

# ORDINANCE NO. 2024-11

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON CERTAIN DEVELOPMENT ACTIVITIES WITHIN AE SFHA FLOOD ZONES; DIRECTING STAFF TO REVIEW AND DEVELOP LAND DEVELOPMENT CODE PROVISIONS RELATED TO FILL STANDARDS AND LIMITATIONS FOR PROPERTIES LOCATED WITHIN THE AE SFHA FLOOD ZONES; PROVIDING FOR EXPIRATION AND EXTENSION OF THE MORATORIUM; PROVIDING STANDARDS FOR RELIEF FROM THE APPLICATION OF THE MORATORIUM; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City is granted the authority, under Section 2(b), Art. VIII of the State Constitution, and Section 166.021, Florida Statutes, to exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, the Federal Emergency Management Agency has identified Special Flood Hazard Areas (“SFHA”) within the City’s boundaries that may be subject to periodic inundation; and

**WHEREAS**, development activities within these high-risk flood zones can significantly impact floodplain management, exacerbate flooding conditions, and lead to increased risks to properties and residents; and

**WHEREAS**, specifically, the placement of fill material within high-risk flood zones can alter natural water flow patterns, reduce flood storage capacity, and increase the potential for flood damage to surrounding areas; and

**WHEREAS**, recent weather patterns have raised concerns about the increased severity and frequency of flooding events within the City; and

**WHEREAS**, the City has identified the need to review and potentially revise its current regulations regarding the placement of fill material to developments within certain high-risk flood zones; and

**WHEREAS**, the City Commission finds a temporary moratorium on the placement of fill material for any development project within AE SFHA flood zones is necessary to prevent any adverse effects on floodplain management and flood risk while the City undertakes a comprehensive review of its fill regulations; and

**WHEREAS**, it is the City's intent that this moratorium be applicable only to development activities involving fill material on parcels located within AE SFHA flood zones, as described in Art. IX, Sec. 9.04.04(b), of the City's Land Development Code; and

47       **WHEREAS**, this Ordinance is adopted in good faith, is not discriminatory against any  
48 property owner, is of limited duration, and will allow for the development and implementation of  
49 measures to ensure sustainable and safe development within flood zones; and  
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51       **WHEREAS**, the City Commission finds this Ordinance to be in the best interests of the  
52 public health, safety, and welfare of the citizens of Flagler Beach.  
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54       **NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF FLAGLER**  
55 **BEACH, FLORIDA:**  
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57       **SECTION 1. RECITALS.** The foregoing recitals are hereby ratified and fully  
58 incorporated herein by reference as legislative findings of the City Commission of the City of  
59 Flagler Beach.  
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61       **SECTION 2. TEMPORARY MORATORIUM.** Beginning on the effective date of this  
62 Ordinance and continuing for a period of 180 days, a moratorium is hereby imposed upon the  
63 placement of fill material to any parcel located within AE SFHA flood zones, as described in Art.  
64 IX, Sec. 9.04.04(b), of the City's Land Development Code.  
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66       **SECTION 3. EXPIRATION OF THE TEMPORARY MORATORIUM.** The  
67 temporary moratorium imposed by Section 2 of this Ordinance shall expire 180 days from the  
68 effective date of this Ordinance, upon the adoption of an amendment to the Land Development  
69 Code implementing changes to fill standards and regulations for AE SFHA flood zones, or upon  
70 the majority vote of the City Commission, whichever occurs earliest. If the City requires additional  
71 time to complete the enactment of amending fill regulations applicable to the properties subject to  
72 this moratorium, the City Commission may consider extending the moratorium through a  
73 subsequent ordinance providing the justification for the extension.  
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75       **SECTION 4. RECOMMENDATIONS FOR LAND DEVELOPMENT CODE.** City  
76 staff is hereby directed to examine the current land use regulations and make recommendations to  
77 the City Commission and the Planning and Architectural Review Board related to updating the  
78 limitations on fill material placement for properties located within the AE SFHA flood zones.  
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80       **SECTION 5. ADMINISTRATIVE RELIEF PROCEDURE.**

81       (a)     The City Commission may authorize exceptions to the moratorium imposed by this  
82 Ordinance when it finds, based upon substantial competent evidence presented to it, that deferral  
83 of a proposed placement of fill for the duration of the moratorium would impose an extraordinary  
84 hardship on a landowner or petitioner.  
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86       (b)     A request for an exception based upon extraordinary hardship shall be filed with  
87 the City Clerk, including a non-refundable fee of \$350.00 by the owner/petitioner, or the petitioner  
88 with the consent of the owner/petitioner, to cover processing and advertising costs, and shall  
89 include a recitation of the specific facts that are alleged to support the claim of extraordinary  
90 hardship.  
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(c) A public hearing on any request for an exception for extraordinary hardship shall be held by the City Commission at the first regular meeting of the City Commission that occurs after the expiration of the period for publication of notice of the request for an exception.

(d) Notice of filing of a request for an exception, and the date, time, and place of the hearing thereon shall be published once at least 7 days prior to the hearing in a newspaper of general circulation within the city limits of the City of Flagler Beach, Florida.

(e) In reviewing a request for an exception based upon a claim of extraordinary hardship, the City Commission shall consider, at a minimum, the following criteria:

- (1) The extent to which the owner/petitioner has, prior to the effective date of this Ordinance, received a permit or approval to conduct a use subject to this moratorium.
- (2) The extent to which the owner/petitioner has, prior to the effective date of this Ordinance, made a substantial expenditure of money or resources in reliance upon a permits or approvals of the City of Flagler Beach directly associated with a use subject to this moratorium.
- (3) Whether the moratorium will expose the owner/petitioner to substantial monetary liability to third persons; or would leave the owner/petitioner completely unable, after a thorough review of alternative solutions, to earn a reasonable investment backed expectation on the real property that is affected by this Ordinance.

(f) At a minimum, the City Commission shall consider the following non-exclusive factors under the criteria set forth in subsection (e) above:

- (1) The history of the property;
- (2) The history of the commercial, business, or any use on the property; and
- (3) The location of the property.

(g) After reviewing the evidence and testimony placed before it, the City Commission shall either approve, deny, or approve in part and deny in part, the request made by the owner/petitioner.

**SECTION 6. SEVERABILITY.** If any phrase, clause, sentence, paragraph, or section of this Ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

**SECTION 7. CONFLICTS.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 8. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

PASSED ON FIRST READING THIS [REDACTED] DAY OF [REDACTED], 2023.

PASSED AND ADOPTED THIS [REDACTED] DAY OF [REDACTED], 2023.

CITY OF FLAGLER BEACH, FLORIDA  
CITY COMMISSION

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Suzie Johnston, Mayor

ATTEST:

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Penny Overstreet, City Clerk