

ORDINANCE NO. 2023 - ____

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF
NASSAU COUNTY, FLORIDA, AMENDING CHAPTER 34
COMPREHENSIVE IMPACT FEE ORDINANCE, NASSAU COUNTY
CODE OF ORDINANCES, AMENDING SECTION 34-83 PROVIDING AN
IMPACT FEE EXEMPTION FOR REDEVELOPMENT TINY HOME
DEVELOPMENTS; PROVIDING FOR CODIFICATION; PROVIDING
FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY;
AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Legislature of the State of Florida has, in Chapter 125, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry; and

WHEREAS, in Chapter 420, Florida Statutes, the Florida Legislature directly recognizes the critical shortage of affordable housing in the State of Florida for very low to moderate income families, the problems associated with rising housing costs in the State, and the lack of available housing programs to address these needs. In recognition of these problems and the State's encouragement to local governments to work in partnership with the State and private sector to solve these housing problems, the County finds a need for local programs to stimulate and provide for the development of affordable housing for Low and Very-Low, and Moderate-Income Persons; and

WHEREAS, the Board desires to provide incentives to develop and provide affordable housing stock within the County so that Low, Very-Low, and Moderate-Income Persons who desire to live and to work in the County may have access to housing, and thus to offset the negative consequences of the shortage of such housing; and

WHEREAS, the Nassau County Board of County Commissioners ("Board") adopted Ordinance No. 2023-XX, amending the Nassau County Comprehensive Plan 2010-2030 ("Comprehensive Plan") Future Land Use Element adding Policy FL.01.03.1 to increase housing diversity, encourage redevelopment of nonconforming uses, nuisance properties, and blighted areas, and to aid in the provision of affordable and workforce housing; and

WHEREAS, Ordinance No. 2023-XX, further amended the Comprehensive Plan Housing Element adding Policy H.01.05 to provide for the establishment of a Tiny Home Development program implementing the strategies through provisions in the Land Development Code to increase housing diversity, encourage redevelopment of nonconforming uses, nuisance properties, and blighted areas, and aid in the provision of affordable and workforce housing; and

WHEREAS, Section 163.3202(3), Florida Statutes, encourages the use of innovative land development regulations, including the use of impact fees, to implement the goals, objectives and policies of a county's Comprehensive Plan; and

WHEREAS, to the Board finds that it is fair and reasonable to exempt Tiny Home Developments from impact fees to encourage the development of affordable housing.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Nassau County, Florida, as follows:

SECTION 1. FINDINGS.

The above findings are true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENTS.

Chapter 34, Section 34-83. Exemptions, of the Nassau County code of ordinances is hereby amended to read as follows:

Sec. 34-83. Exemptions.

Subject to the change in size and use provisions in section 34-84 hereof, the following shall be exempted from payment of the impact fees:

- (1) Alterations or expansion of an existing dwelling unit which does not result in any additional dwelling units or increase the number of families for which such dwelling unit is arranged, designed or intended to accommodate for the purpose of providing living quarters.
- (2) The replacement or construction of accessory buildings or structures which will not create an additional impact on the capital facilities for which impact fees are imposed under this chapter.
- (3) The replacement of a building or dwelling unit where no additional square footage or dwelling units are created and where the existing and replacement building or dwelling units are located on the same lot. To be eligible for this exemption, official evidence such as, but not limited to, aerial photos, property appraiser data, or building permit data, must be provided that confirms a building of equivalent use existed within the parcel boundaries in which the replacement structure is to be located.
- (4) The issuance of a tie-down permit for a mobile home on which the applicable impact fee has previously been paid for the lot upon which the mobile home is to be situated. To be eligible for this exemption, official evidence such as, but not limited to, aerial photos, property appraiser data, or building permit data, must be provided that confirms a building of equivalent use existed within the parcel boundaries in which the replacement structure is to be located.
- (5) Government buildings. However, any impact fee exemption issued for a government building shall expire if an alteration causes the building or development to no longer be a government building.
- (6) Buildings for bona fide farm operations, as defined in F.S. § 823.14, on land classified as agricultural land pursuant to F.S. § 193.461.

- (7) Construction of any house of worship or structure directly related to the house of worship.
- (8) Construction of ~~any building or structure by habitat for humanity~~eligible Local Government or Redevelopment Tiny Home Developments of mixed affordable housing units meeting the definition of Section 420.0004(17) for very-low-income persons, Section 420.0004(11) for low-income, or Section 420.0004(12) for moderate income persons. Qualifying affordable housing units shall remain “affordable” for a minimum of thirty (30) years and meet the requirements of Sec. 28.24 of the Nassau County Land Development Code.
- (9) For purposes of the educational system impact fee only, any residential construction that qualifies as housing for older persons and meets the following requirements:
 - a. Any person seeking a housing for older persons exemption shall file with the superintendent an application for exemption prior to receiving a building permit for the proposed residential construction. The application for exemption shall contain the following:
 - 1. The name and address of the owner;
 - 2. The legal description of the residential construction;
 - 3. Evidence that the residential construction is within a community or subdivision that is operated as housing for older persons in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Acts of 1968, as amended by the Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995, 42 U.S.C. §§ 3601-19, or its statutory successor in function; and
 - 4. A copy of the recorded declaration of covenants and restrictions that run with the land, cannot be revoked or amended for a period of at least thirty (30) years from recording, and that prohibit any person under the age of eighteen (18) years of age from residing within any dwelling unit on the property as a permanent resident.
 - b. If the residential construction meets the requirements for a housing for older persons exemption, the superintendent shall issue an exemption. The exemption shall be presented in lieu of payment of the educational system impact fee.
 - c. The amount of the educational system impact fee shall not be increased to replace any revenue lost due to the housing for older persons exemption.
 - d. In the event the recorded declaration of covenants and restrictions is breached or otherwise modified within the thirty-year period following recording such that persons under the age of eighteen (18) are allowed to reside as permanent residents in any residential construction receiving a housing for older persons exemption, the educational system impact fee in effect at the time of the change in circumstances shall be due.

SECTION 2. CODIFICATION.

It is the intent of the Board of County Commissioners for Nassau County that the provisions of this Ordinance shall become and shall be made part of the Code of Ordinances of Nassau County, Florida. The sections of this Ordinance may be re-numbers or re-lettered and the words may be changed to section, article or other such appropriate word or phrase in order to accomplish such intention. The Nassau County Clerk of Courts will ensure that this Ordinance is codified into, and published, as part of the Nassau County Code of Ordinances.

SECTION 3. CONFLICTING PROVISIONS.

All ordinances, or parts of ordinances, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 4. SEVERABILITY.

It is the intent of the Board of County Commissioners of Nassau County, Florida, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect upon filing with the Secretary of State as provided in Florida Statutes, Section 125.66.

PASSED AND DULY ADOPTED this ____ day of _____, 2023.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

KLYNT A. FARMER
Its: Chairman

ATTEST as to Chairman's Signature:

Approved as to form:

JOHN A. CRAWFORD
Its: Ex-Officio Clerk

DENISE C. MAY
County Attorney