

ORDINANCE NO. 2008- 017

AN ORDINANCE AMENDING POLK COUNTY ORDINANCE 07-018, THE POLK COUNTY AMENDED, RESTATED AND CONSOLIDATED COMPREHENSIVE IMPACT FEE ORDINANCE, AS AMENDED; PROVIDING FOR DEFINITIONS; AMENDING SECTION 2.07, THE MEDICAL OFFICE FACILITIES IMPACT FEE MITIGATION PROGRAM TO CORRECT SCRIVENER'S ERRORS AND TO PROVIDE FOR THE POSTING OF AN IRREVOCABLE LETTER OF CREDIT IN LIEU OF A LIEN ON PROPERTY SUBJECT TO SUCH MITIGATION; AMENDING SECTION 2.08, THE ECONOMIC DEVELOPMENT IMPACT FEE MITIGATION PROGRAM TO CORRECT SCRIVENER'S ERRORS AND TO PROVIDE FOR THE POSTING OF AN IRREVOCABLE LETTER OF CREDIT IN LIEU OF A LIEN ON PROPERTY SUBJECT TO SUCH MITIGATION; AMENDING SECTION 2.09, THE WORKFORCE HOUSING IMPACT FEE MITIGATION PROGRAM TO CORRECT SCRIVENER'S ERRORS AND TO PROVIDE FOR THE POSTING OF AN IRREVOCABLE LETTER OF CREDIT IN LIEU OF A LIEN ON PROPERTY SUBJECT TO SUCH MITIGATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 9, 2007, the Board of County Commissioners of Polk County, Florida (the "Board") adopted Ordinance No. 07-018, the Polk County Consolidated, Amended and Restated Comprehensive Impact Fee Ordinance, providing for the imposition of impact fees within the County and establishing exemptions for such impact fees (Ordinance No. 07-018, as amended shall be referred to herein as the "Ordinance"); and

WHEREAS, the Board desires to amend that ordinance to correct scrivener's errors, to provide additional definitions and to provide alternatives to the imposition of liens in conjunction with the Medical Office Facilities Impact

Fee Mitigation Program, the Economic Development Impact Fee Mitigation Program, and the Workforce Housing Impact Fee Mitigation Program.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA:

SECTION 1. Section 1.02, General Definitions, of the Ordinance is hereby amended and supplemented to add the following definition:

SECTION 1.02. GENERAL DEFINITIONS. When used in this Ordinance, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

“Average Wage” means the average of all wages and salaries in Polk County, Florida as defined by Enterprise Florida.

SECTION 2. Section 2.07, Medical Office Facilities Impact Fee Mitigation Program, of the Ordinance is hereby amended and supplemented to read as follows:

SECTION 2.07. MEDICAL OFFICE FACILITIES IMPACT FEE MITIGATION PROGRAM.

A. To be eligible for a Medical Office Facilities Impact Fee Mitigation, the Capital Facilities Impact Construction must meet the following requirements:

1. Qualify as a Medical Office Facility as defined herein, with a commitment to maintain such Medical Office Facility within the County for a minimum of seven (7) years; or

2. Qualify as an Owner of real property upon

which Capital Facilities Impact Construction is to occur, which facilities shall be leased for an initial term of no less than seven (7) years to a Medical Office Facility that qualifies for a Medical Office Facilities Impact Fee Mitigation under category (A)(1) above.

B. Any person seeking a Medical Office Facilities Impact Fee Mitigation shall file an application for mitigation with the County Manager, along with an Administrative Review Fee of \$500 for review of the application, prior to the Impact Fee payment date pursuant to Section 2.01 for the subject Capital Facilities Impact Construction. The application shall contain:

1. A designation of the Capital Facilities Impact

Construction for which the application is being submitted, including a current and complete legal description of the property upon which the Medical Office Facility is proposed to be located;

2. The name and address of the Owner of the property upon which the Medical Office Facility is proposed to be located;

3. Proof that the Capital Facilities Impact Construction will be for a Medical Office Facility that will accommodate additional practicing physicians in Polk County, Florida for a minimum of seven (7) years;

4. A notarized affidavit and all necessary supporting evidence affirming that the requirements of subsection (B)(1) or (B)(2)

above will be met within one (1) year of the date the Certificate of Occupancy is issued; and

5. Other necessary information as determined by the County Manager.

C. Any Applicant or Owner who submits an Application for Medical Office Facility Impact Fee Mitigation pursuant to this Section and desires the immediate issuance of a Certificate of Occupancy prior to approval of the application shall pay prior to the issuance of the Certificate of Occupancy the Impact Fees imposed herein or as set forth in any applicable Annual Index Resolution. Any difference between the amount paid and the amount due, should the County Manager approve and accept the application, shall be refunded to the Applicant or Owner.

