

Memorandum

MIAMI-DADE
COUNTY

Date: February 20, 2007

To: Honorable Chairman Bruno A. Barreiro and Members
Board of County Commissioners

Agenda Item No. 14(A)(2)

From: George M. Burgess
County Manager

Subject: Ordinance Amending Chapter 33K of the Miami-Dade County Code, Pertaining to Educational Facilities Impact Fee

RECOMMENDATION

It is recommended that the Board of County Commissioners (BCC) approve the attached proposed ordinance amending Chapter 33K of the Miami-Dade County Code, pertaining to Educational Facilities Impact Fees.

BACKGROUND

Ordinance No. 95-79 was adopted on October 1, 1995, and requires payment of an impact fee based on a specific formula designed to mitigate the additional service-related demands that new development places on the Miami-Dade County Public School system (Educational Facilities Impact Fee). The Educational Facilities Impact Fee is a means of ensuring that new development helps to pay for the costs of providing additional capital educational facilities (student stations) including the acquisition of school sites, the construction of new public schools and the expansion of existing educational facilities needed as a result of the new development. The Educational Facilities Impact Fee is levied on all new residential development and additions to existing residences in Miami-Dade County, with some exceptions, via the building-structural permitting process. Both the ordinance and an Interlocal Agreement for Public School Facilities Planning (Interlocal) require the Educational Facilities Impact Fee ordinance be reviewed on an annual basis, and if necessary, recommendations for revisions be provided to the Miami-Dade County Public School Board (MDCPS) and the BCC for their consideration.

The staff working group of the Interlocal Agreement (Staff Working Group) recommended that a consultant be engaged to review and make recommendations to better administer, enforce, update and/or assess the fee schedule. The Staff Working Group is comprised of the parties to the Interlocal, including the County Manager, School Board Superintendent, and municipal City Managers and/or each of their designees. The Department of Planning and Zoning (DPZ), MDCPS staff, and the residential building community have worked together with contracted consultants from Innovation & Information Consultants, Inc. to finalize a report entitled Evaluating Miami-Dade County Educational Facility Impact Fees dated January 2006 (Final Report). The Final Report includes an evaluation of the current ordinance and recommends several changes, setting forth a reasonable methodology for the revisions to and calculations of the Educational Facilities Impact Fee proposed by this amendment. The amendments contained in the proposed ordinance were reviewed and approved by the Staff Working Group on December 9, 2005. The Miami-Dade County School Board at a meeting held on March 15, 2006 accepted the Final Report; additionally, the BCC and the School Board at a joint meeting on March 28, 2006 accepted the report.

The proposed amendment revises the computation of the amount of the Educational Facilities Impact Fee and amends the school benefit districts. The calculation of the impact fee shall be based upon the number of bedrooms of the dwelling unit and in which benefit district it is located. The impact fee shall

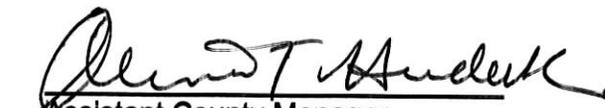
be automatically adjusted utilizing a three-year rolling average from the most current index of construction costs published by the Florida Department of Education. Additionally, by December 31 of each year, the MDCPS shall submit to the DPZ a financial management report on the impact fee trust funds. This report shall be disclosed at a public meeting for the purpose of presenting the report and receiving public comment.

The current Educational Facilities Impact fees were adopted in 1995 and to date have not been revised. The amount of Educational Facilities Impact Fee currently collected on an average new single-family detached residence today is approximately \$2,173. If the changes proposed in this ordinance are adopted, the new Educational Facilities Impact Fee collected on the same average single-family detached residence would be approximately \$8,479. For new multi-family units, the current average Educational Facilities Impact Fee collected today is approximately \$1,530. The proposed change of fee collected on multi-family units, on average, would be \$3,508. These increases are necessary in order to mitigate the current costs of providing public school student stations brought about by new development and associated population growth. In consideration of the necessary increase in the impact fee and its impact on affordable and work force housing, the MDCSB and the County along with community stakeholders, are exploring funding options to pay for impact fees for affordable and work force housing development.

The Interlocal requires applicants for land use approvals to have a meaningful dialogue with MDCPS. MDCSB Rule F7 (Rule F7), adopted on April 13, 2005, establishes criteria to guide MDCPS staff in connection with the dialogues. Rule F7 provides for School District staff to make recommendations on residential zoning and comprehensive plan amendment applications that impact public schools beyond the 115% FISH capacity threshold. Proposed residential development impacts above the 115% FISH capacity threshold are requested to mitigate their impacts. Mitigation includes options such as, contribution of full capital costs, donating of land, construction, or a combination. The development receives approval by School District staff for the proposed residential development if they agree to mitigate. If the development does not mitigate the School District staff recommends the proposed development be denied. Generally when the impact is beyond the 115% FISH capacity, the parties agree to a voluntary contribution to be made to MDCPS to mitigate the impacts of the proposed development. MDCPS believes that the voluntary contribution is needed because of the increased cost of capital construction as well as the low impact fees currently in force.

