

**ORDINANCE NO. 09-08 E**

**AN EMERGENCY ORDINANCE OF THE BREVARD  
COUNTY BOARD OF COUNTY COMMISSIONERS  
IMPOSING A TWO YEAR MORATORIUM ON THE  
COLLECTION OF TRANSPORTATION IMPACT FEES  
FROM RESIDENTIAL OR COMMERCIAL PROJECTS;  
PROVIDING FOR FINDINGS AND PURPOSE;  
ACKNOWLEDGING SUPERMAJORITY APPROVAL;  
PROVIDING FOR SEVERABILITY; PROVIDING FOR AN  
AREA EMBRACED; PROVIDING FOR AN EFFECTIVE  
DATE; PROVIDING FOR INCLUSION IN THE CODE**

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, 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 two 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 1) a building permit within twelve months from the beginning date of this moratorium and 2) at least a temporary certificate of occupancy within twenty four 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 25,000 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 building permit or temporary certificate of occupancy.

**SECTION 2. NONPERFORMANCE**

Except as otherwise provided in this ordinance, any permitted construction project for which a building permit has not been issued by Brevard County before March 1, 2010, as well as any project which has not received at least a temporary certificate of occupancy by March 1, 2011 will be required to pay transportation impact fees unless either of these deadlines is extended by the Brevard County Board of County Commissioners

**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, 2011 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 5. CONFLICTING PROVISIONS.**

In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule code or regulation, the more restrictive shall apply.

**SECTION 6. 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 7. 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 8. EFFECTIVE DATE.**

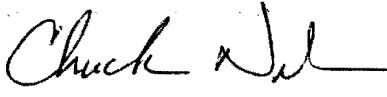
This ordinance shall take effect immediately upon acceptance of a copy of the ordinance by the postal authorities of the government of the United States for special delivery by certified mail to the Department of State as provided by Section 125.66(3), Florida Statutes.

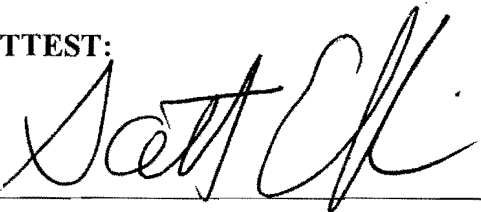
**SECTION 9. INCLUSION IN THE CODE OF ORDINANCES.**

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 5<sup>th</sup> day of March, 2009.

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

By:   
**Chuck Nelson, Chairman**  
(as approved by the Board on March 5, 2009)

**ATTEST:**  
  
(Deputy) Clerk