D. If the Capital Facilities Impact Construction qualifies under subsection (B)(1) or (B)(2) above, either the Medical Office Facility or the Owner, but not both, shall be eligible to receive a Medical Office Facilities Impact Fee Mitigation in the amount of 50% of the total Impact Fees. No more than one impact fee mitigation may be granted for each Capital Facilities Impact Construction.

E. If the County Manager finds that the Capital Facilities Impact Construction meets the requirements provided herein for mitigation, the County Manager shall bring an Impact Fee Mitigation Agreement to the Board, which shall contain, but not be limited to, the Polk County Impact Fee Mitigation Application for Medical Office Facilities and any other documents as requested

by the County Manager. The Impact Fee Mitigation Agreement shall be recorded in the Public Records of the County and shall include provisions imposing a lien on the Capital Facilities Impact Construction in the amount of the Impact Fees mitigated pursuant to the agreement for a period of seven (7) years. Such lien shall have priority over all other liens except for first mortgages, taxes and other governmental liens and assessments. In lieu of imposition of a lien for a period of seven years, and with the concurrence of the County Manager, the applicant may post an irrevocable letter of credit payable by a financial institution, acceptable to the County, to ensure payment of the impact fees in the event the property no longer qualifies for the Medical Office Facilities Impact Fee Mitigation during the seven (7) year period. The irrevocable letter of credit shall contain no conditions upon the obligation of the issuer for the payment of the principal amount and any interest due thereon.

F. The amount of the Impact Fees shall not be increased to replace any revenue lost due to the Medical Office Facilities Mitigation Program.

SECTION 3. Section 2.08, Economic Development Impact Fee Mitigation Program, of the Ordinance is hereby amended and supplemented to read as follows:

**SECTION 2.08. ECONOMIC DEVELOPMENT IMPACT FEE
MITIGATION PROGRAM.**

A. Because the imposition of the Impact Fees herein may place

the County in a non-competitive position with other local governments that have chosen not to require growth to pay its fair share of needed capital facilities and thus hinder efforts by the County and the community to encourage economic development opportunities within the County and to create permanent employment expansion opportunities for the County's citizens, there is hereby created an Economic Development Impact Fee Mitigation Program for certain Qualified Target Industry Businesses or Owners to mitigate any real or perceived disadvantage occurring from the imposition of the Impact Fees.

B. To be eligible for an Economic Development Impact Fee Mitigation, the Capital Facilities Impact Construction must meet the following requirements:

1. Qualify as a Qualified Target Industry Business and (1) create a minimum of ten (10) new jobs or a 10% increase in existing employment with an Average Wage (excluding benefits as defined by Enterprise Florida) of at least 115% of either Polk County's Average Wage, (2) provide a benefit package that includes health insurance and retirement and (3) maintain the Qualified Target Industry Business within Polk County, including the jobs created at the target salary levels, for a minimum of seven (7) years ; or

2. Qualify as a Qualified Target Industry Business and (1) create a minimum of ten (10) new jobs or a 10% increase in existing employment with an Average Wage (excluding benefits as defined by Enterprise Florida) of 100% of Polk County's Average Wage, (2) make a capital investment in the County of \$10 million or greater in construction, renovations, equipment

purchases, or other major capital investment items and (3) maintain the Qualified Target Industry Business within Polk County, including the jobs created and the capital investment in the County, for a minimum of seven (7) years; or

3. Qualify as an Owner of real property upon which Capital Facilities Impact Construction is to occur, which facilities shall be leased for an initial term of no less than seven (7) years to a Qualified Target Industry Business that qualifies for an Economic Development impact fee mitigation under category (B)(1) or (B)(2) above.