In light of the amount of the increased fees for the educational facilities, the Miami-Dade County School Board Rule F7 will be abolished upon effectuation of this ordinance. The proposed ordinance also states that the County shall not impose as a condition of approval of a zoning application that a school contribution be made in excess of the Educational Facilities Impact Fee as established pursuant to Chapter 33K.

Additionally, Educational Facilities Impact Fee credit shall be given for any contributions submitted to the Miami-Dade County School Board under MDCSB Rule F7. Educational Facilities Impact Fee credit shall not be given for any contributions for Charter Schools. Charter schools are intended to be "schools of choice" and have no attendance boundaries. This would be in direct conflict with this impact fee ordinance, which requires that student seats be created within the applicable impact fee benefit district. The above provisions shall be contained in the Second Amended Interlocal Agreement to be entered into by the School Board and the County. The agreement will be presented to the Board for approval when this item goes to committee and subsequently for second reading. This item will only become effective upon the full execution of said Second Amended Interlocal Agreement.


Assistant County Manager

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MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: February 20, 2007

FROM: 
Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 14(A)(2)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised**
- 6 weeks required between first reading and public hearing**
- 4 weeks notification to municipal officials required prior to public hearing**
- Decreases revenues or increases expenditures without balancing budget**
- Budget required**
- Statement of fiscal impact required**
- Bid waiver requiring County Manager's written recommendation**
- Ordinance creating a new board requires detailed County Manager's report for public hearing**
- Housekeeping item (no policy decision required)**
- No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(2)
2-20-07

ORDINANCE NO. _____

ORDINANCE PERTAINING TO EDUCATIONAL FACILITIES IMPACT FEE; AMENDING SECTIONS 33K-1, 33K-2, 33K-4, 33K-6, 33K-10, 33K-11 AND 33K-15 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; MODIFYING EDUCATIONAL FACILITIES IMPACT FEES; INCREASING THE NUMBER OF BENEFIT DISTRICTS; PROVIDING AUTOMATIC ADJUSTMENT OF FEE UTILIZING THREE YEAR ROLLING AVERAGE FROM THE MOST CURRENT FLORIDA'S CONSTRUCTION COST INDEX FOR STUDENT STATIONS AS PUBLISHED BY THE FLORIDA DEPARTMENT OF EDUCATION, OFFICE OF EDUCATIONAL FACILITIES; REQUIRING ANNUAL PUBLIC COMMENT ON IMPACT FEE REPORT; AMENDING SECTIONS 33-311 AND 33-314 PROHIBITING COMMUNITY ZONING APPEALS BOARDS AND BOARD OF COUNTY COMMISSIONERS FROM IMPOSING AS A CONDITION OF APPROVAL OF ZONING APPLICATIONS, CONTRIBUTIONS IN EXCESS OF EDUCATIONAL FACILITIES IMPACT FEE; PROVIDING APPLICABILITY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33K-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33K-1. Short title and applicability.

- (a) This chapter [~~Ordinance No. 95-79~~] shall be known and may be cited as the "Educational Facilities Impact Fee Ordinance."
- (b) The Board of County Commissioners of [~~Metropolitan~~] Miami-Dade County have the authority to adopt this Ordinance pursuant to Article VIII, Section 6 of the Florida Constitution (1968), Section 1.01, Miami-Dade County Charter, Chapter

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

163, Part II, Florida Statutes, and Sections ~~[[235.19]]~~ >>1013.33<< and ~~[[235.193]]~~ >>1013.33(2)<<, Florida Statutes.

- (c) This chapter shall be applicable to all land development within the entire area of Miami-Dade County.
- (d) This chapter is intended to implement and be consistent with the CDMP.

Section 2. Section 33K-2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33K-2. Findings; conclusions and purpose.

- (a) Section ~~[[235.19]]~~ >>1013.33<<, Florida Statutes, requires the School Board >>(hereinafter defined)<< ~~[[of Miami-Dade County, Florida]]~~, and the Board of County Commissioners of ~~[[Metropolitan]]~~ Miami -Dade County to coordinate school site planning and the Comprehensive Development Master Plan (CDMP) for Miami-Dade County.
- (b) Section ~~[[235.193(1)]]~~ >>1013.33(2)<<, Florida Statutes, requires the coordination of planning between school boards and local governing bodies to ensure that plans for the construction and opening of public educational facilities are coordinated in time and place with plans for residential development and other necessary services.
- (c) The CDMP for Miami-Dade County, adopted by Ordinance Numbers 88-110 and 88-119, established the goal to provide the best possible distribution of land use, by type and density, to meet the physical, social, cultural and economic needs of the present and future resident and tourist population in a manner that will maintain or improve the quality of the natural and manmade environment and amenities, and ensure the timely and efficient provision of services (CDMP, Land Use Element, Goal).
- (d) The CDMP Capital Improvements Element includes a goal specifying that Miami-Dade County shall plan for and manage in a fiscally prudent manner, its facilities and infrastructure in order to adequately serve current and new residents while efficiently using and maintaining existing public investments, and making timely provision of required new capital investment (CDMP Capital Improvements Element Goal); and sets forth policies that service and facility impacts of new development must be identified and quantified so that sufficient public facilities will be planned and programmed to be available when needed (CDMP, Capital Improvements Element, Policy 3B); and Appropriate funding mechanisms will be adopted and applied by Miami-Dade County in order to assure the fiscal resources to maintain acceptable levels of service. Such funding mechanisms include... impact fees, ... among others (CDMP, Capital Improvements Element, Policy 4B).
- (e) It has been determined that there will be a significant amount of new residential development in Miami-Dade County over the next twenty (20) years.

