

ORDINANCE NO. 11-06

**AN ORDINANCE OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING ORDINANCE NO. 09-08E IMPOSING A TWO YEAR MORATORIUM ON THE COLLECTION OF TRANSPORTATION IMPACT FEES FROM RESIDENTIAL OR COMMERCIAL PROJECTS; PROVIDING FOR AN EXTENSION OF THE MORATORIUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN AREA EMBRACED; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE CODE**

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Brevard County, Florida, that:

**SECTION 1.** Sections 1, 2 and 4 of Brevard County Ordinance 09-08E are hereby amended by extending certain deadlines contained in sections 1, 2 and 4 as set forth in the underlined provisions below. The recitals in Ordinance 09-08E and sections 1 through 4 of that ordinance, including the remainder of sections 1, 2 and 4 not modified by this ordinance, are hereby ratified in full, and shall remain in full force and effect, as set forth below.

“WHEREAS, a deep economic recession has recently gripped the United States and Brevard County; and

WHEREAS, the recession has caused many citizens in Brevard County to lose their jobs through layoffs, corporate contraction and corporate insolvency; and

WHEREAS, the County Commission finds that the construction industry in Brevard County has been particularly hard hit by the recession; and

WHEREAS, the Brevard County Board of County Commissioners has determined that putting its citizens back to work is a high priority for every level of government, including county government; and

WHEREAS, the County Commission has determined that the removal of certain regulatory and economic impediments to new commercial development is one way in which County government can join the State and Federal government in strategies designed to stimulate the local economy; and

WHEREAS, the alarming loss of real estate and development related jobs in the county and the prospect of additional future layoffs at the Kennedy Space Center have created the need for immediate action to help open up new job opportunities, especially jobs related to the construction of commercial projects; and

WHEREAS, the Board finds that the quickest and most effective economic stimulus that the county can provide is to incentivize new commercial development projects by removing the county imposed development costs represented by transportation impact fees in order to enhance opportunities for financing and the economic feasibility of new commercial projects; and

WHEREAS, the Board finds that the size and complexity of certain commercial development projects may require additional time to complete; and

WHEREAS, specific authority for this ordinance includes, but is not limited to Article VIII, Section 1, Florida Constitution of 1968 and Chapters 125, Florida Statutes; and

WHEREAS, the Brevard County Board of County Commissioners finds that based on the foregoing reasons for the moratorium on commercial transportation impact fees, this ordinance will promote the public health, welfare, safety, aesthetics, and economic order of the county;

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Brevard County, Florida, that:

**SECTION 1. FINDINGS. PURPOSE AND DECLARATION.**

a) The recitals set forth above are hereby incorporated as findings of the Board of County Commissioners relating to an economic emergency in Brevard County and the Board of County Commissioners hereby declare that such an emergency exists.

b) In order to establish an incentive for construction projects, beginning on March 1, 2009, the Board of County Commissioners of Brevard County, Florida hereby declares and imposes a ~~three~~ four year moratorium on the collection of transportation impact fees for any residential or commercial construction project for which a property owner or applicant receives from Brevard County or participating municipality 1) a building permit within ~~twenty-four~~ thirty six months from the beginning date of this moratorium and 2) at least a temporary certificate of occupancy within ~~thirty-six~~ forty eight months from the beginning date of this moratorium, unless the latter date is extended by the Brevard County Board of County Commissioners. The County Manager is authorized to grant a one year extension of the deadline for obtaining a temporary certificate of occupancy to a developer of any commercial project exceeding 20,000 square feet in size that otherwise meets the requirements for exemption from transportation impact fee payment as provided for in this ordinance. This moratorium shall also apply to any owner or applicant who has submitted a complete application for a building permit prior to March 1, 2009 but has not, as of the effective date of this ordinance, received a temporary or permanent certificate of occupancy.

## **SECTION 2. APPLICABILITY AND REFUNDS**

Except as otherwise provided in this ordinance, any permitted construction project for which a building permit has not been issued by Brevard County or participating municipality before March 1, ~~2011~~ 2012, as well as any project which has not received at least a temporary certificate of occupancy by March 1, ~~2012~~ 2013, or any project that has received a building permit prior to March 1, 2009, or upon majority vote of a city council where any city building permit is issued, for a project that exceeds an average daily trip generation rate of 1,200 trips within a municipality that participates in the transportation impact fee program and for which the municipality requires concurrency approval and payment of transportation impact fees as condition precedent to obtaining a building permit will be required to pay transportation impact fees unless either of these deadlines is extended by the Brevard County Board of County Commissioners. Refunds shall be made to owners or developers of property who qualify for exemption under this moratorium ordinance but have already paid transportation impact fees.

## **SECTION 3. NOTICE WAIVED.**

At least four/fifths (4/5ths) of the membership of the Board of County Commissioners of Brevard County, Florida, hereby declares that an emergency exists and that the immediate enactment of this ordinance is necessary to meet such emergency, and in accordance with Section 125.66(3) Florida Statutes, waives all notice requirements.

## **SECTION 4. SUNSET PROVISION**

This ordinance will sunset and be effectively repealed on March 1, ~~2012~~ 2013 unless a majority vote of the Board of County Commissioners determines that the economic conditions of the county warrant the continuation of the moratorium.”

## **SECTION 2. SEVERABILITY.**

If any provision of this ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

## **SECTION 3. AREA EMBRACED.**

This ordinance shall take effect in the unincorporated area of Brevard County, Florida and in any municipality which is described in section 62-817 of the Code of Ordinances of Brevard County, Florida, unless such municipality has adopted or in the future adopts an ordinance electing to establish transportation impact fees, thereby opting out of the provisions of this moratorium ordinance.

**SECTION 4. EFFECTIVE DATE.**

This ordinance shall take effect upon filing with the Department of State within 10 days of the date of adoption of the ordinance, as provided by Section 125.66(3), Florida Statutes.

**SECTION 5. INCLUSION IN THE CODE OF ORDINANCES.**

This ordinance shall be included and be made a part of the Code of Ordinances of Brevard County, Florida, and the editors of that Code of Ordinances shall have the authority to re-number or re-letter any section in this ordinance to conform to the format used in the Code of Ordinances. Any editorial changes to the section numbers or section titles in this ordinance shall be deemed and interpreted as a non-substantive editorial changes that have no effect on any substantive provision in the ordinance.

**DONE, ORDERED AND ADOPTED**, in regular session, this twenty second day of February, 2011.

**ATTEST:**

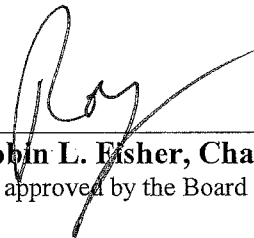


A handwritten signature in black ink, appearing to read "Mitch Needelman", is written over a faint circular official seal of the Board of County Commissioners of Brevard County, Florida.

Mitch Needelman, Clerk

**BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA**

By: \_\_\_\_\_



A handwritten signature in black ink, appearing to read "Robin L. Fisher", is written over a horizontal line.

**Robin L. Fisher, Chairman**

(as approved by the Board on February 22, 2011)