C. Any person seeking Economic Development Impact Fee mitigation shall file an application for mitigation with the County Manager, along with an Administrative Review Fee of \$500 for review of the application, prior to the Impact Fee payment date pursuant to Section 2.01 for the subject Capital Facilities Impact Construction. The application shall contain:

1. A designation of the Capital Facilities Impact Construction for which the application is being submitted, including a current and complete legal description of the property upon which the Qualified Target Industry Business is proposed to be located;

2. The name and address of the Owner of the property upon which the Qualified Target Industry Business is proposed to be located;

3. Proof that the Capital Facilities Impact Construction will be for a Qualified Target Industry Business;

4. A notarized affidavit and all necessary supporting evidence affirming that the requirements of subsection (B)(1), (B)(2), or (B)(3) above will be met within one (1) year of the date the Certificate of Occupancy is issued; and

5. Other necessary information as determined by the County Manager.

D. Any Applicant or Owner who submits an Application for Economic Development Impact Fee Mitigation pursuant to this Section and desires the immediate issuance of a Certificate of Occupancy prior to approval of the application shall pay prior to the issuance of the Certificate of Occupancy the Impact Fees imposed herein or as set forth in any applicable Annual Index Resolution. Any difference between the amount paid and the amount due, should the County Manager approve and accept the application, shall be refunded to the Applicant or Owner.

E. If the Capital Facilities Impact Construction meets the requirements provided above for mitigation, the Capital Facilities Impact Construction shall be eligible for the following, subject to the limitations on mitigation availability pursuant to paragraph I below:

1. If the Capital Facilities Impact Construction qualifies under subsection (B)(1) above, either the Qualified Target Industry Business or the Owner, but not both, shall be eligible to receive an Economic Development Impact Fee Mitigation in the following amounts; provided, however, that the Board may increase these mitigation amounts

up to, but not exceeding 50% of the total impact fees, in the event the Capital Facilities Impact Construction exceeds these requirements:

<u>Number of Jobs Created</u>	<u>Average Wage</u>	<u>Mitigation Amount</u>
Minimum of 10 or 10% Increase	115%	\$3,500 per job created
Minimum of 10 or 10% Increase	125%	\$5,000 per job created
Minimum of 10 or 10% Increase	150%	\$7,500 per job created

2. If the Capital Facilities Impact Construction qualifies under subsection (B)(2) above, either the Qualified Target Industry Business or the Owner, but not both, shall be eligible to receive an Economic Development Impact Fee Mitigation in the following amounts; provided, however, that the Board may increase these mitigation amounts up to, but not exceeding 50% of the total Impact Fees, in the event the Capital Facilities Impact Construction exceeds these requirements:

<u>Number of Jobs Created</u>	<u>Total Capital Investment</u>	<u>Mitigation Amount</u>
Minimum of 10 or 10% Increase	\$10,000,000 to \$24,999,999.99	25% of total Impact fees
Minimum of 10 or 10% Increase	\$25,000,000 to \$49,999,999.99	30% of total Impact fees
Minimum of 10 or 10% Increase	\$50,000,000 or more	40% of total Impact fees

3. If the Capital Facilities Impact Construction qualifies under subsection (B)(3) above, either the Qualified Target Industry Business or the Owner, but not both, shall be eligible to receive an Economic Development Impact Fee Mitigation in the amount of 50% of the total Impact Fees;

F. While either the Qualified Target Industry Business or the Owner may qualify for an Economic Development Impact Fee Mitigation under subsections (B)(1), (B)(2), or (B)(3) above, no more than one impact fee mitigation may be granted for each Capital Facilities Impact Construction.

G. If the County Manager finds that the Capital Facilities Impact

Construction meets the requirements provided herein for mitigation, the County Manager shall bring an Impact Fee Mitigation Agreement to the Board, which shall contain, but not be limited to, the Polk County Impact Fee Mitigation Application for Qualified Target Industries and any other documents as requested by the County Manager. The Impact Fee Mitigation Agreement shall be recorded in the Public Records of the County and shall include provisions imposing a lien on the Capital Facilities Impact Construction in the amount of the Impact Fees mitigated pursuant to the agreement for a period of seven (7) years. Such lien shall have priority over all other liens except for first mortgages, taxes and other governmental liens and assessments. In lieu of imposition of a lien for a period of seven years, and with the concurrence of the County Manager, the applicant may post an irrevocable letter of credit payable by a financial institution, acceptable to the County, to ensure payment of the impact fees in the event the property no longer qualifies for the Economic Development Impact Fee Mitigation during the seven (7) year period. The irrevocable letter of credit shall contain no conditions upon the obligation of the issuer for the payment of the principal amount and any interest due thereon.