- (f) It has been determined that after the construction of new residential development, it is reasonably expected that this new residential development will be occupied by school age children that will need to be accommodated by the Miami-Dade County public school system and provided the opportunity of a free public school education.
- (g) It has also been determined that traditional revenue resulting from new residential development will not be adequate to support the capital educational facilities necessary to accommodate the school age children generated from the new residential development.
- (h) In order to make up for this shortfall and ensure that the School Board can continue to provide adequate capital educational facilities to accommodate new school age children, the School Board ~~[[of Miami-Dade County, Florida]]~~ has requested the Board of County Commissioners of ~~[[Metropolitan]]~~ Miami-Dade County to adopt an educational facilities impact fee to be paid by new residential development and to be earmarked for the construction of new capital educational facilities to accommodate the school age children generated as a result of new residential development.
- (i) The Florida legislature through the enactment of Section 163.3202(3), Florida Statutes has sought to encourage local governments to adopt impact fees.
- (j) The Miami-Dade County Home Rule Amendment to the Florida Constitution, Article VIII, Section 6, of the Florida Constitution (1968); Section 1.01, Miami-Dade County Charter; and Chapter 163, Part II, Florida Statutes (F.S.), authorize the regulation of land development, which includes the imposition of developmental impact fees.
- (k) Each of the types of new residential development described in this chapter will place additional students in the public schools of Miami-Dade County, necessitating the development of additional capital educational facilities including the acquisition of school sites, the construction of new public schools, and the expansion of existing educational facilities.
- (l) The educational facilities impact fees are derived from, are based upon, and do not exceed the costs of providing these new capital educational facilities necessitated by this new residential development.
- (m) The Board of County Commissioners of ~~[[Metropolitan]]~~ Miami -Dade County have reviewed, accepted, and incorporated ~~[[as Attachment "A"]]~~ into this chapter by reference ~~>>the report entitled<< [[Educational Facilities Impact Fee Methodology and Technical Report, prepared by James Dunean and Associates and Dr. James C. Nicholas, dated April 7, 1995]] >>~~Evaluating Miami-Dade County Educational Facility Impact Fees – Miami-Dade County Public School District – FINAL REPORT – prepared by Peter K. Ashton, Mary Ann Buescher from Innovation & Information Consultants, Inc. (Concord, MA) – dated January 2006

(the "Final Report")<<, which establishes the need for the educational facilities impact fee and sets forth a reasonable methodology and analysis for the determination of the impact fee >>which report shall be on file with the Impact Fee Section of the Miami-Dade County Department of Planning and Zoning<<.

- (n) The purpose of this chapter is to regulate the use and development of land so as to assure that new residential development bears a proportionate share of the cost of capital expenditures necessary to provide educational facilities as contemplated by the CDMP.
- (o) This chapter is intended to implement the policies established in Section ~~[[235.193,]]~~ >>1013.33(2),<< Florida Statutes.

Section 3. Section 33K-4 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33K-4. Definitions.

The definitions contained in Chapters 28 and 33, Code of ~~[[Metropolitan]]~~ Miami-Dade County, shall apply to this chapter except as otherwise provided in the following definitions:

>>(1) Bedroom is defined as a room located within a dwelling unit, forming a single habitable unit intended primarily for sleeping or any other rooms capable of being converted into a sleeping room in the future, in compliance with the Florida Building Code. Media rooms, dens, game rooms, libraries, offices and the like shall be deemed to be considered a bedroom for the purpose of this chapter . This excludes kitchens, bathrooms, dining rooms, living rooms and other dwelling rooms, which are not primarily used as sleeping quarters in accordance with the Florida Building Code.<<

~~[[+]]~~ >>(2)<< *Board* means the Board of County Commissioners of Miami-Dade County, Florida.

~~[[2]]~~ >>(3)<< *Building permit* means an official document or certificate issued by the Miami-Dade County Building Official, or any municipal building or zoning department in Miami-Dade County authorizing the construction, siting, or change of use of any building. For purposes of this chapter, the term "building permit" shall also include tie-down permits for those structures or buildings, such as mobile home dwelling units, that do not require a building permit in order to be occupied.

~~[[3]]~~ >>(4)<< *Capital educational facilities* include but shall not be limited to land for public school sites, site preparation and infrastructure costs for school sites, public school buildings, furniture, fixtures and equipment (FF & E) for public school buildings, school buses, portable facilities used at public schools, and

~~[[Miami-Dade County]]~~ School Board buildings used to house transportation facilities and maintenance facilities.

