

**ORDINANCE NO. 80**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF GOLF, FLORIDA AMENDING ORDINANCE NO. 46 WHICH ADOPTED THE VILLAGE'S UNIFIED LAND DEVELOPMENT CODE BY CREATING AN ENTIRELY NEW SECTION 8.11. TO BE ENTITLED "PROPORTIONATE FAIR-SHARE PROGRAM"; PROVIDING A MECHANISM TO ALLOW FOR PROPORTIONATE SHARE CONTRIBUTIONS FROM DEVELOPERS TOWARD TRAFFIC CONCURRENCY REQUIREMENTS; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF ORDINANCE NO. 46 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED EXCEPT AS AMENDED BY ORDINANCE NOS. 48, 50, 54, 55, 56, 57, 71 AND 72; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the 2005 amendments to the State of Florida's growth management legislation directed local governments to adopt by ordinance a methodology for assessing proportionate fair-share mitigation options which developers will be required to satisfy in order to comply with traffic concurrency requirements; and

**WHEREAS**, the Village Council of the Village of Golf has determined that it is necessary to create a Proportionate Fair-Share Program consistent with 163.3180(16), *Florida Statutes*; and

**WHEREAS**, the Village Council of the Village of Golf has determined the adoption of this Ordinance to be in the best interest of the citizens and residents of the Village of Golf.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF GOLF, FLORIDA THAT:**

**SECTION 1.** The foregoing recitals are hereby affirmed and ratified.

**SECTION 2.** Ordinance No. 46 adopting the Village's Unified Land Development Code is hereby amended at Section 8.01. Concurrency Management. by creating an entirely new Section 8-11. to be entitled "Proportionate Fair-Share Program"; providing a mechanism to allow for proportionate share contributions from developers toward traffic concurrency requirements; providing that this new section shall hereafter read as follows:

**Sec. 8-11. Proportionate fair-share program.**

(1) *Purpose and Intent.* The purpose of this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and

private sectors, to be known as the Proportionate Fair-Share Program, as required by and in a manner consistent with §163.3180(16), F.S.

(2) *Applicability.* The Proportionate Fair-Share Program shall apply to all developments that fail to meet the standards of this Land Development Code and the Village's Comprehensive Plan on a roadway within the Village that is not the responsibility of Palm Beach County, the Florida Department of Transportation (FDOT) or another agency. The Proportionate Fair-Share Program does not apply to the following:

- (a) Collector and arterial roads which are not the responsibility of the Village pursuant to Sec. 1.3(4) of the Charter of Palm Beach County, Florida. However, a traffic concurrency letter from the county is required to be submitted by the applicant certifying compliance with the county-wide Traffic Performance Standards Ordinance adopted pursuant to the County Charter prior to the issuance of a development order by the Village.
- (b) Developments of Regional Impact (DRIs) using proportionate fair-share under §163.3180(12), F.S.
- (c) Projects exempted from this chapter by state law.
- (d) Projects that received traffic concurrency approval prior to December 1, 2006.
- (e) Individual single-family homes.
- (f) Vested projects.

(3) *General Requirements.* An applicant may choose to satisfy the LOS for transportation by making a proportionate fair-share contribution, so long as each of the following requirements are met:

- (a) The proposed development is consistent with the comprehensive plan and applicable land development regulations.
- (b) The road improvement necessary to maintain the LOS for transportation is identified in the five-year schedule of capital improvements in the CIE.
- (c) Any improvement project proposed to meet the developer's fair-share obligation shall meet the Village's design standards for locally maintained roadways.

(4) *Intergovernmental Coordination.* Pursuant to policies in the Intergovernmental Coordination Element of the Comprehensive Plan, the Village shall coordinate with Palm Beach County and other affected jurisdictions such as FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation.

(5) *Application Process.*

- (a) In the event of a lack of capacity, to maintain the LOS for transportation, the applicant shall have the opportunity to satisfy LOS for transportation requirements through the Proportionate Fair-Share Program subject to the requirements of subsection (3).
- (b) Prior to the submittal of an application, eligible applicants shall schedule a pre-application meeting with Village staff. Subsequent to the pre-application meeting, eligible applicants shall submit a completed development application and all documentation requested by the Village. The Applicant shall be required to pay a reasonable fee for the cost of reviewing the application, said fee to be set by Resolution of the Village Council. If the impacted facility is on the Strategic Intermodal System (SIS), then FDOT will be notified and invited to participate in the pre-application meeting. The Village shall also have the option of notifying and inviting Palm Beach County.
- (c) Village staff shall review the application and certify that the application is sufficient and complete within 14 working days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Proportionate Fair-Share Program as indicated in subsection (3), then the applicant will be notified in writing of the reasons for such deficiencies. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application will be deemed withdrawn and all fees forfeited to the Village, unless the Village determines that the applicant is working toward a remedy of the stated deficiencies in good faith, in which case the Village may extend the deadline as deemed appropriate by the Village.
- (d) Pursuant to §163.3180(16)(e), F.S., proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the concurrency of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.

- (e) When an application is deemed sufficient and complete in accordance with subparagraph (5)(c), above, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement prepared by the Village shall be executed by the applicant and delivered to the appropriate parties for review, including a copy to the FDOT for any proposed proportionate fair-share mitigation on a SIS facility, no later than 60 days from the date at which the applicant received the notification of a sufficient and complete application. If the agreement is not received by the Village within these 60 days, then the application will be deemed withdrawn and all fees forfeited to the Village, unless the Village determines that the applicant is working toward a remedy of the stated deficiencies in good faith, in which case the Village may extend the deadline as deemed appropriate by the Village.
- (f) No proportionate fair-share agreement will be effective until approved by the Village through an administrative approval.

