

**Lee County Board Of County Commissioners  
Agenda Item Summary**

**Blue Sheet No. 20051151**

- 1. ACTION REQUESTED/PURPOSE:** Adopt resolution amending Administrative Code 13-4 which establishes procedures for the partial reimbursement of school impact fees to providers of low and very low income housing.
- 2. WHAT ACTION ACCOMPLISHES:** Amendment is necessary to clarify the Board's intent expressed at the December 4, 2001 meeting that the City of Sanibel Below Market Housing Program was to benefit from the \$50,000 specifically allocated for use by Enterprise Zones in Lee County.
- 3. MANAGEMENT RECOMMENDATION:** Approve amendment to Administrative Code.

<b>4. Departmental Category:</b> <span style="font-size: 1.5em; margin-left: 100px;">12</span> <span style="font-size: 1.5em; margin-left: 50px;">A12A</span>		<b>5. Meeting Date:</b> <span style="font-size: 1.5em; margin-left: 20px;">08-30-2005</span>	
<b>6. Agenda:</b>		<b>7. Requirement/Purpose: (specify)</b>	
<input checked="" type="checkbox"/> <b>Consent</b>	<input type="checkbox"/> <b>Statute</b>	<b>8. Request Initiated:</b> <b>Commissioner</b> <b>Department</b> <span style="float: right;">County Attorney/DCD</span> <b>Division</b> <span style="float: right;">Land Use/Planning</span> <b>By:</b> <span style="font-size: 1.2em; margin-left: 20px;">Donna Marie Collins</span>  <span style="float: right; margin-right: 20px;"><u>Gloria Sajgo</u></span>	
<input checked="" type="checkbox"/> <b>Administrative</b>	<input type="checkbox"/> <b>Ordinance</b>		
<input type="checkbox"/> <b>Appeals</b>	<input checked="" type="checkbox"/> <b>Admin. Code</b> <span style="float: right;">13-4</span>		
<input type="checkbox"/> <b>Public</b>	<input type="checkbox"/> <b>Other</b>		
<input type="checkbox"/> <b>Walk-On</b>			

**9. Background:** Shortly after the County initiated impact fees for schools in 2001, the Board established a one-time fund of \$200,000 to partially reimburse providers of affordable housing for the payment of school impact fees. The funds allocated by the Board were divided with \$50,000 specifically set aside for reimbursement in the Enterprise Zones and the Sanibel Below Market Housing Program and \$150,000 for the remainder of the County.

The source of the one-time fund was from the general fund reserves, with a provision that the money would be repaid using the interest accrued from school impact fees. Administrative Code 13-4 establishes the procedures governing the program to offer partial reimbursement to providers of low and very low income housing.

The purpose of the proposed amendment to Administrative Code 13-4 is to clarify the Board's original intent to include the City of Sanibel's Below Market Housing Program to benefit from the \$50,000 set aside.

Attachments: Resolution  
Draft Administrative Code 13-4

**10. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>[Signature]</i>	N/A	N/A	N/A	<i>[Signature]</i>	<i>[Signature]</i> 8/17/05	<i>[Signature]</i> 8/18/05	<i>[Signature]</i> 8/18/05	<i>[Signature]</i> 8/18/05	<i>[Signature]</i>

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

REC'D.  
 BY CO. ATTY.  
 10/15 8/15/05  
 CO. ATTY.  
 FORWARDED TO:  
 8/15/05 1:15

RECEIVED BY  
 COUNTY ADMIN: *[Signature]*  
 8-15-05  
 3 30  
 COUNTY ADMIN  
 FORWARDED TO:

LEE COUNTY RESOLUTION NO. 05-\_\_\_\_\_

**A RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS RELATING TO AN AMENDMENT TO THE LEE COUNTY ADMINISTRATIVE CODE AS ADOPTED BY LEE COUNTY ORDINANCE NO. 97-23; PROVIDING FOR APPROVAL OF AN AMENDMENT TO THE LEE COUNTY ADMINISTRATIVE CODE TO AMEND THE PROCEDURES FOR THE PARTIAL REIMBURSEMENT OF SCHOOL IMPACT FEES TO AFFORDABLE HOUSING PROVIDERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Board of County Commissioners is the governing body in and for Lee County, a political subdivision of the State of Florida; and,