- [[4]] >>(5)<< *Comprehensive Development Master Plan (CDMP)* means the Comprehensive Plan of Miami-Dade County adopted and amended pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 et seq., Florida Statutes, as may be amended from time to time.
- [[5]] >>(6)<< *Development of regional impact* means any development which because of its character, magnitude or location would have a substantial impact on the health, safety or welfare of the citizens of more than one county, and which has received a development order pursuant to Section 380.06, Florida Statutes.
- [[6]] >>(7)<< *Educational facilities impact fee, fee, or impact fee* means the proportionate fair share charge required to be paid in accordance with this chapter.
- [[7]] >>(8)<< *Encumbered* means monies committed by contract or purchase order in a manner that obligates Miami-Dade County or the ~~[[Miami-Dade County]]~~ School Board to expend the funded amount upon delivery of goods, the rendering of services or the conveyance of real property provided by a vendor, supplier, contractor or owner.
- [[8]] >>(9)<< *Existing residential development* means the lawful residential land development existing as of the effective date of this chapter, and any residential land development for which the landowner holds a valid building permit or valid mobile home dwelling unit tie-down permit as of the effective date of this chapter. Existing residential land development shall also include that maximum level of development activity for which a previous impact fee was paid under the provisions of this chapter. Residential land development shall include but not be limited to single family dwellings, multi-family dwellings, and mobile home dwelling units.
- [[9]] >>(10)<< *Feepayer* means a person intending to commence new residential land development during the life of the development by applying for the issuance of a building permit or mobile home tie-down permit to construct new residential development, expand residential development, or change the use of a non-residential development to a new residential development for which an impact fee is required to be paid pursuant to the terms of this chapter. Feepayer also includes a person who has paid an impact fee, or provided a letter of credit pursuant to this chapter.
- [[10]] >>(11)<< *Mobile home dwelling unit* means a manufactured structure, transportable in one or more sections, which is built on an integral chassis and is designed to be used as a single-family dwelling unit, with or without a foundation, when connected to the required utilities.

~~[[11]]~~ >>(12)<< *New residential development means* the construction of new residential units, the creation of additional residential units from existing residential units, any expansion of residential units that increase ~~[[unit size]]~~ >>the number of bedrooms<<, or a change in use from non-residential development to residential units. Residential units shall include but not be limited to single family dwellings, multi-family dwellings, and mobile home dwelling units. New residential land development shall not include transitory development (such as hotels or motels and time-shares) where units or bedrooms are leased for less than thirty (30) days.

~~[[12]]~~ >>(13)<< *Person* means individuals, partnerships, trusts, corporations, and all other legal entities authorized by the law of Florida to own and develop real property,

~~[[13]]~~ >>(14)<< *Public educational facilities acquisition agreements* means an agreement, either short or long term, entered into by the ~~[[Miami-Dade County]]~~ School Board providing for the acquisition or use of public educational facilities.

~~[[14]]~~ >>(15)<< *School* ~~[[b]]~~ >>B<<oard means the School Board of Miami-Dade County, Florida.

~~[[15]]~~ >>(16)<< ~~[[Unit size means the unadjusted square footage of a new or existing residential development contained under roof (including garage and roofed patio areas).]]~~ >>Unit type means the type of dwelling unit under which the residential structure would be classified. There are four different unit types, as follows: (a) single family detached (includes mobile homes); (b) single family attached ; (c) multi-family 2-4 units (includes buildings with 2 to 4 residential units) and (d) multi-family hereinafter 5 or more (5) units (includes buildings with 5+ residential units).<<

Section 4. Section 33K-6 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33K-6. Computation of the amount of educational facilities impact.

- (a) The feepayer shall pay an educational facilities impact fee amount based on the formula set forth below. Such fee is based on the capital cost required to serve the increased demand for capital educational facilities resulting from proposed new residential development, together with impact fee administration charges. The ~~[[formula to be used to calculate the]]~~ educational facilities impact fee shall be established as follows for all new residential development, >>including replacement and/or additions.<< ~~[[, except as applied to the expansion of existing residential units which is addressed below in Section 33K-5(e).]]~~ The Director of the Miami-Dade County Department of Planning and Zoning shall employ the following ~~[[formula]]~~ >>table<< to compute the amount of the fee to be paid:

[[~~New Residential Unit Size*~~
~~(square feet)~~

~~×~~

~~Square Footage Fee**~~

~~(\$0.90)~~

~~+~~

~~Base Fee~~

~~(\$600.00)]]~~

>>Net Impact Fee per Dwelling Unit for New Residential
Construction Including Replacement and/or Additions*<<

