ORDINANCE NO. 2013-037

AN ORDINANCE AMENDING POLK COUNTY ORDINANCE 07-018, THE POLK COUNTY AMENDED, RESTATED AND CONSOLIDATED COMPREHENSIVE IMPACT FEE ORDINANCE, AS AMENDED; PROVIDING AUTHORITY TO WAIVE IMPACT FEES DUE UPON CERTAIN TRANSFERS OF AFFORDABLE HOUSING PROPERTY; PROVIDING AUTHORITY TO WAIVE MITIGATED IMPACT FEES DUE UPON CERTAIN TRANSFERS OF WORKFORCE HOUSING PROPERTY; 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 (as amended, the "Ordinance"), providing for the imposition of Impact Fees within the County and establishing exemptions and mitigation programs for the Impact Fees; and

WHEREAS, the exemptions provided in the Ordinance include Section 2.06.A.7 authorizing the County to waive Impact Fees for Residential Construction that meets the requirements of Affordable Housing for a period of seven (7) years following the issuance of a Certificate of Occupancy; and

WHEREAS, Section 2.06.A.7.e of the Ordinance provides that if the property fails to meet such requirements during said 7-year period, then the Impact Fees are immediately due and payable; and

WHEREAS, the mitigation programs provided in the Ordinance include Section 2.09 authorizing the County to mitigate the Impact Fees for Residential Construction that meets the requirements of Workforce Housing for a period of seven (7) years following the issuance of a Certificate of Occupancy; and

WHEREAS, Section 2.09.E.4 of the Ordinance provides that if the property fails to meet such requirements during said 7-year period, then the mitigated impact fee amount is immediately due and payable; and

WHEREAS, the Board desires to amend the Ordinance to allow for the waiver, in whole or in part, of (1) Impact Fees due in connection with the sale of Affordable Housing property, and (2) mitigated Impact Fees due in connection with the sale of Workforce Housing property, where such sales occur within seven (7) years of issuance of the Certificate of Occupancy but comply with the Polk County Short Sale Impact Fee Waiver Policy.

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

SECTION 1: The recitals above are true and correct and are fully incorporated herein. Capitalized terms not otherwise defined herein have the meaning ascribed in the Ordinance.

SECTION 2: The first sentence of Section 2.06.A.7.b of the Ordinance is hereby amended and replaced as follows:

> b. For Residential Construction to receive an Affordable Housing exemption it must meet all the restrictions of Affordable Housing as provided herein, and these restrictions must continue for a period of at least seven (7) years from the date of issuance of a Certificate of Occupancy, unless otherwise provided in Section 2.06.A.7.e.

SECTION 3: Section 2.06.A.7.e of the Ordinance is hereby amended and restated in its entirety as follows:

> e. In the event the Residential Dwelling Unit fails to meet the restrictions of Affordable 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 Affordable Housing and is no longer occupied by Low-Income Persons or Very-Low-Income Persons, the Impact Fees in effect at the time of the change in circumstances shall be immediately due; provided, however, if during the 7-year period following the issuance of the Certificate of Occupancy, the Owner seeks to convey the Residential Dwelling Unit in accordance with the Polk County Short Sale Impact Fee Waiver Policy, and all terms, conditions and restrictions set forth in such policy have been met, then the Board shall have the authority to (1) waive up to the full amount of the Impact Fees for said Residential Dwelling Unit which would otherwise be due as a result of the conveyance; (2) release any claim of lien the County may have filed

against the property in accordance with this Section 2.06.A.7; and (3) determine the amount of compensation that shall be charged to the Owner, if any, as consideration for such waiver and release. In making its determination as to whether to grant such waiver and release and, if granted, the amount of compensation to be charged, the Board shall apply the Polk County Short Sale Impact Fee Waiver Policy guidelines as adopted, and may be amended from time to time, by the Board by Resolution.

SECTION 4: Section 2.09.E.4 of the Ordinance is hereby amended and restated in its entirety as follows:

4. When granted a Workforce Housing Impact Fee Mitigation, the Applicant or Owner 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; provided, however, if during the 7-year period following the issuance of the Certificate of Occupancy, the Owner seeks to convey the subject property in accordance with the Polk County Short Sale Impact Fee Waiver Policy, and all terms, conditions and restrictions set forth in such policy have been met, then the Board shall have the authority to (1) waive up to the full amount of the mitigated Impact Fees for said property which would otherwise be due as a result of the conveyance; (2) release any claim of lien the County may have filed against the property in accordance with this Section 2.09; and (3) determine the amount of compensation that shall be charged to the Owner, if any, as consideration for such waiver and release. In making its determination as to whether to

grant such waiver and release and, if granted, the amount of compensation to be charged, the Board shall apply the Polk County Short Sale Impact Fee Waiver Policy Guidelines as adopted, and may be amended from time to time, by the Board by Resolution.

SECTION 5: 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 this 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 6: 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 20th day of August, 2013.

BOARD OF COUNTY COMMISSIONERS
OF POLK COUNTY, FLORIDA

BY: Melony M. Bell
Melony M. Bell, Chairman

P.26

ATTEST:

Kim Hancock
Clerk

(SEAL)

STATE OF FLORIDA)
)
COUNTY OF POLK)

I Stacy M. Butterfield, County Clerk and Comptroller for Polk County, Florida, hereby certify that the foregoing is a true and correct copy of Ordinance No.13-037 adopted by the Board on August 20, 2013.

WITNESS my hand and official seal on this 21st day of August 2013.

STACY M. BUTTERFIELD, CLERK

By: Alison Prevatt
Alison Prevatt
Deputy Clerk

Stacy M. Butterfield
Clerk of the Circuit Court & County Comptroller
Polk County, Florida

330 West Church Street
Post Office Box 988
Bartow, FL 33831-0988

(863) 534-6508 Phone
(863) 534-5951 Fax

www.polkcountyclerk.net

CLERK AND COMPTROLLER TO THE BOARD

August 21, 2013

Ms. Liz Cloud, Program Administrator
Administrative Code
Florida Department of State
R.A. Gray Building
500 South Bronough Street, Room 101
Tallahassee, Florida 32399-0250

Dear Ms. Cloud,

Enclosed are copies of certified Polk County Ordinances that were adopted by the Polk County Board of County Commissioners in regular session, August 20, 2013:

Ordinance No. 13-034 **Ordinance No. 13-037**
Ordinance No. 13-038 **Ordinance No. 13-039**

Please direct the official filing notification letter to:

Alison Prevatt, Deputy Clerk
Finance and Accounting
PO Box 988
Bartow, Florida 33831-0988

Thank you for your assistance.

Stacey M. Butterfield,
Clerk of Courts

Alison Prevatt
By: Alison Prevatt,
Deputy Clerk

FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

August 27, 2013

Ms. Alison Prevatt
Deputy Clerk
Finance and Accounting
Post Office Box 988
Bartow, Florida 33831-0988

Dear Ms. Prevatt:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated August 21, 2013 and certified copies of Polk County Ordinance Nos. 2013-034, 2013-037, 2013-038 and 13-039, which were filed in this office on August 27, 2013.

Sincerely,

Liz Cloud

Liz Cloud
Program Administrator

LC/elr

RECEIVED
SEP 04 2013
BY: APrevatt

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
Telephone: (850) 245-6270 • Facsimile: (850) 488-9879
www.dos.state.fl.us