ORDINANCE NO. 177

AN ORDINANCE OF THE TOWN OF FLAGLER, KIT CARSON COUNTY, COLORADO, TO AMEND TITLE 9 OF THE TOWN CODE OF FLAGLER, COLORADO, ADDING A CHAPTER TO CREATE AND CONSIDER DEVELOPMENT INCENTIVES

Whereas, the Town of Flagler, hereinafter referred to as the "Town", in the County of Kit Carson, and the State of Colorado, is the body corporate operating as a statutory town pursuant to the general statutes of the State of Colorado; and

Whereas, the Town has in place certain subdivision regulations as set forth in Title 9, Chapter 1 of the Town Code of Flagler; and

Whereas, the Board of Trustees of the Town of Flagler, hereinafter referred to as the "Board", has determined that business growth generally contributes to the overall health of the Town and that orderly growth of business should generally be encouraged and fostered within the Town of Flagler; and

Whereas, the Board further believes that it is in the best interests of the citizens of the Town of Flagler to offer, in certain cases and under certain guidelines, terms, and conditions, variable economic incentives to businesses wishing to locate within the Town;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FLAGLER, COLORADO:

SECTION I - AMENDMENT OF TITLE 9, ADDING CHAPTER 2, DEVELOPMENT INCENTIVES.

_____Upon the adoption of this Ordinance, Title 9, of the Flagler Town Code, pertaining to General Subdivision Regulations, shall be amended to add Chapter 2, Development Incentives, as follows:

CHAPTER 2

DEVELOPMENT INCENTIVES

SECTION: 9-2-1	Incentives Available
SECTION: 9-2-2	Application
SECTION: 9-2-3	Factors for Consideration
SECTION: 9-2-4	Public Hearings
SECTION: 9-2-5	Use of Town Engineer or Other Professionals
SECTION: 9-2-6	Final Determination and Agreement

- 9-2-1: INCENTIVES AVAILABLE: At various times, the Board may determine that the Town owns certain undeveloped and unplatted real property, located within the Town boundaries, available for business location and development, either in a light industrial zoning or open space zoning district. To encourage the location of business within the Town of Flagler, provided that such business is a benefit to the overall Town as reflected in a study of the factors contained in this Chapter 2, the Board shall have, in its sole discretion, the authority to offer real property owned by the Town, at no or reduced consideration, to businesses wishing to locate within the Town of Flagler, under the terms and conditions determined by the Board.
- 9-2-2: APPLICATION: Any application for development incentive through the grant of a parcel or parcels of real property shall be made to the Town Clerk. If the Application is made at least thirty (30) days prior to a regular meeting of the Board, the Board shall give initial consideration to the application at that regular meeting. Otherwise, the first consideration to an application shall be made at the next available special or regular meeting of the Board. The application shall contain narratives and sketch plans, as well as other relevant information, sufficient to inform the Board of the nature of the request and the nature of the business that the Applicant proposes to locate within the Town. When possible, the application shall address those factors set forth in Section 9-2-3 below. After the initial meeting, the Board may continue consideration of the request to allow for more information to be submitted by the Applicant which the Board feels is necessary to consider prior to proceeding with the request.
- 9-2-3: FACTORS FOR CONSIDERATION: In making its initial determination as to whether the granting of a development incentive through the conveyance of real property, either free or at a reduced consideration, to the Applicant is in the best interests of the Town, the Board shall consider the following factors:
 - A. The size and fair market value of the improvements and business facilities that are proposed to be constructed on the donated real property. The Board shall also determine what amount of real property would reasonably be required for the business and facilities that are proposed.
 - B. The number of employees that the Applicant proposes to employ at the business site, the proposed educational and / or training requirements of the employees to be employed, whether or not the employees will be those already retained by the Applicant or will be recruited from within the Town of Flagler and surrounding communities, and the projected salaries of the employees. The Applicant will to the best of his or her ability estimate the employees that will be required at the opening of the business as well as the projected number that might be needed in future years providing such supporting documentation as is available.

- C. The impact that the proposed business will have on the Town of Flagler resources and infrastructure. Particularly, the Applicant shall provide information reflecting the amount of water that may be required to operate the business, the projected discharge of waste water, the amount of waste material that may be produced from the operation of the business (along with the plans for disposal of such waste material if the material is of a hazardous or toxic nature), whether or not the business would require increased law enforcement by the Town, whether the business would produce significant amounts of odor, noise, or dust pollution, and other impact upon the Town infrastructure due to the particular nature of the proposed business.
- D. The financial ability of the Applicant to not only build the improvements if granted the incentive, but to connect to the Town infrastructure, including roads, water, waste water, and other requirements as set forth in Title 9, Chapter 1. The Applicant may be required to provide proof of such financial ability as part of the agreement referred to herein.
- E. Whether the proposed business is in conformance with the Town Master or Comprehensive Plan, and if no plan is in existence as of the date of the application, whether the proposed business is of a character that is amenable to the Town of Flagler and the surrounding neighborhood.
- F. Whether or not the proposed business would be in competition with other businesses already established within the Town of Flagler, or would be complementary to business already established within the Town of Flagler. If the proposed business were determined to be in competition with existing business or businesses would the new business still be a substantial benefit to the overall economic health of the Town? Will the proposed business be purchasing materials from other Town businesses or otherwise seeking the services of other Town businesses?
- G. Any factors found to be peculiar to the proposed business.
- 9-2-4: PUBLIC HEARINGS. In making its determination of whether or not the Applicant has made proper showing that the proposed business would benefit the overall Town of Flagler and would be eligible for the development incentive, the Board shall provide one or more public hearings to receive questions, information, and other input from the citizens of the Town of Flagler. While the Board shall endeavor to finally determine the application in as efficient a manner as practicable, there shall be no time table for final determination of whether or not an incentive shall be granted, such authority being entirely within the discretion of the Board.

- 9-2-5: USE OF TOWN ENGINEER OR OTHER PROFESSIONAL SERVICES: Upon notice to the Applicant, and upon Applicant's consent but at Applicant's expense, the Board may contact the Town Engineer, or such other professional entity, to obtain services, opinions, and findings pertaining to any of the factors set forth in Section 9-2-3 or other technical aspects of the Application.
- 9-2-6: FINAL DETERMINATION AND AGREEMENT: Upon determination by the Board that the granting of a development incentive is advantageous to the Town and warranted under the factors of this Chapter, the Board and the Applicant shall enter into a written document setting forth the terms and conditions of the agreement. The Board, upon such determination or at an earlier time if deemed by the Board to be proper under the circumstances, shall initiate or combine the development incentive with the subdivision regulations and requirements set forth in Title 9, Chapter 1. Nothing in this Chapter 2 shall be construed as a substitute for the subdivision regulations but shall be a supplement thereto and the written agreement concerning the development incentives may either be incorporated into or referred to, the subdivision development agreement required in Section 9-1-5.

SECTION II - VALIDITY.

If any part or parts of this Ordinance are for any reason held to be invalid such decision shall not affect the validity of the remaining portions of this Ordinance. The Board hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any part or parts be declared invalid.

SECTION III - REPEAL.

Existing or parts of Ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this ordinance.

SECTION IV - EFFECTIVE PERIOD.

The Board has determined that an emergency exists in that inquiries are presently being made by interested businesses concerning the availability of development incentives in the Town of Flagler and that the Board does not wish to have such inquiries go unanswered at the risk of losing such interest. Accordingly, this Ordinance shall take effect immediately upon passage.

Adopted and Approved this day of	, 2008.
Signed by RANDY FAGERLUND, Mayor	
(SEAL)	
Attest:	
DORIS KING, Town Clerk	