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 96-01, creating a charter form of government for Lee County pursuant to Section 125.80, Florida Statutes, and which was approved and ratified by the Electorate of Lee County on November 5, 1996; and,

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 97-23, which adopted the Lee County Administrative Code pursuant to Section 2.2.E. of Ordinance No. 96-01, the Lee County Charter; and,

WHEREAS, Lee County Ordinance No. 97-23 at Section III allows and provides for amendments to the Lee County Administrative Code to be made by Resolution of the Board of County Commissioners at a regularly scheduled Board of County Commissioners' meeting; and,

WHEREAS, an amendment to the Lee County Administrative Code is hereby proposed so as to clarify the entities who are eligible to benefit from the partial subsidy for School Impact Fees offered by the Board; and,

WHEREAS, the Board of County Commissioners finds that this proposed addition to the Lee County Administrative Code constitutes an acceptable amendment to the Code, serves a public purpose, and is consistent with the terms and conditions of Lee County Ordinance No. 96-01, the Lee County Charter.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS that:

1. The above preamble is accepted and approved as being true and accurate, and is adopted and incorporated herein as if set out further at length.
2. The proposed amendment to the Lee County Administrative Code, attached hereto as Exhibit "A" (Administrative Code 13-4), is approved, and is directed to be incorporated into the Lee County Administrative Code.
3. The provisions of this Resolution are severable, and it is the intention to confer to the whole or any part of this Resolution, the powers herein provided for. If any of the provisions of this Resolution are held unconstitutional by any court of competent jurisdiction, the decision of the court will not affect or impair any of the other remaining provisions of this Resolution. It is the Board's legislative intent that this Resolution would have been adopted had such an unconstitutional provision not been included herein.
4. This Resolution will become effective immediately upon its adoption by the Board of County Commissioners.

The foregoing Resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and, when put to a vote, the vote was as follows:

ROBERT P. JANES  
DOUGLAS R. ST. CERNY  
RAY JUDAH  
TAMMY HALL  
JOHN E. ALBION

DULY PASSED AND ADOPTED this 30<sup>th</sup> day of August 2005.

ATTEST:  
CHARLIE GREEN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Ray Judah  
Chairman

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Donna Marie Collins  
Office of the County Attorney

Attachment: Administrative Code 13-4 - Administrative Procedures Governing  
Partial Reimbursement of Lee County School Impact Fees

**ADMINISTRATIVE CODE  
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Development/Planning/Zoning	CODE NUMBER: 13-4
TITLE: Administrative Procedures Governing Reimbursement of Lee County School Impact Fees	ADOPTED: 4/22/03
	AMENDED:
	ORIGINATING DEPARTMENT: Department of Community Development

**PURPOSE/SCOPE:** To provide criteria and procedures for partial reimbursement of Lee County School Impact Fees paid by Internal Revenue Service (IRS) recognized non-profit affordable housing providers and for-profit affordable housing providers.

**POLICY/PROCEDURE:** The Board of County Commissioners (BOCC) recognizes that while impact fees are necessary in a rapidly growing community, they can have an adverse effect on the provision of housing for low and very low income families. In order to lessen this effect, the BOCC has established a fund to provide reimbursement of School Impact Fees paid by non-profit affordable housing providers recognized by the IRS and to for-profit affordable housing developers whose developments meet the criteria listed below.

**Section 1.**

**Entities Eligible for Reimbursements:** Partial reimbursement is available to charitable, not-for-profit entities and for-profit entities that construct single family or multiple family style affordable housing for low and very low income residents of Lee County. These partial reimbursements are primarily intended for charitable, not-for-profit entities and preference will be afforded to such entities.