H. The amount of the Impact Fees shall not be increased to replace any revenue lost due to the Economic Development Impact Fee Mitigation Program.

SECTION 4. Section 2.09, Workforce Housing Impact Fee Mitigation Program, of the Ordinance is hereby amended and supplemented to read as follows:

SECTION 2.09. WORKFORCE HOUSING IMPACT FEE

MITIGATION PROGRAM.

A. 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 Workforce Housing for Moderate Income Persons.

B. In recent years the median home purchase price in Polk County has increased by 120% and recent hurricanes have resulted in increased homeowners' insurance rates. As a result, the Board finds that there is a need for homeownership opportunities for Moderate Income Persons in the County.

C. The Board desires to provide incentives to develop and provide Workforce Housing stock within the County so that 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.

D. To accomplish this objective the Board finds that it is fair and reasonable to create a Workforce Housing Impact Fee Mitigation Program to reduce the burden of Impact Fees on Moderate Income Persons and encourage the development of Workforce Housing.

E. To be eligible for a Workforce Housing Impact Fee

Mitigation, the Residential Construction must qualify as Workforce Housing and meet the following requirements:

1. Any Person seeking a Workforce Housing Impact Fee Mitigation for an Owner-occupied Residential Construction shall file with the County Manager a Polk County Impact Fee Mitigation Application For Workforce Housing prior to receiving a Certificate of Occupancy for the proposed Residential Construction. The Application shall contain the following:

- a. The name and address of the Owner;
- b. The legal description of the Residential Construction;
- c. The proposed selling price of the Residential Construction;
- d. A notarized affidavit affirming that the Residential Construction qualifies as Workforce Housing and that it shall be occupied by Moderate Income Persons;
- e. Evidence that the Residential Construction shall be occupied as the legal homestead of the Owner; and
- f. A copy of a fully executed and recordable lien upon the Residential Construction in the amount of the Impact Fees mitigated hereunder and that contains a due on sale clause requiring the payment of the mitigated Impact Fees in the event the Residential Construction is sold

within seven (7) years from the date of the issuance of a Certificate of Occupancy and no longer qualifies as Workforce Housing. Such lien shall have priority over all other liens except for first mortgages, taxes and other governmental liens and assessments. In lieu of imposition of a lien for a period of seven years, and with the concurrence of the County Manager, the applicant may post an irrevocable letter of credit payable by a financial institution, acceptable to the County, to ensure payment of the impact fees in the event the property no longer qualifies for the Workforce Housing Impact Fee Mitigation during the seven (7) year period. The irrevocable letter of credit shall contain no conditions upon the obligation of the issuer for the payment of the principal amount and any interest due thereon.

2. Any Person seeking a Workforce Housing Impact Fee Mitigation for a rental Residential Construction located within a qualifying multi-family rental project shall file with the County Manager a Polk County Impact Fee Mitigation Application For Workforce Housing prior to receiving a Certificate of Occupancy for the proposed Residential Construction. The Application shall contain the following:

- a. The name and address of the Owner;
- b. The legal description of the Residential Construction;
- c. The proposed rental rates;
- d. Evidence that the Residential Construction shall be occupied by Moderate Income Persons;

e. Evidence that the Residential Construction is part of a multi-family project, which is funded by a governmental affordable housing program; and

f. A copy of a fully executed and recordable lien upon the Residential Construction in the amount of the Impact Fees mitigated hereunder and that requires the payment of the mitigated Impact Fees in the event the Residential Construction fails to meet the restrictions of Workforce Housing as provided herein within the 7-year period following the issuance of the Certificate of Occupancy such that the property no longer qualifies as Workforce Housing and is no longer occupied by Moderate Income Persons. Such lien shall have priority over all other liens except for first mortgages, taxes and other governmental liens and assessments. In lieu of imposition of a lien for a period of seven years, and with the concurrence of the County Manager, the applicant may post an irrevocable letter of credit payable by a financial institution, acceptable to the County, to ensure payment of the impact fees in the event the property no longer qualifies for the Workforce Housing Impact Fee Mitigation during the seven (7) year period. The irrevocable letter of credit shall contain no conditions upon the obligation of the issuer for the payment of the principal amount and any interest due thereon.

