus benefits | \$7,500 per job created |

- (2) If the Applicant qualifies under subsection 159.504(2) of this section (Qualified Target Industry Business), it shall be eligible to receive an economic development impact fee mitigation in the following amounts; provided, however, that the City Council may increase these mitigation amounts in the event the Applicant exceeds these requirements:

| Number of Jobs Created | Total Capital Investment | Waiver Amount |
|------------------------|------------------------------|-------------------------------|
| Minimum of 10 | \$10,000,000 to \$14,999,999 | 40% of total City impact fees |
| Minimum of 10 | \$15,000,000 to \$19,999,999 | 50% of total City impact fees |
| Minimum of 10 | \$20,000,000 or more | 60% of total City impact fees |

- (3) If the Applicant qualifies under subsection 159.504(3) of this section (Locally Owned and Operated Small Business), it shall be eligible to receive an economic development impact fee mitigation in the following amounts; provided, however, that the City Council may increase these waiver amounts in the event the Applicant exceeds these requirements:

| Number of Jobs Created | Percent of Average Private Sector Wage | Waiver Amount |
|------------------------|--|-------------------------|
| Minimum of 10 | 100% plus benefits | \$3,500 per job created |
| Minimum of 10 | 140% plus benefits | \$5,000 per job created |

| | | |
|---------------|--------------------|-------------------------|
| Minimum of 10 | 185% plus benefits | \$7,500 per job created |
|---------------|--------------------|-------------------------|

(4) Each Applicant shall only be eligible for mitigation under either 159.504(1), 159.504(2) or 159.504(3), but not in combination.

(B) Any incentive approved pursuant to the economic development impact fee mitigation program shall be paid from other legally available funds (other than impact fees).

(Ord. No. 17-80, § 2, 11-27-17)

ORDINANCE 21-107

AN ORDINANCE AMENDING TITLE XV – LAND USAGE, CHAPTER 159 – IMPACT FEES – ARTICLE V – ECONOMIC DEVELOPMENT IMPACT FEE MITIGATION, OF THE CODE OF ORDINANCES OF THE CITY OF PORT ST. LUCIE, FLORIDA, BY AMENDING SECTION 159.903 – DEFINITIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City adopted an economic development impact fee mitigation program on November 27, 2017; and

WHEREAS, the economic development impact fee mitigation program was developed to place the City in a competitive position with other communities that have chosen not to require growth to pay its fair share of needed capital facilities; and

WHEREAS, the City Council of the City of Port St. Lucie implemented a mobility fee system on October 5, 2021; and

WHEREAS, the existing economic development impact fee mitigation program only applies to impact fees; and

WHEREAS, the City Council desires for mobility fees to be eligible for mitigation; and

WHEREAS, the proposed amendment is in the best interest of the health, safety, and welfare of the citizens of the City; and

WHEREAS, the City Council adopts the amendment set forth below to ensure inclusion of mobility fees in its impact fee mitigation program.

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. **Ratification of Recitals.** The City Council hereby adopts and ratifies those matters as set forth in the foregoing recitals.

Section 2. **Section 159.903 of the City Code is amended as follows:**

Sec. 159.503. - Definitions.

(A) Qualified Target Industry Business: A new or expanding business in the City that has a positive economic and fiscal impact on the City and meets the requirements of F.S. § 288.106, or its statutory successor in function, as a qualified target industry business.

(B) Applicant: Any person, company, research institute or business park developer that will house qualified target industry businesses.

ORDINANCE 21-107

- (C) Locally Owned and Operated Small Business: A Qualified Target Industry Business continually operated in the City for at least three years which is owned and operated by a St. Lucie, Martin, Indian River or Okeechobee County resident whose homestead is located in St. Lucie, Martin, Indian River or Okeechobee County, and which employs 50 or fewer employees.
- (D) Impact fee: As used in Article V, an impact fee or mobility fee established by Chapter 159 of this Code.

Section 3. Conflict. If any ordinances, or parts of ordinances, are in conflict herewith this Ordinance shall control to the extent of the conflicting provisions.


Section 4. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 5. Codification. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Port St. Lucie, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; the word "ordinance" may be changed to "section" or other appropriate word as may be necessary.

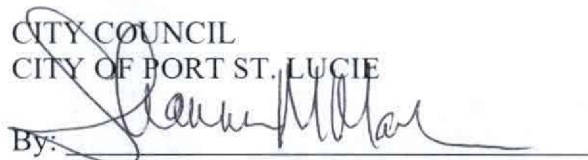
Section 6. Effective Date. This Ordinance shall become effective immediately after final adoption on second reading.

PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this 8th day of November, 2021.

ATTEST:


Sally Walsh, City Clerk

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: 
Shannon M. Martin, Mayor

APPROVED AS TO FORM:

By: 
James D. Stokes, City Attorney



Agenda Summary

2021-850

Agenda Date: 11/8/2021

Agenda Item No.: 8.h

Placement: Second Reading of Ordinances / Public Hearing

Action Requested: Motion / Vote

Ordinance 21-107, Public Hearing, An Ordinance of the City of Port St. Lucie, Florida, Amending Chapter 159, Article V, Economic Development Impact Fee Mitigation Program of the Code of Ordinances to Include Mobility Fee in the Definitions Section.

