

ORDINANCE NO. 2005-41

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LADY LAKE, FLORIDA, TO PROVIDE FOR SUPPLEMENTAL EDUCATION ASSISTANCE FEES, FINDING A NEED FOR SUPPLEMENTAL EDUCATION ASSISTANCE FEES; PROVIDING FOR THE SETTING OF SUPPLEMENTAL EDUCATION ASSISTANCE FEE RATES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lady Lake continues to develop and expand by annexation and by increased development of property currently within the municipal boundaries; and

WHEREAS, the Lake County School Board has undertaken a reasonable analysis for the determination of the impact of new development on the need for and costs of additional educational facilities and capital improvements in Lake County; and

WHEREAS, the Town of Lady Lake has adopted a comprehensive plan which requires the Town to plan for the financial requirements of growth and intensified uses:

WHEREAS, the imposition of education assistance fees is seen as a proper means of requiring growth to help defray the capital expenditures necessary by such growth.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LADY LAKE THAT:

Section 1. Findings

1. The Board of County Commissioners of Lake County has adopted an educational system impact fee which requires future residential construction to contribute its fair share of the cost of capital improvements and additions to the educational system which are necessary to accommodate such growth.
2. The Lake County School Board has determined that the Lake County educational system impact fee, ad valorem tax revenue and other revenues will not be sufficient to provide the capital improvements and additions to the educational system which are necessary to accommodate such growth.
3. The implementation of a Supplemental Education Assistance Fee to require future growth to contribute its fair share of the cost of growth necessitated capital improvements to the educational system promotes the general welfare of the citizens of the Town of Lady Lake. The provision of educational facilities, which are adequate for the needs of growth, is in the general welfare of all Town residents and constitutes a public purpose.
4. The implementation of a Supplemental Educational Assistance Fee to require future growth to contribute its fair share of the cost of required capital

new AM → yes
new SFR → yes

improvements and additions is an integral and vital element of the regulatory plan of growth management in the Town.

5. The required improvements and additions to the educational system needed to eliminate any existing deficiencies shall be financed by revenue sources of the school board other than educational system impact fees.
6. The imposition of fees has been identified as one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. Allocation of a proportionate share of costs for new development promotes and protects the public health, safety and welfare of the citizens of the Town of Lady Lake.
7. The report entitled "Impact Fees for Educational Facilities in Lake County, Florida: prepared by Henderson, Young & Company" sets forth a reasonable methodology and analysis for the determination of the impact of new residential development on the need for and costs for additional educational facilities and capital improvements in Lake County.

Section 2. The Town of Lady Lake Supplemental Education Assistance Fee

1. Levy and Purpose

For the purpose of helping to defray the costs of new or expanded educational facilities and equipment attributable to new residential construction within the town limits, Supplemental Educational Assistance Fees are hereby levied on new residential construction within the town limits in accordance with the Schedule of Fees and other provisions of this Article.

2: Applicability

This Article shall apply to all new residential construction within the town limits except the following:

- (A) Remodeling, rebuilding or making additions to a residential structure that does not create an additional dwelling unit;
- (B) Construction of any public-purpose structure by the Town of Lady Lake or any agency, subdivision or instrumentality thereof; and construction of any other public-purpose structure by Federal, State, or local government with legislative exemption from such fee;
- (C) Construction of accessory buildings not containing bedrooms;
- (D) The replacement of a destroyed or partially destroyed dwelling unit on the same site with a new dwelling unit of the same size and use;
- (E) The installation of a replacement mobile home on the same site when a fee for such mobile home site has previously been paid;
- (F) Non-residential buildings or structures or the installation of a non-residential mobile home;

- (G) The replacement of a conventionally built home with a conventionally built home when a conventionally built home legally existed on such site and has been moved to another site;
- (H) Any Residential Construction that qualifies as Housing for Older Persons and meets the following requirements shall be exempt from payment of the Supplemental Education Assistance Fee imposed:
 1. Any Person seeking an exemption from the Supplemental Education Assistance Fee as Housing for Older Persons shall file with the Town an application for exemption prior to receiving a building permit, or if no building permit is required, prior to receiving a development permit for the proposed residential construction. The application for exemption shall contain the following:
 - (i) The name and address of the owner or authorized agent;
 - (ii) The legal description of the residential construction;
 - (iii) Evidence that the residential construction is within a community or subdivision that is operated as a Housing for Older Persons in compliance with the terms and provisions of the Federal Fair Housing Act Title VIII of the Civil Rights Acts of 1968, as amended by the Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995, 42 D.S.C. 99 3601-19 or its statutory successor in function; and
 - (iv) A copy of the recorded declaration of covenants and restrictions that run with the land, cannot be revoked or amended for a period of at least 30 years from recording, and that prohibit any person under the age of 18 years of age from residing within any dwelling unit on the property as a permanent resident.
 2. If the residential construction meets the requirements for the Housing for Older Persons exemption, the Town Attorney shall issue an exemption. The exemption shall be presented in lieu of payment of the Supplemental Education Assistance Fee.
 - (i) The amount of the Supplemental Education Assistance Fee shall not be increased to replace any revenue lost due to the Housing for Older Persons Exemption.
 - (ii) In the event the recorded declaration of covenants and restrictions is breached or otherwise modified following recording such that persons under the age of 18 are allowed to reside as permanent residents in any residential dwelling unit receiving a Housing for Older Persons exemption, the Supplemental Education Assistance Fee in effect at the time of the change in circumstances shall be due for all Dwelling Units within the community.

