ORDINANCE NO. 2015-11

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING ORDINANCE NOS. 2012-07 AND 2014-05; AMENDING CHAPTER 17, ARTICLE III OF THE FLAGLER COUNTY CODE OF ORDINANCES ENTITLED "TRANSPORTATION FACILITIES IMPACT FEE" AND AMENDING CHAPTER 17, ARTICLE IV OF THE FLAGLER COUNTY CODE OF ORDINANCES ENTITLED "PARKS AND RECREATION IMPACT FEE"; PROVIDING FOR A SUSPENSION ON THE COLLECTION OF TRANSPORTATION FACILITIES IMPACT FEES; PROVIDING FOR FINDINGS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Flagler County, Florida, (the "Board") enacted Ordinance No. 89-19 imposing "Transportation Facilities Impact Fees" (as defined therein) to facilitate the generation of funds necessary to meet the future transportation needs of the County residents; and

WHEREAS, the Board enacted Ordinance No. 89-20 as amended by Ordinance No. 94-10 imposing "Parks and Recreation Impact Fees" (as defined therein) to facilitate the generation of funds necessary to meet the future parks and recreational needs of the County residents; and

WHEREAS, in recognition of the economic recession that gripped the United States and Flagler County, the Board enacted Ordinance No. 2012-07, providing for a two-year moratorium on the collection of transportation facilities and parks and recreation impact fees; and

WHEREAS, the Board extended the moratorium through Ordinance No. 2014-05 until October 9, 2015; and

WHEREAS, building permit activity has increased as the ongoing recession and its effects have recently eased; and

WHEREAS, the Board, through their workshop meeting on September 15, 2015, received a presentation from staff regarding suspending the collection of transportation facilities impact fees and resuming the collection of the parks and recreation impact fee following the expiration of the moratorium on October 9, 2015; and

WHEREAS, the Board of County Commissioners desires to continue its extraordinary efforts to strengthen the local economy through suspending the collection of the transportation facilities impact fee until such time as a study is completed.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Flagler County, Florida, on this 5th day of October, 2015, as follows:

SECTION A. FINDINGS. The above recitals are incorporated herein as Findings of Fact.

SECTION B. IMPACT FEE SUSPENSION (TRANSPORTATION FACILITIES IMPACT FEE). The following amendments are made to Chapter 17, Article III, Section 17-70, *Impact fee moratorium*, of the Flagler County Code of Ordinances (strikethrough text is deleted; underlined text is added):

> In order to establish an incentive for vertical construction projects, the Board hereby declares and establishes a ~~moratorium~~ suspension on the collection of Transportation Facilities Impact Fees~~ if a property owner or applicant: (A) submits to the County a completed building permit application between October 10, 2014 and October 9, 2015, and receives a building permit from the County within one hundred eighty (180) days of having submitted a complete building permit application, and (B) schedules and receives an approved initial inspection within one hundred eighty (180) days of building permit issuance, and (C) receives an additional approved inspection every 180 days thereafter (provided additional inspections are required), and (D) receives a permanent certificate of occupancy within 18 months of the date the building permit was issued. The County Administrator or his/her designee is authorized to grant up to a six (6) month extension of the deadline for obtaining a permanent certificate of occupancy for the purposes of impact fee collections to a developer of any non-residential building greater than 20,000 square feet and less than 100,000 square feet in size that otherwise meets the requirements for exemption from Transportation Facilities Impact Fees, as provided for in this ordinance. For non-residential buildings 100,000 square feet or greater in size, the County Administrator is authorized to grant up to a twelve (12) month extension of the deadline for obtaining a permanent certificate of occupancy for the purposes of impact fee collections, providing the project otherwise meets the exemption from Transportation Facilities Impact Fees, as provided for in this ordinance. Such extension determinations shall be based solely upon the due diligence demonstrated in pursuing the completion of the project and any extenuating circumstances that delayed completion. Such decision shall be final and not appealable~~. This suspension in the collection of the Transportation Facilities Impact Fees shall remain in effect until such time as a study is completed and this Article is amended to resume collection of the Transportation Facilities

Impact Fees or otherwise amended or deleted by the Board of County Commissioners.

SECTION C. IMPACT FEE MORATORIUM EXPIRED (PARKS AND RECREATION IMPACT FEE). As of October 10, 2015, the date of the expiration of the parks and recreation impact fee moratorium as provided in Ordinance No. 2014-05 and codified as Chapter 17, Article IV, Section 17-111, *Impact fee moratorium*, of the Flagler County Code of Ordinances, Section 17-111 is deleted in its entirety, and this section shall be reserved.

SECTION D. STATUS OF IMPACT FEES. Except as otherwise stated herein, all impact fees shall remain in effect as provided in the Flagler County Code of Ordinances.

SECTION E. SEVERABILITY. If any section, sentence, phrase, word, or portion of this ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

SECTION F. CODIFICATION. It is the intent of the County Commissioners of Flagler County, Florida, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Flagler County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplished such intention; that the word "Ordinance" may be changed to "Section," "Article," or other appropriate word.

SECTION G. CONFLICTS. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION H. EFFECTIVE DATE. This ordinance shall take effect upon filing with the Department of State, as provided by Section 125.66, *Florida Statutes*.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

Frank J. Meeker, Chairman

ATTEST:

Gail Wadsworth, Clerk of the Circuit Court and Comptroller

APPROVED AS TO FORM:

Al Hadeed, County Attorney

FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

October 6, 2015

Honorable Gail Wadsworth
Clerk of the Circuit Court
Flagler County
1769 East Moody Boulevard, Building 1
Bunnell, Florida 32110

Attention: Ms. Lisa Funicello

Dear Ms. Wadsworth:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Flagler County Ordinance No. 2015-11, which was filed in this office on October 6, 2015.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

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