ORDINANCE NO. 2013-058

AN ORDINANCE AMENDING POLK COUNTY ORDINANCE 07-018, THE POLK COUNTY AMENDED, RESTATED AND CONSOLIDATED COMPREHENSIVE IMPACT FEE ORDINANCE, AS AMENDED; PROVIDING FOR THE REVISION AND REPLACEMENT OF THE DEVELOPMENTALLY DISABLED GROUP HOME FACILITY IMPACT FEE EXEMPTION WITH A DEVELOPMENTALLY DISABLED PLANNED RESIDENTIAL COMMUNITY IMPACT FEE EXEMPTION; 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 "Impact Fee Ordinance"), providing for the imposition of Impact Fees within the County, along with certain exemptions therefrom; and

WHEREAS, on October 15, 2013, with the enactment of Ordinance No. 13-048, the Board amended the Impact Fee Ordinance to, in part, create a new exemption from Impact Fees for certain community residential facilities that serve individuals with a Developmental Disability; and

WHEREAS, the term "Developmentally Disabled Group Home Facility", as used within Ordinance No. 13-048, inadvertently limited the types of community residential facilities that would be eligible for the exemption; and

WHEREAS, the intent of the applicable portion of Ordinance No. 13-048 was to create an exemption from Impact Fees for all land development or construction within a Planned Residential Community, as defined in Section 419.001(d), Florida Statutes; and

WHEREAS, this ordinance is intended to further revise the Impact Fee Ordinance, in order to correct the inadvertent error described above.

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

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

SECTION 2: Section 1.02 of the Impact Fee Ordinance is hereby amended and supplemented to include the following definition:

SECTION 1.02. DEFINITIONS

"Planned Residential Community" shall have the meaning ascribed by Section 419.001(1)(d), Florida Statutes, as may be amended from time to time.

SECTION 3: That portion of Section 1.02 of the Impact Fee Ordinance which defines the term "Developmentally Disabled Group Home Facility" is hereby stricken and removed from the Impact Fee Ordinance in its entirety.

SECTION 4: That portion of Section 1.04 of the Impact Fee Ordinance which was added by Ordinance 13-048 is hereby amended and restated in its entirety as follows:

SECTION 1.04. FINDINGS

The Board hereby finds that there is a need for Planned Residential Communities in the County to serve the demand of the population. The County is committed to helping residents of the County with a Developmental Disability obtain access to safe, affordable, quality housing. Accordingly, the Board wishes to support new or expanding Planned Residential Communities in the County by creating the Developmentally Disabled Planned Residential Community Impact Fee Exemption.

SECTION 5: Section 2.06.A.9. of the Impact Fee Ordinance is hereby amended and restated in its entirety as follows:

9. Any land development or construction within a Planned Residential Community shall be exempted from payment of Impact Fees, provided that the following requirements are met:

a. Any Person seeking a Developmentally Disabled Planned Residential Community Impact Fee Exemption shall file with the County Manager an Application for Exemption prior to the Impact Fee payment date pursuant to Section 2.01 for the proposed development or construction. The Application for Exemption shall contain the following:

i. The name and address of the Owner (and of the Applicant, if different);

ii. The name and address of the Sponsoring Agency (as defined in Section 419.001(1)(f), Florida Statutes), if applicable;

iii. The name by which the Planned Residential Community is to be known;

iv. The name of the person(s) under whose management or supervision the Planned Residential Community will be conducted;

v. The legal description of the real property upon which the Planned Residential Community will be constructed;

vi. The type and number of Community Residential Homes, as defined in Section 419.001(1)(a), Florida Statutes, or other supported-living homes that will be constructed within the Planned Residential Community;

vii. The number of residents who will reside within the Planned Residential Community (and specify the number of residents to live in each of the homes as described in item vi. above);

viii. A description of the types of services to be provided by the Planned Residential Community;

ix. The proposed selling price, rental price, or other fees to be charged to each resident for occupancy within the Planned Residential Community;

x. If licensure of any home within the Planned Residential Community is required pursuant to Section 419.001, Florida Statutes, complete copies of both the application for such licensure and the facility license itself must be provided;

xi. A copy of a fully executed and recordable lien upon the property in the amount of the Impact Fees exempted hereunder. Such lien will require the payment of the Impact Fees, at the rate in effect at the time of the change in circumstance, in the event the property fails to meet the restrictions of a Planned Residential Community as provided herein within the 7-year period following the issuance of the Certificate of Occupancy. Such lien will have priority over all other liens except for taxes and other governmental liens and assessments; and

xii. Any other information that the County Manager determines is necessary to evaluate the Application for Exemption.

b. For land development or construction to receive a Developmentally Disabled Planned Residential Community Impact Fee Exemption, it must meet all the restrictions of a Planned Residential Community as provided herein, and evidence continued compliance with Chapter 419, Florida Statutes, and other applicable law, for a period of at least seven (7) years from the date of issuance of a Certificate of Occupancy.

c. If the land development or construction meets the requirements for a Developmentally Disabled Planned Residential Community Impact Fee Exemption, the County Manager shall issue an exemption. The exemption shall be presented in lieu of payment of the Impact Fees.

d. The amount of the Impact Fees shall not be increased to replace any revenue lost due to the Developmentally Disabled Planned Residential Community Impact Fee Exemption.

e. When granted a Developmentally Disabled Planned Residential Community Impact Fee Exemption, the Applicant or Owner shall annually

submit to the County by December 31 a report demonstrating its continued eligibility for the exemption. In the event the property fails to meet the restrictions of a Planned Residential Community as provided herein within the 7-year period following the issuance of the Certificate of Occupancy, the Impact Fees in effect at the time of the change in circumstances shall be immediately due and payable.

SECTION 6: APPLICABILITY. Except as specifically modified, amended and supplemented herein, the Impact Fee Ordinance shall remain in full force and effect.

SECTION 7: 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 8: 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 19th day of November, 2013.

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.13-058 adopted by the Board on November 19th, 2013.

WITNESS my hand and official seal on this 22nd day of November, 2013.

STACY M. BUTTERFIELD, CLERK

By: Alison Prevatt
Alison Prevatt
Deputy Clerk

FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

November 22, 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 the electronic copy of Polk County Ordinance No. 2013-058, which was filed in this office on November 22, 2013.

Sincerely,

Liz Cloud
Program Administrator

LC/elr

RECEIVED
NOV 22 2013
BY: Alison Prevatt

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