3. If the Residential Construction meets the requirements above for Owner occupied or rental Workforce Housing, it shall be eligible to receive a Workforce Housing Impact Fee Mitigation in

the amount of 50% of the Impact Fees due for such Residential Construction, subject to the limitations on mitigation availability pursuant to paragraph G below.

4. When granted a Workforce Housing Impact Fee Mitigation, the Applicant shall annually submit to the County by December 31 a report demonstrating its continued eligibility for the Workforce Housing Impact Fee Mitigation. In the event the Residential Construction fails to meet the restrictions of the Workforce Housing Impact Fee Mitigation as provided herein within the 7-year period following the issuance of the Certificate of Occupancy such that the property no longer qualifies as Workforce Housing and is no longer occupied by Moderate-Income Persons, the mitigated Impact Fee amount shall be immediately due and payable.

5. Any Applicant or Owner who submits an Application for Workforce Housing Impact Fee Mitigation pursuant to this Section and desires the immediate issuance of a Certificate of Occupancy prior to approval of the application shall pay prior to the issuance of the Certificate of Occupancy the Impact Fees imposed herein or pursuant to an Annual Rate Resolution. Any difference between the amount paid and the amount due, should the County Manager approve and accept the application, shall be refunded to the Applicant or Owner.

F. The amount of the Impact Fees shall not be increased to replace any revenue lost due to the Workforce Housing Mitigation Program.

G. To provide certainty for annual budgeting and capital improvement planning for the Capital Facilities, the total amount of Workforce Housing Impact Fee Mitigation granted pursuant to this Section shall not exceed \$250,000 in any fiscal year, without the direction and approval of the Board.

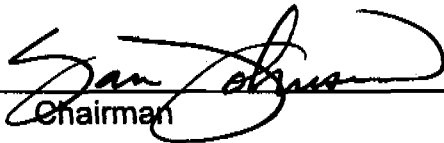
SECTION 5. APPLICABILITY. Except as modified, amended and supplemented herein, the Ordinance shall remain in full force and effect.

SECTION 6. SEVERABILITY. If any clause, section or provision of this Ordinance or any Impact Fee imposed pursuant to this Ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Ordinance or remaining Impact Fees shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.


SECTION 7. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed in the Department of State by the Clerk of the Board within ten (10) days after enactment by the Board and the Ordinance shall take effect as provided by law.

DULY ADOPTED in regular session, this 4th day of June, 2008.

BOARD OF COUNTY COMMISSIONERS
OF POLK COUNTY, FLORIDA

BY: 
Chairman

ATTEST.


Clerk

(SEAL)



STATE OF FLORIDA)

COUNTY OF POLK)

I Richard M. Weiss, Clerk of the Board of County Commissioners of Polk County, Florida hereby certify that the foregoing is a true and correct copy of Ordinance No. 08-017, "Amended, Restated and Consolidated Comprehensive Impact Fee" adopted by the Board on June 4th, 2008.

WITNESS my hand and official seal of said Board this 10th day of June, 2008.

Richard M. Weiss
Clerk to the Board

By Kathryn Courtney
Kathryn Courtney
Deputy Clerk





FLORIDA DEPARTMENT OF STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

June 13, 2008

Mr. Richard M. Weiss
Clerk of the Board
Post Office Box 988
Bartow, Florida 33831-0988

Attn: Ms. Kathryn Courtney, Deputy Clerk

Dear Ms. Weiss:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated June 10, 2008 and certified copies of Polk County Ordinance Nos. 08-017 through 08-021, which were filed in this office on June 12, 2008.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/srd

RECEIVED

06-20-08

Clerk Of The Board

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dls.dos.state.fl.us>

COMMUNITY DEVELOPMENT
850.245.6600 • FAX: 850.245.6643

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