

**ORDINANCE NO. 2025-O-06**

**AN ORDINANCE OF THE CITY OF EDGEWATER AMENDING ORDINANCE 2024-O-63 TO LIMIT THE TEMPORARY MORATORIUM TO BUILDING PERMITS THAT INCREASE THE AMOUNT OF FILL DIRT ON PARCELS WITHIN THE FLORIDA SHORES DRAINAGE BASIN FOR A PERIOD ENDING NO LATER THAN JANUARY 5, 2026, UNLESS RESCINDED OR EXTENDED BY A SUBSEQUENT ORDINANCE, PROVIDING PROCEDURES FOR VESTED RIGHTS REVIEW FOR THE SPECIFIC MATTERS ADDRESSED HEREIN; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on January 6, 2025, the City Council adopted Ordinance 2024-O-63 providing for a temporary moratorium on the consideration of building permits that would increase impervious surface area within the Florida Shores Drainage Basin; and

**WHEREAS**, since adoption of Ordinance 2024-O-63, the City has become aware that a moratorium relating to any increase in impervious surface area is too broad and it is therefore necessary and appropriate that the moratorium be revised to govern only building permits relating to the use of fill dirt to alter the grade or elevation of parcels within the Florida Shores Drainage Basin; and

**WHEREAS**, Hurricane Ian made landfall on the west coast of Florida as a category 4 storm on September 28, 2022 and made its way across the state of Florida and traveled up the east coast causing wide-spread flooding along its route; and

**WHEREAS**, The City of Edgewater experienced 21 inches of rainfall in less than 24 hours; and

**WHEREAS**, approximately 1,200 homes flooded in the City of Edgewater resulting in substantial damage to real property, and

**WHEREAS**, On September 14, 2024 the City of Edgewater experienced 7 inches of rainfall in less than 2 hours; and

**WHEREAS**, approximately 12 miles of roads in Florida Shores experienced substantial flooding making roads impassable; and

**WHEREAS**, the City of Edgewater has hired Jones Edmunds and Associates, Inc. to perform a stormwater master plan; and

**WHEREAS**, while Jones Edmunds and Associates, Inc. is preparing the stormwater master plan, the City Council seeks to declare a temporary building moratorium on building permits that would increase the amount of “fill” dirt in the Florida Shores Drainage Basin until the City has performed the necessary maintenance and potential improvements for stormwater systems including, but not limited to, ditches and canals in the Florida Shores Drainage Basin in order to prevent further wide-spread damage and destruction in the future due to flooding; and

**WHEREAS**, based upon Jones Edmund’s timeline, the stormwater master plan should be completed within the next 15 months, with a draft expected within the next 12 months, the City Council has determined that this temporary moratorium should be in place until January 5, 2026, or until rescinded or extended by a subsequent ordinance; and

**WHEREAS**, Exhibit A identifies the properties within the boundary of the Florida Shores Drainage Basin to be affected by the temporary moratorium; and

**WHEREAS**, the temporary moratorium was considered by the Planning and Zoning Board on February 12, 2025, and the Board recommended approval by a vote of seven to zero; and

**WHEREAS**, the City Council feels it is in the best interest of the public health, safety, and welfare of the citizens of the City of Edgewater to adopt the temporary moratorium as more particularly set forth hereinafter.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER, FLORIDA:**

**SECTION 1:** Recitals Adopted. Each of the above state recitals is hereby adopted and confirmed as being true, and the same are hereby made a specific part of the Ordinance.

**SECTION 2: Moratorium Imposed.** A temporary moratorium, until no later than January 5, 2026, is hereby imposed on the consideration of building permits that require the use of fill dirt on any parcel within the Florida Shores Drainage Basin described in Exhibit A to provide time for the City to review the impacts of Hurricane Ian and the storm event on September 14, 2024. “Fill dirt” shall be defined as an earthy material which is used to fill in a depression or hole in the ground or create mounds or otherwise artificially change the grade or elevation of real property. The definition of “fill dirt” shall be strictly applied to prohibit the importation of fill dirt. Building permits that utilize the existing dirt onsite by making a cut in the grade of the land shall be allowed to place said fill dirt to change the grade elsewhere on the property. The City of Edgewater shall require a stormwater report that demonstrates a no net rise in flood stage and no adverse impacts to adjacent properties. While the temporary moratorium is in effect, the City shall not accept, process, or approve any building permit which would allow for an increase in “fill dirt” except for the exception denoted above and those that have already been submitted prior to the effective date of this Ordinance.

### **SECTION 3: Determination of Vested Rights or Denial of All Economic Use.**

(A) Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development of a parcel where the property owner can demonstrate by substantial competent evidence each of the following:

1. A governmental act of development approval was obtained prior to the effective date of this Ordinance; and
2. Upon which the property owner has detrimentally relied, in good faith, by making substantial expenditures; and
3. That it would be highly inequitable to deny the property owner the right to complete the development.

(B) Any property owner claiming vested rights under this Section 3 must file an application with the Development Services Director for a determination within 30 days after the effective date of this Ordinance. The application shall contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentary evidence supporting the claim. The Development Services Director shall review the evidence submitted and make a determination as to whether the property owner has established vested rights for the parcel based upon competent substantial evidence. The property owner may appeal the Development Services Director's determination pursuant to the appeal procedure set forth in Article I, Sec.21-07.06(c), LDR.

**SECTION 4: Exhaustion of Administrative Remedies.** No property owner claiming that this Ordinance, as applied, constitutes or would constitute an abrogation of vested rights may pursue such a claim in court, unless he or she has first exhausted the applicable administrative remedies provided in Section 3 of this Ordinance.

**SECTION 5: Conflicts.** In the event that the provisions of this Ordinance are in conflict with any other ordinance, then the provisions of this Ordinance shall prevail.

**SECTION 6: Severability.** If any section, subsection, sentence, clause, phrase, provision, or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then such invalidity or unconstitutionality shall not be held to invalidate or impair the validity, force, or effect of any other remaining provisions of this Ordinance.

**SECTION 7: Effective Date.** This Ordinance shall become effective immediately upon its adoption. The temporary moratorium enacted by this Ordinance shall terminate no later than January 5, 2026, unless rescinded or extended by subsequent ordinance.

**PASSED AND DULY ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2025.

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Diezel DePew, Mayor

**ATTEST:**

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Bonnie Zlotnik, CMC, City Clerk

Passed on first reading on the \_\_\_\_ day of \_\_\_\_\_, 2025

**APPROVED AS TO FORM AND CORRECTNESS:**

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**AARON WOLFE**  
City Attorney

**DATE:** \_\_\_\_\_

## EXHIBIT "A"

### FLORIDA SHORES DRAINAGE BASIN

