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3 **Summary of Ordinance**

4 The purpose of this Ordinance is to amend Section 22-40, Lake County Code, entitled Transfer
5 of Impact Fee Credits, to allow for a secondary transfer of impact fee credits in limited
6 circumstances, such as to accommodate the liquidation of an estate or a business. Allowing an
7 additional transfer of impact fee credits will have no fiscal impact on the County.

8 **ORDINANCE 2015-__**

9
10 **AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF**
11 **LAKE COUNTY, FLORIDA; AMENDING SECTION 22-40, LAKE**
12 **COUNTY CODE, ENTITLED TRANSFER OF IMPACT CREDITS;**
13 **ALLOWING FOR A SECONDARY TRANSFER OF IMPACT FEE**
14 **CREDITS IN CERTAIN SPECIFIED SITUATIONS; PROVIDING FOR**
15 **INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY;**
16 **PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND**
17 **PROVIDING FOR AN EFFECTIVE DATE.**

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19 **WHEREAS**, Section 22-40, Lake County Code, permits the transfer of transportation
20 impact fee credits from one person or entity to another, so long as the impact fee credits remain
21 in the same impact fee district; and

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23 **WHEREAS**, the current code provisions only permit a single, one-time transfer, with
24 documentation of the transfer being provide to the County Manager or designee; and

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26 **WHEREAS**, the Board of County Commissioners recognizes that in certain situations,
27 limiting a person or entity to a single transfer of impact fee credits can severely impact such
28 persons or entities as they are unable to liquidate their assets; and

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30 **WHEREAS**, the Board of County Commissioners now finds it is in the best interests of
31 the citizens of Lake County to permit a secondary transfer of transportation impact fee credits in
32 certain specified situations.

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34 **NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of
35 Lake County, Florida as follows:

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37 **Section 1. Recitals.** The foregoing recitals are true and correct and incorporated
38 herein by reference.

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40 **Section 2. Amendment.** Section 22-40, Lake County Code, entitled Transfer of
41 Impact Fee Credits, is hereby amended to read as follows:
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1 **Sec. 22-40. Transfer of impact fee credits.**

2 The transfer of impact fee credits shall be permitted on a project-by-project basis subject to
3 the following:

4 (a) A request to permit the transfer of impact fee credits, if any, shall be submitted
5 simultaneously with the property owner's request to construct road improvements in
6 accordance with section 22-39. All requests to permit the transfer of impact fees credits
7 shall be approved by the board of county commissioners. Untimely requests shall not be
8 considered, nor shall the board of county commissioners consider a request to transfer
9 any impact fee credits distributed by the county to any owner of record prior to the
10 effective date of this subsection, unless the project was specifically approved at the time
11 of submittal to allow the future transfer of such credits.

12 (b) The county manager or designee shall establish an account in the name of the owner of
13 record and credit to the account the amount of impact fee credits due and owing as
14 certified by the county manager or designee. In the event the owner of record desires to
15 transfer any portion of the impact fee credits to another party, and the board of county
16 commissioners has previously approved the transfer of credits for the project, the owner
17 of record shall submit a notarized affidavit to the county manager or designee indicating
18 to whom the credits are to be transferred. Upon receipt of the notarized affidavit, the
19 impact fee credits shall be transferred to a similar account established for the transferee.

20 (c) The transfer shall become effective upon confirmation by the county manager or
21 designee that the credits have been:

- 22 a. Duly distributed to the transferor;
- 23 b. Approved by the board of county commissioners for transferring; and
- 24 c. Are being transferred within the same transportation benefit district.

25 The county manager or designee shall notify the transferee when the credits are
26 available to the transferee.

27 (d) In no event shall any impact fee credit be transferred outside of the transportation
28 benefit district in which the original project was completed. Any transfer of impact fee
29 credit sheet attempting to transfer such credits outside of the transportation benefit
30 district shall be immediately voided by the county manager or designee.

31 (e) In no event shall the transferee be entitled to further transfer those same credits to a
32 second transferee, except as provided for in subsection (h) below.

33 (f) All other provisions, policies and procedures that are applicable to the payment of
34 impact fees, or to impact fee credits shall be applicable to the transfer of impact fee
35 credits.

36 (g) A schedule of fees may be established by resolution of the board of county
37 commissioners in order to cover the costs of the administrative activities required
38 pursuant to this section.
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1 (h) A transfer of impact fee credits by an owner of record, or their personal representative
2 or authorized agent, done for the purposes of liquidating an estate or liquidating a
3 business entity shall not be subject to the prohibition contained in subsection (e) above.
4 The transferee under this subsection shall take the place of the owner of record and
5 shall be entitled to avail themselves of the provisions set forth in subsections (a)
6 through (g) above. Prior to transferring the impact fee credits, the owner of record, or
7 their personal representative or authorized agent, shall receive written approval from
8 the county manager or designee, and shall provide the county manager or designee
9 documentation necessary to show that the transfer is warranted in order to effectuate the
10 liquidation of the estate or business entity.

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12 **Section 3. Inclusion in the Code.** It is the intent of the Board of County
13 Commissioners that the provisions of this Ordinance shall become and be made a part of the
14 Lake County Code and that the sections of this Ordinance may be renumbered or relettered and
15 the word “ordinance” may be changed to “section”, “article” or such other appropriate word or
16 phrase in order to accomplish such intentions.

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18 **Section 4. Severability.** If any section, sentence, clause, or phrase of the Ordinance
19 is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding
20 shall in no way affect the validity of the remaining portion of this Ordinance.

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22 **Section 5. Filing with the Department of State.** The clerk shall be and is hereby
23 directed forthwith to send a copy of this Ordinance to the Secretary of State for the State of
24 Florida in accordance with Section 125.66, Florida Statutes.

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26 **Section 6. Effective Date.** This ordinance shall become effective as provided
27 for by law.

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29 Enacted this ____ day of _____, 2015.

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31 Filed with the Secretary of State _____, 2015.

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34 **ATTEST:**

**BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA**

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37 _____
38 Neil Kelly, Clerk of the
39 Board of County Commissioners
40 of Lake County, Florida

Sean M. Parks, Chairman

This ____ day of _____, 2015.

41
42 Approved as to form and legality:

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45 _____
46 Melanie Marsh, County Attorney