+

2% Administrative Fee

Educational Facilities Impact Fee >>Table<<

<u>>>Type of Construction</u>	<u>No. of BR*</u>	<u>Northeast</u>	<u>Northwest</u>	<u>Southeast</u>	<u>Southwest</u>
<u>Single Family Detached</u>					
	<u>0-1 BR</u>	<u>\$7,466</u>	<u>\$5,945</u>	<u>\$4,402</u>	<u>\$4,072</u>
	<u>2 BR</u>	<u>\$7,573</u>	<u>\$6,316</u>	<u>\$4,663</u>	<u>\$5,654</u>
	<u>3+ BR</u>	<u>\$9,435</u>	<u>\$8,595</u>	<u>\$7,611</u>	<u>\$8,275</u>
<u>Single Family Attached</u>					
	<u>0-1 BR</u>	<u>\$7,588</u>	<u>\$5,933</u>	<u>\$4,725</u>	<u>\$4,443</u>
	<u>2 BR</u>	<u>\$8,103</u>	<u>\$6,213</u>	<u>\$5,003</u>	<u>\$4,852</u>
	<u>3+ BR</u>	<u>\$8,427</u>	<u>\$7,452</u>	<u>\$6,973</u>	<u>\$8,071</u>
<u>Multi-Family (2-4 Unit)</u>					
	<u>0-1 BR</u>	<u>\$4,796</u>	<u>\$5,205</u>	<u>\$4,141</u>	<u>\$2,926</u>
	<u>2 BR</u>	<u>\$7,470</u>	<u>\$6,636</u>	<u>\$5,193</u>	<u>\$4,236</u>
	<u>3+ BR</u>	<u>\$8,962</u>	<u>\$8,621</u>	<u>\$7,235</u>	<u>\$7,787</u>
<u>Multi-Family (5+ Unit)</u>					
	<u>0-1 BR</u>	<u>\$1,368</u>	<u>\$2,852</u>	<u>\$2,592</u>	<u>\$3,391</u>
	<u>2 BR</u>	<u>\$2,048</u>	<u>\$5,733</u>	<u>\$2,511</u>	<u>\$3,740</u>
	<u>3+ BR</u>	<u>\$3,140</u>	<u>\$6,524</u>	<u>\$4,472</u>	<u>\$6,082<<</u>

~~>> *The number of bedrooms within a structure shall be determined~~<<
[[*Provided]] by the Miami-Dade County Department of Planning
and Zoning or appropriate municipality at the time of building
permit application or change of use, whichever is applicable.
~~>>The symbol plus "+" in the Educational Facilities Impact Fee
Table shall mean "or more".<<~~

~~[[*Statistical information supporting this calculation of the square
footage fee and the base fee is contained in the Educational
Facility Impact Fee Methodology and Technical Report prepared
for the School Board of Miami-Dade County, Florida by James
Duncan and Associates, Craig Richardson, and James C. Nicholas,
and dated April 7, 1995.~~

~~b A fee schedule showing the calculated fee amount for any new residential
development up to three thousand eight hundred (3,800) square feet in size is
included in the Metro Miami Dade Educational Facilities Impact Fee Manual.
It is presumed that a new residential development greater than three thousand
eight hundred (3,800) square feet in size will not create additional impacts on
capital educational facilities.~~

~~e]] >>(b)<< In the case of new residential development involving a change of use from
non-residential development to residential units, a fee shall be determined for
each new individual residential unit created [[based on the unit size of that
new individual residential unit]], pursuant to [[the formula]] Section 33K-6(a).~~

~~[[d]] >>(c)<< In the case of the creation of additional residential units from existing
residential units, a fee shall be determined for each new additional residential
unit created [[based on the unit size of the new residential unit,]] pursuant to
Section 33K-6(a).~~

~~[[e]] >>(d)<< In the case of the expansion of any existing residential unit, a fee shall be
determined only for the increase in [[unit size]] >>the number of bedrooms.<<
The impact fee shall be determined [[by the following formula:]] >>pursuant
to Section 33K-6(a).<<~~

~~[[Increase In Unit Size~~

~~(square feet)~~

~~×~~

~~Square Footage Fee~~

~~(\$0.90)~~

~~+~~

~~2% Administrative Fee~~

=

Educational Facilities Impact Fee]]

[[f]] >>(e)<< Any building permit which expires or is revoked after the effective date of this chapter and for which a fee has not previously been paid under this chapter shall be required to comply with the provisions herein.

[[g]] >>(f)<< In determining the ~~[[unit-size]]~~ >>number of bedrooms<< for new residential development, the >>Miami-Dade<< County Planning and Zoning Director shall use the building permit and certificate of use information contained in the building or zoning records of the Miami-Dade County Department of Planning and Zoning, municipal building code and zoning regulations, or other governmental agencies, whichever is relevant.