Submitted By: Elijah Wooten, Economic Development Administrator

Strategic Plan Link: The City's Goal of a diverse local economy and employment opportunities.

Executive Summary (General Business): The City Council approved the repealing and replacement of Title XV, Chapter 159, Article II, entitled "Road Impact Fee Schedule" in its entirety and replacing Article II with a new Article II entitled "Mobility Plan and Mobility Fee". The proposed amendment to Chapter 159, Article V, would include "Mobility Fee" in the definitions section of the Economic Development Impact Fee Mitigation Program of the Code of Ordinances.

Presentation Information: Elijah Wooten, Economic Development Administrator, is available to answer questions from the City Council.

Staff Recommendation: Move that the Council approve amending the Economic Development Impact Fee Mitigation Program ordinance.

Alternate Recommendations:

1. Move that the Council amend the recommendation and approve amending the Economic Development Impact Fee Mitigation Program ordinance.
2. Move that the Council not approve amending the Economic Development Impact Fee Mitigation Program ordinance and provide staff direction.

Background: The City Council approved the repealing and replacement of Title XV, Chapter 159, Article II, entitled "Road Impact Fee Schedule" in its entirety and replacing Article II with a new Article II entitled "Mobility Plan and Mobility Fee". The proposed amendment to Chapter 159, Article V, would include "Mobility Fee" in the definitions section of the Economic Development Impact Fee Mitigation Program of the Code of Ordinances.

Issues/Analysis: Amending Chapter 159, Article V would add "Impact fee: As used in Article V, an impact fee or mobility fee established by Chapter 159 of this Code" to the definitions section 159.503.

Financial Information: N/A

Special Consideration: The addition of mobility fee to the definitions section of the Economic Development Impact Fee Mitigation Program would make the wording and reference consistent in current and future impact fee mitigation agreements.

Location of Project: Citywide

Attachments: Article V - Economic Development Impact Fee Mitigation Ordinance.

NOTE: All of the listed items in the "Attachment" section above are in the custody of the City Clerk. Any item(s) not provided in City Council packets are available upon request from the City Clerk.

Internal Reference Number: 7240.

Legal Sufficiency Review:

Reviewed by Elizabeth L. Hertz, Deputy City Attorney. Approved as to Legal form and sufficiency by James D. Stokes, City Attorney.

ORDINANCE 21-__

AN ORDINANCE AMENDING TITLE XV – LAND USAGE, CHAPTER 159 – IMPACT FEES – ARTICLE V – ECONOMIC DEVELOPMENT IMPACT FEE MITIGATION, OF THE CODE OF ORDINANCES OF THE CITY OF PORT ST. LUCIE, FLORIDA, BY AMENDING SECTION 159.903 – DEFINITIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City adopted an economic development impact fee mitigation program on November 27, 2017; and

WHEREAS, the economic development impact fee mitigation program was developed to place the City in a competitive position with other communities that have chosen not to require growth to pay its fair share of needed capital facilities; and

WHEREAS, the City Council of the City of Port St. Lucie implemented a mobility fee system on October 5, 2021; and

WHEREAS, the existing economic development impact fee mitigation program only applies to impact fees; and

WHEREAS, the City Council desires for mobility fees to be eligible for mitigation; and

WHEREAS, the proposed amendment is in the best interest of the health, safety, and welfare of the citizens of the City; and

WHEREAS, the City Council adopts the amendment set forth below to ensure inclusion of mobility fees in its impact fee mitigation program.

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. **Ratification of Recitals.** The City Council hereby adopts and ratifies those matters as set forth in the foregoing recitals.

Section 2. **Section 159.903 of the City Code is amended as follows:**

Sec. 159.503. - Definitions.

- (A) Qualified Target Industry Business: A new or expanding business in the City that has a positive economic and fiscal impact on the City and meets the requirements of F.S. § 288.106, or its statutory successor in function, as a qualified target industry business.
- (B) Applicant: Any person, company, research institute or business park developer that will house qualified target industry businesses.

(C) Locally Owned and Operated Small Business: A Qualified Target Industry Business continually operated in the City for at least three years which is owned and operated by a St. Lucie, Martin, Indian River or Okeechobee County resident whose homestead is located in St. Lucie, Martin, Indian River or Okeechobee County, and which employs 50 or fewer employees.

(D) Impact fee: As used in Article V, an impact fee or mobility fee established by Chapter 159 of this Code.

Section 3. Conflict. If any ordinances, or parts of ordinances, are in conflict herewith this Ordinance shall control to the extent of the conflicting provisions.

Section 4. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 5. Codification. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Port St. Lucie, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; the word “ordinance” may be changed to “section” or other appropriate word as may be necessary.

Section 6. Effective Date. This Ordinance shall become effective immediately after final adoption on second reading.

PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this ____ day of _____, 2021.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
Shannon M. Martin, Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

By: _____
James D. Stokes, City Attorney