3: Review of Fee Amounts

The Supplemental Education Assistance Fee shall be determined and reviewed every year in accordance with the cost of any expanded or new capital facilities and equipment for education facilities and capital improvement generated by new residential construction and the money otherwise available to meet such costs. The Town Commission may annually adjust the established fee rate to reflect changes in the costs of relevant capital facilities and equipment. All changes or adjustments in the established fee rate shall be made by Ordinance or Resolution after advertising and public hearings and shall apply only to residential construction for which building permits are issued after the effective date of such ordinance.

4: Rates

All residential construction occurring within the Town shall pay the following Supplemental Education Assistance Fee:

\$3,000 per dwelling unit

The payment of the Supplemental Education Assistance Fee shall be in addition to all other fees, charges or assessments due for the issuance of a building permit or final development order.

The obligation for payment of the Supplemental Education Assistance Fee shall run with the land.

5: Use of Supplemental Education Assistance Fees

- (A) Any Supplemental Education Assistance Fee collected by the Town shall be held by them in a trust account separate and distinct from all other revenues. The Supplemental Education Assistance Fee funds shall be held by the Town until a request for funds is received from the Lake County School Board and approved by the Town Commission. Any transfer of funds to the school board shall be subject to Town Commission approval. All transferred funds shall be held by the school board in the Supplemental Education Assistance Fee Trust Account. Five (5%) percent of the funds collected shall be retained by the Town as an administrative fee for collecting and transmitting the funds.
- (B) Supplemental Education Assistance Fees shall, upon receipt by the school board, be deposited in a separate trust account established and maintained by the school board. Such account shall be designated as the "Supplemental Education Assistance Fee Trust Account" and shall be maintained separate and apart from all other accounts of the school board.
- (C) The school board shall maintain adequate records to justify all expenditures from the Supplemental Education Assistance Fee Trust Account. Upon reasonable notice, the Town shall have access to such books, records and documents relating to the Supplemental Education Assistance Fee Trust Account for the purpose of inspection or audit. The Town has the right, but not the duty, to audit the school board's Supplemental Education Assistance Fee Trust Account at the Town's sole cost and expense.

(D) The monies deposited into the Supplemental Education Assistance Fee Trust Account shall be used solely in the Town of Lady Lake's utility service area boundary for the purpose of providing growth-necessitated capital improvements to educational plants and ancillary plants of the educational system including, but not limited to:

1. Land acquisition, including any cost of acquisition;
2. Fees for professional services, including but not limited to architecture, engineering, surveying, landscaping, soils and material testing, legal appraisals, and construction management;
3. Design and construction documents;
4. Site development, site-related improvements and improvements incidental to the construction thereto; on-site and off-site.
5. Any permitting or application fees necessary for the construction;
6. Design and construction of educational plants and ancillary plants;
7. Design and construction of drainage facilities required by the construction of educational plants and ancillary plants or improvements thereto;
8. Relocating utilities required by the construction of educational plants and ancillary plants or improvements or additions thereto;
9. Acquisition of furniture and equipment necessary to accommodate students, faculty, administrators, staff and the activities of the educational programs and services at educational plants which are necessitated by growth;
10. Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the school board to fund growth-necessitated improvements and additions to the educational system.

6: Time of Payment; Remedies for Nonpayment

The Supplemental Education Assistance Fee shall be due and payable at the time of issuance by the Town Growth Management Department of a building permit or mobile home tie down permit and shall not be refundable once such permit has been issued. No building permit or mobile home tie down permit shall be issued until all applicable fees have been received by the Town of Lady Lake.

Section 4. Severability

The provisions of this Ordinance are declared to be separable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, sentences, clauses or phrases of this Ordinance, but they shall remain in effect, it being

the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Town of Lady Lake Code

The Town Commission of the Town of Lady Lake intends that the provisions of this Ordinance shall become and be made a part of the Town of Lady Lake Code of Ordinances and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section", "article" or such other appropriate word or phrase to accomplish such intentions

Section 5. Effective Date

This ordinance shall become effective immediately upon final reading and adoption by the Town Commission of Town of Lady Lake, Florida as provided by law.

PASSED AND ORDAINED in regular session of the Town Commission of the Town of Lady Lake, Lake County, Florida, this _____ day of _____, 2005.

HONORABLE MAX PULLEN, MAYOR
Town of Lady Lake, Florida

ATTEST:

Sue Gay
Town Clerk

Derek Schroth
Town Attorney

Passed First Reading _____

Passed Second Reading _____