[[h]] >>(g)<< ~~[[No impact fee payment shall be required for any development activity when the calculated fee is less than fifty dollars (50.00).]]~~ >>On each anniversary date after the adoption of this Ordinance, the Miami-Dade County Planning and Zoning Director, in consultation with the School Board, shall automatically adjust the educational facilities impact fees, utilizing a three-year rolling average from the most current Florida's Construction Cost Index for Student Stations as published by the Florida Department of Education, Office of Educational Facilities.<<

[[i]] >>(h)<< The >>Miami-Dade<< County Planning and Zoning Director, in consultation with the School Board, shall ~~[[annually]]~~ review >>every three years after the effective date of this ordinance<< the contents of the Educational Facilities Impact Fee chapter, its >>impact fee table<< ~~[[formula]]~~, and the ~~[[Educational Facilities Impact Fee Methodology and Technical Report]]~~>>"Evaluating Miami-Dade County Educational Facility Impact Fees- Miami-Dade County Public School District - FINAL REPORT - prepared by Peter K. Ashton, Mary Ann Buescher from Innovation & Information Consultants, Inc. (Concord, MA) - dated January 2006 (the "Final Report")"<<, and if appropriate, make recommendations for revisions to the Board of County Commissioners. The Board of County Commissioners shall consider the >>Miami-Dade<< County Planning and Zoning Director's and School Board's recommendations within three (3) months of their receipt. The >>Miami-Dade<< County Department of Planning and Zoning and School Board's recommendation and the Commission's action shall ensure that the benefits to a feepaying development are equitable in that the fee charged to the paying development shall not exceed a proportionate share of the cost of mitigating capital educational facilities impacts, and the procedures for administering the impact fee process remain efficient.

[[j]] >>(i)<< The Board of County Commissioners shall adopt, prior to the effective date of this chapter, a ~~[[Metro]]~~ Miami-Dade >>County<< Educational Facilities Impact Fee Manual which shall be used for the administration of this chapter.

Section 5. Section 33K-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33K-10. Benefit districts and trust funds.

- (a) For the purpose of ensuring feepayers receive sufficient benefit for fees paid, there are hereby created and established ~~[[three (3)]]~~ >>four (4)<< educational facilities impact fee benefit districts. The geographic locations of these >>four realigned<< benefit districts are reflected on >>composite<< Attachment >>"I"<<[["B"]], which exhibit is incorporated into and made a part of this chapter by reference.
- (b) A separate interest bearing trust account shall be established for each benefit district for the purpose of insuring that the fees collected under this chapter are designated for the accommodation of impacts reasonably attributable to the new residential development paying the impact fee.
- >>(c) The original Educational Facilities Impact Fee Ordinance (95-79) contained three (3) benefit districts (hereinafter referred to as "Prior East Benefit District", "Prior Northwest Benefit District" and "Prior Southwest Benefit District").
 - (1) All remaining assets, liabilities and fund balances of the trust account for the Prior Northwest and Prior Southwest Benefit Districts shall be transferred into the trust accounts for the realigned Northwest and realigned Southwest Benefit Districts upon the establishment of such benefit districts. All fees shall be transferred to the appropriate benefit district based upon where the fee was generated.
 - (2) Upon establishment of the Northeast and Southeast Benefit Districts, amounts in the trust fund for the Prior East Benefit District earmarked as of the date of this ordinance to pay the costs of projects in the Prior East Benefit District shall be transferred to the trust accounts for the new Northeast and Southeast Benefit Districts based upon the location of the project. The remaining amount shall be set aside in a separate interest bearing trust account and used to pay the lease payments represented by the outstanding Certificates of Participation issued prior to the effective date of this ordinance to fund educational facilities in the Prior East Benefit District. It is provided, however, that funds from either the Northeast or Southeast Benefit District may be utilized to pay the lease payments represented by outstanding Certificates of Participation issued prior to the effective date of this ordinance to fund educational facilities in the Prior East Benefit District.<<
- [[e)] >>(d) Except as otherwise provided in Section 33K-10(c) of this chapter,<< [[A]] >>a<<ll impact fees collected by the >>Miami-Dade<< County Planning and Zoning Director shall be promptly deposited into the trust account designated for the benefit district where the residential development is located, except that

general administrative costs not exceeding two (2) percent of the impact fee amount may be kept by the County and deposited into the administrative fund accounts of the County for the purpose of paying for the administrative costs. Miami-Dade County and the School Board shall ~~[[enter into an]]~~ >>amend the "First Amended << Interlocal Agreement >>" (hereinafter referred to as "Second Amended Interlocal Agreement") << which provides, >>among other items, << for the periodic transfer of a portion of these administrative costs to the School Board to defray the School Board costs in assisting the County in the administration of this chapter. ~~[[The Interlocal Agreement shall be adopted concurrent with this chapter.]]~~ The >>Miami-Dade<< County Planning and Zoning Director shall conduct a study every ~~[[two (2)]]~~ >>three (3)<< years to determine whether the two (2) percent charge continues to reasonably cover the cost of administering this chapter. The County shall adjust the administrative costs according to the findings of those studies and shall amend this provision of the chapter if the administrative costs need to be modified.

Section 6. Section 33K-11 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33K-11. Use of funds.