1.1. A. In order to qualify as a not-for-profit candidate for reimbursement, the entity must comply with one of the following criteria:

- 1.1.2. The entity is recognized under subsection 501(C)(3) of Chapter 26 of the United States Internal Revenue Code as a corporation, a community chest, a fund, or a foundation, organized and operated exclusively for charitable purposes, or for prevention of cruelty to children, and is then exempt from taxes under Section 501(a) therein; or
- 1.1.2. The entity is recognized under Subsections 501(C)(4)(A) and (B) of Chapter 26 of the United States Internal Revenue Code as either a Civic League or an organization not organized for-profit, is operated exclusively for the promotion of social welfare, and is exempt from taxes under Section 501(a), therein; or
- 1.1.3. The entity is recognized under subsection 501(C)(20) of Chapter 26 of the United States Internal Revenue Code as an organization or trust, the exclusive function of which is to form part of a qualified group legal services plan or plans within the meaning of Section 120 as referenced therein; ~~or.~~

1.2. B. Reimbursements are available to for-profit entities on a case by case basis upon demonstration that the affordable housing provided meets the following criteria:

- 1.2.1. The housing is affordable to low and very low income residents of Lee County;

- 4-2-2. The units are in close proximity to established mass transit routes;
- 4-2-3. The units are located in an area that can be considered "urban infill;"
- 4-2-4. The project's traffic will not travel through areas with significantly lower densities before reaching the nearest collector or arterial road;
- 4-2-5. The project is integrated into the surrounding neighborhood; and,
- 4-2-56. The Director of Community Development finds that the affordable housing project furthers the goals and objectives of the County's Local Housing Assistance Plan.

## Section 2.

**Scope of Reimbursements Available:** A qualified applicant may request partial reimbursement of School Impact Fees paid in connection with the new construction of affordable residential single family or multiple family style homes for low and very low income occupants up to 50 percent of the total school impact fee charged for the structure. In no case will a not-for-profit applicant be granted more than \$50,000 in total reimbursement per year and a for-profit applicant is limited to \$25,000 per year. ~~In no case will the total~~ Reimbursements may not exceed the total amount budgeted for this program.

## Section 3.

### Funding:

- 3-1. A. The BOCC has allocated \$200,000 from the general fund to the subject School Impact Fee reimbursement program. Of this amount, \$50,000 has been designated for reimbursements in the County's Enterprise Zones, as designated in the Land Development Code, Appendix J, and the City of Sanibel's Below Market Housing Program. The remaining \$150,000 is intended for reimbursement in any part of unincorporated Lee County.
- 3-2. B. If the total amount of impact fees reimbursed pursuant to ~~these provisions in this fiscal year~~ this Code is less than \$200,000 in the first fiscal year, some or all of the sum of the remaining money not used for reimbursements ~~can~~ may be carried forward and thereby be added to the next fiscal year.

## Section 4.

### Applications for Reimbursements:

- 4-1. A. The applicant must file a written request for consideration along with an application to the Director of Community Development, ~~or his/her designee (Director),~~ concurrently with payment of the School Impact Fee. The County will not accept application after the School Impact Fee has been paid to the County. The application must establish that the entity is eligible for partial reimbursement, based on the criteria set forth in Section 1. The Director may request additional information deemed appropriate to ascertain the applicant's eligibility for the requested reimbursements, including criteria noted in Section 196.195 and/or 196.196, Florida Statutes.
- 4-2. B. The Director will review each application to determine eligibility for partial reimbursements. Within thirty (30) days after receipt of the application, the Director will inform the applicant in writing whether the application is complete. If the application is incomplete, the application may be returned to the applicant, specifying in writing why the application fails to establish that the entity is eligible for consideration under this program. After receipt of such notice, the applicant has an additional thirty (30) days to re-submit an amended application. Failure to meet this deadline will void the applicant's eligibility for partial reimbursements unless an extension is granted for good cause at the Director's discretion.
- 4-3. C. After an application is determined by the Director to meet the above-specified minimum filing

requirements, the Director will promptly process the application request.

**Section 5.**

**Application Process:**

- 5.1 A. Once an application is found to be sufficient, the Director will make a determination as to the eligibility of the applicant for participation in the program. The Director will inform the applicant, in writing, about his/her determination.
- 5.2 B. If the applicant is found eligible, the Director will forward a copy of the decision to the appropriate Fiscal Officer for processing of the partial reimbursement.
- 5.3 C. The Fiscal Officer will issue a check for the applicant in the proper amount and send it to the applicant with a copy of the check sent to the Director.