



City of North Port

ORDINANCE NO. 2021-39

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, RECOGNIZING THAT THE FLORIDA LEGISLATURE’S RETROACTIVE APPLICATION OF FLORIDA STATUTES SECTION 163.31801(6) INVALIDATED AND PREEMPTED THE CITY’S IMPACT FEE RATE SCHEDULES INCREASED IN ORDINANCE NO. 2020-42; RATIFYING AND REINSTATING THE PREVIOUS IMPACT FEE RATE SCHEDULES IN ORDINANCE NO. 2019-06; PROVIDING FOR FINDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION IN SECTION 58-105 OF THE CODE OF THE CITY OF NORTH PORT, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of North Port, Florida increased its impact fee rate schedules in Section 58-105 of the Code of the City of North Port, Florida, via Ordinance No. 2019-06, effective June 11, 2019; and

WHEREAS, less than two years later, the City increased its impact fee rate schedules in Section 58-105 of the Code of the City of North Port, Florida, effective February 9, 2021; and

WHEREAS, in its 2021 regular session, the Florida Legislature adopted Laws of Florida Chapter 2021-063, amending Florida Statutes Section 163.31801, known as the “Florida Impact Fee Act”; and

WHEREAS, the new law created Florida Statutes Section 163.31801(6) and limited increases to impact fees by adding a cap, requiring a phase-in, and restricting the frequency of impact fee increases to once every four years; and

WHEREAS, the new law became effective on July 1, 2021, but specifically identified Florida Statutes Section 163.31801(6) as operating retroactively to January 1, 2021; and

WHEREAS, by retroactively applying the new law, the Florida Legislature invalidated Ordinance No. 2020-42, which was adopted before the new law’s effective date but after the retroactive date of January 1, 2021, and which did not meet the new requirements of Florida Statutes Section 163.31801(6); and

WHEREBY, as a result of this invalidation and state preemption, the City’s impact fee rate schedules reverted to those in Ordinance No. 2019-06; and

WHEREAS, the City Commission adopts this ordinance to recognize the invalidation of Ordinance No. 2020-42 and to clarify for codification purposes that the impact fee rate schedules in Ordinance No. 2019-06 are reinstated; and

WHEREAS, the City Commission has determined that that the impact fee rate schedules adopted by Ordinance No. 2019-06 serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 – FINDINGS

- 1.01 The above recitals are true and correct and are incorporated in this ordinance by reference.
- 1.02 The City did not collect any impact fees at the scheduled rates set forth in Ordinance No. 2020-42.

SECTION 2 – INVALIDATION OF ORDINANCE NO. 2020-42

- 2.01 The City Commission recognizes that the Florida Legislature’s retroactive application of Florida Statutes Section 163.31801(6) invalidated Ordinance No. 2020-42 by operation of law. Therefore, the City Commission deems the ordinance repealed through state preemptive action, and the invalidation is not the result of local action by this ordinance or any other action of the City Commission.
- 2.02 The City Commission recognizes that, as a result of this invalidation and preemption, the increase in impact fee rate schedules set forth in Ordinance No. 2020-42 cannot be utilized.

SECTION 3 – RATIFICATION OF ORDINANCE NO. 2019-06

- 3.01 Due to the invalidation and preemption of Ordinance No. 2020-42, the City Commission ratifies its adoption of Ordinance No. 2019-06 and its findings therein, as if fully in effect without interruption since its adoption.
- 3.02 The City Commission recognizes the reinstatement of the impact fees set forth in Ordinance No. 2019-06, retroactive to February 9, 2021.

SECTION 4 – CONFLICTS

- 4.01 In the event of any conflict between the provisions of this ordinance and any other ordinance, in whole or in part, the provisions of this ordinance will prevail to the extent of the conflict.

SECTION 5 – SEVERABILITY

- 5.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason invalid or unconstitutional, that provision will be

deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the ordinance.

SECTION 6 – CODIFICATION

- 6.01 The City Commission directs the City Clerk to have Section 58-105(b) of the Code of the City of North Port, Florida updated and codified to reflect the impact fee schedules in Ordinance No. 2019-06.
- 6.02 In Ordinance No. 2019-06, additions are shown as underlined and deletions as ~~strickthrough~~. Any additional codification information and notations appear in *italics*. These editorial notations are not intended to appear in the codified text.

SECTION 7 – EFFECTIVE DATE

- 7.01 This ordinance shall take effect immediately upon adoption.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session on September 14, 2021.

ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in public session on September 28, 2021.

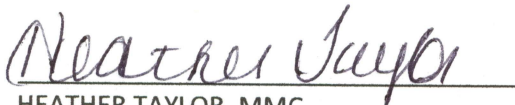
CITY OF NORTH PORT, FLORIDA



GISELE "JILL" E. LUKE

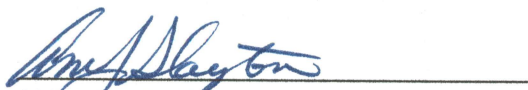
MAYOR

ATTEST



HEATHER TAYLOR, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS



AMBER L. SLAYTON
CITY ATTORNEY