(6) *Determining Proportionate Fair-Share Obligation*

- (a) Proportionate fair-share mitigation for transportation LOS impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.
- (b) A development eligible for participation under the Proportionate Fair-Share Program shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.
- (c) The methodology used to calculate a development's proportionate fair-share obligation shall be as provided for in §163.3180(12), F.S., as follows:

The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS.

OR

Proportionate Fair-Share =  $\sum [((\text{Development Trips}_i) / (\text{SV Increase}_i)) \times \text{Cost}_i]$   
Where:

Development Trips<sub>i</sub> = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the Village's concurrency management system;

SV Increase<sub>i</sub> = Service volume increase provided by the eligible improvement to roadway segment "i" per subsection (c);

Cost<sub>i</sub> = Adjusted cost of the improvement to segment "i". Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering review, inspection, administration, and physical development costs directly associated with construction at the anticipated cost, including contingencies, in the year it will be incurred.

- (d) For the purposes of determining proportionate fair-share obligations, the Village Engineer shall determine improvement costs based upon the actual and/or anticipated cost of the improvement in the year that construction will occur.
- (e) If an improvement is proposed by the applicant, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the Village Engineer or by some other method approved by the Village Engineer.

*(7) Impact Fee Credit for Proportionate Fair-Share Mitigation*

- (a) Proportionate fair-share contributions shall be applied as a credit against road impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by road impact fees which may hereafter be established by the Village.
- (b) The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed project. As a result, any road impact fee credit based upon proportionate fair-share contributions for a proposed project cannot be transferred to any other project.

*(8) Proportionate Fair-Share Agreements*

- (a) Upon execution of a proportionate fair-share agreement ("Agreement"), the applicant shall receive a certification of concurrency reservation for capital road facilities. If the applicant fail to apply for a development permit within 12 months, Agreement shall be considered null and void, and the applicant shall be reapply, unless the Village and the applicant mutually agree to an extension.

- (b) Payment of the proportionate fair-share contribution is due in full no later than issuance of the first building permit, and shall be non-refundable. If the payment is submitted more than 90 days from the date of execution of the Agreement, then the proportionate fair-share cost shall be recalculated at the time of payment, pursuant to subsection (6) and adjusted accordingly.
- (c) In the event an Agreement requires the applicant to pay or build 100 percent of one or more road improvements, all such improvements shall be commenced prior to issuance of a building permit and assured by a binding agreement that is accompanied by a Performance Security, as determined by the Village, which is sufficient to ensure the completion of all required improvements.
- (d) Dedication of necessary rights-of-way for facility improvements pursuant to a proportionate fair-share agreement shall be completed prior to issuance of the first building permit.
- (e) Any requested change to a development subsequent to the issuance of a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require additional mitigation.
- (f) Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs paid to the Village will be non-refundable.

*(9) Appropriation of Fair-Share Revenues*

- (a) Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the CIE, or as otherwise established in the terms of the proportionate fair-share agreement. Proportionate fair-share revenues may be used as the 50 percent local match for funding under the FDOT TRIP, or any other matching requirement for State and Federal grant programs as may be allowed by law.
- (b) In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within the Village that would mitigate the impacts of development pursuant to the requirements of subsection (3).



# THE PALM BEACH POST

Published Daily and Sunday  
West Palm Beach, Palm Beach County, Florida

## PROOF OF PUBLICATION

STATE OF FLORIDA  
COUNTY OF PALM BEACH


Before the undersigned authority personally appeared **Marc Kramer**, who on oath says that he is **Inside Sales Supervisor** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a **Notice** in the matter of **Ordinance 80** was published in said newspaper in the issues of **November 17, 2006**. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

*[Signature]*

Sworn to and subscribed before 17<sup>th</sup> day of November A.D. 2006

*[Signature: Kristen J. Maxfield]*

Personally known XX or Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

NOTARY PUBLIC-STATE OF FLORIDA  
 **Kristen J. Maxfield**  
Commission # DD528685  
Expires: MAR. 14, 2010  
Bonded Thru Atlantic Bonding Co., Inc.

NO. 5880388  
**ORDINANCE NO. 80**  
The Village Council of the Village of Golf will hold a Public Hearing to consider the following proposed Ordinance on second and final reading Wednesday, November 29, 2006 at 9:00 a.m., at the Village Administration Building, 21 Country Road, Village of Golf, Florida:  
**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF GOLF, FLORIDA, AMENDING ORDINANCE NO. 46 WHICH ADOPTED THE VILLAGE'S UNIFIED LAND DEVELOPMENT CODE BY CREATING AN ENTIRELY NEW SECTION 8.11 TO BE ENTITLED "PROPORTIONATE FAIR-SHARE PROGRAM" PROVIDING A MECHANISM TO ALLOW FOR PROPORTIONATE SHARE CONTRIBUTIONS FROM DEVELOPERS TOWARD TRAFFIC CONCURRENCY REQUIREMENTS; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF ORDINANCE NO. 46 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED EXCEPT AS AMENDED BY ORDINANCE NOS. 48, 50, 54, 55, 56, 57, 71 AND 72; PROVIDING A CONFLICTS CLAUSE; A SEVERABILITY CLAUSE; AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**  
All interested parties are invited to appear at the meeting as it may be continued from time to time, and be heard with respect to the proposed ordinance.  
A copy of the proposed ordinance is on file at the Village Clerk's Office located at 21 Country Road, Village of Golf, FL 33436, for inspection by the public from 8:00 a.m. - 4:00 p.m. Monday through Friday.  
If a person decides to appeal and decision may be the Village Council with respect to any matter considered at subject meeting, he will need a record of the proceedings and for such purpose, he may need to ensure that a verbal record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F.S. 288.0105)  
**VILLAGE OF GOLF  
PUB: The Palm Beach Post  
November 17, 2006**