- (a) Any educational facilities impact fees collected under this chapter are expressly designated and earmarked for the accommodation of capital educational facility impacts reasonably attributable to new residential development as hereinafter provided in this section.
- (b) >>The<< ~~[[Miami-Dade County and the School Board shall enter into an]]~~ >>Second Amended << Interlocal Agreement ~~[[which]]~~ >>shall<< provide for the periodic transfer of educational facilities impact fees from the >>Miami-Dade<< County Planning and Zoning Director to the School Board. The >>Second Amended << Interlocal Agreement shall be adopted prior to the effective date of this chapter. The Interlocal Agreement shall authorize Miami-Dade County to perform an annual administrative audit of the School Board's use of impact fee funds, including an economic evaluation of the use of such funds. The Interlocal Agreement shall also provide that Miami-Dade County at its option may request assistance of the State Auditor General. Miami-Dade County under the Interlocal Agreement shall have the authority to withhold transfer of impact fees should the School Board refuse to submit to an audit as provided herein. The School Board shall spend these educational facility impact fees solely for capital educational facilities necessitated by new residential development consistent with the provisions of this chapter and as permitted by State Law. The Interlocal Agreement shall provide for a maintenance of effort with [respect] to existing capital expenditures by the School Board and not reduce its funding efforts by substituting funds derived from impact fees. These funds may be used to provide refunds pursuant to Section 33K-13. If the School Board fails to encumber these impact fees for the specified purposes within six (6) years of their payout, they shall be returned to the >>Miami-Dade<< County

Planning and Zoning Director for redeposit in the appropriate impact fee trust accounts, and refunded pursuant to Section 33K-13.

- (c) >>Except as otherwise provided in Section 33K-10(c) of this chapter. << [[¶]] >>i<<mpact fee funds from each trust account shall be spent within the benefit district from which the new residential development for which the fees are paid are located. The impact fee funds shall be spent in accordance with Section 33K-12 of this chapter.

* * *

Section 7. Section 33K-15 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33K-15. Educational facilities impact fee manual and periodic review.

- (a) The educational facilities impact fee manual shall be used for the administration of this chapter. The manual shall contain the following:
- (1) The standards and procedures for issuance of credits as set forth in Section 33K-9.
 - (2) The standards, procedures and other matters required to administer Sections 33K-4 through 33K-15.
- (b) The >>Miami-Dade<< County Planning and Zoning Director in conjunction with the School Board shall periodically review this chapter and, if appropriate, make recommendations to the Board of County Commissioners for revisions to the chapter. The purpose of this review is to ensure that the benefits to a feepaying development are equitable in that the fee charged to the feepaying development shall not exceed a proportionate fair share of the costs of accommodating that new development, and that the procedures for administering the impact fee remains efficient.

Section 8. Section 33-311 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-311. Community Zoning Appeals Board – Authority and duties.

* * *

- >>(H) A Community Zoning Appeals Boards shall not impose as a condition of approval of zoning application that a school contribution be made in excess of the Educational Facilities Impact Fee as established pursuant to Chapter 33K of this code.<<

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Section 9. Section 33-314 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-314. Direct application and appeals to County Commission.

* * *
(H) The procedures set forth in Section 33-311(D) ~~[[and]]~~ (E) ~~>>and (H)<<~~ shall be applicable to hearings held pursuant to this section.

Section 10. Those parts of Sections 3 and 4 of this ordinance amending Sections 33K-4 and 33K-6 of the Code of Miami-Dade County (modifying the amount of the Miami-Dade County Educational Facilities Impact Fee) shall not apply to any complete building permit application filed in the appropriate building department prior to the effective date of this ordinance if a building permit is issued within six (6) months of the effective date of this ordinance. For purposes of this section, a “complete building permit application” shall be defined as a building permit application which contains plans signed and sealed by a State of Florida licensed engineer or architect showing all applicable site work, zoning compliance, and architectural, structural, electrical and plumbing work.

Section 11. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 12. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

Section 13. This ordinance shall become effective ninety (90) days after the date of enactment, or upon execution of the Second Amended Interlocal Agreement, whichever comes later, unless otherwise vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

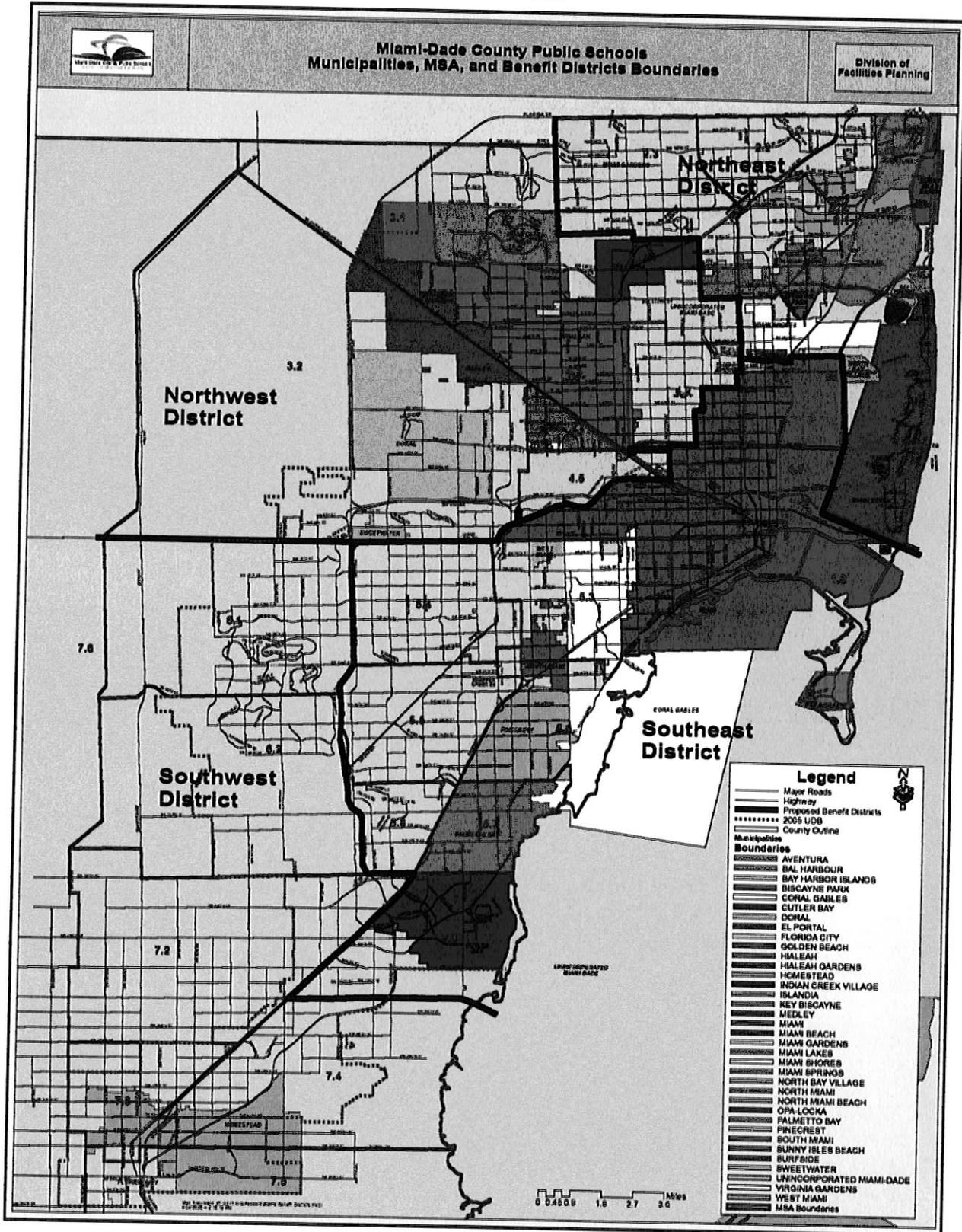


Prepared by:

CJC

Craig H. Collier

Attachment I



ATTACHMENT I

**Educational Facilities Impact Fee Benefit Districts
Northeast Benefit District**

Lands located within the following boundaries:

North:

Miami-Dade/Broward County Line – 215th Street

East:

Atlantic Ocean

West/South:

Begin at NW 57th Avenue and NW 215th Street
South to Biscayne Canal
East to NW 37th Avenue (Douglas Rd)
South to NW 151st Street
East to NW 17th Avenue
South to NW 119th Street
East to I-95 Expressway
South to Little River Canal
East Southeast on Little river Canal to NE 83rd Court
East to NE 6th Avenue
North to NE 87th Street
East to the Atlantic Ocean
South to the northern side of Dodge Island
Southeast along Municipal Channel to the Atlantic Ocean (end point)

Northwest Benefit District

Lands located within the following boundaries:

North:

Miami-Dade/Broward County Line – 202nd Street

South:

SW 8th Street – Tamiami Trail

West:

Everglades

East:

Begin at NW 57th Avenue and NW 215th Street
South to Biscayne Canal
East to NW 37th Avenue (Douglas Road)
South to NW 151st Street
East to NW 17th Avenue
South to NW 119th Street
East to I-95 Expressway
South to NW 80th Street
West to NW 7th Avenue
South to NW 71st Street
West to NW 17th Avenue
South to NW 61st Street
West 150'
South to NW 60th Street

East to NW 17th Avenue
South to NW 58th Street
West to NW 19th Avenue
South to NW 38th Street
West to NW 27th Avenue
South to Approximately NW 37th Street
West to NW 37th Place
South to Northwest North River Drive
Southeast to NW 34th Street
North to Approximately NW 35th Street
East to NW 27th Avenue
South to NW 20th Street
East to NW 37th Avenue (Douglas Road)
North to Tamiami Canal
West and Southwest along Tamiami Canal to Robert King High
Park/ Carlos J. Aboleya Picnic ground
North then South along park property back to Tamiami Canal
Southwest along Tamiami Canal to SW 8th Street
West to Dade/Monroe County Line (end point)

Southeast Benefit District

Lands located within the following boundaries:

North:

Begins at the Municipal Channel and the Atlantic Ocean
Northwest along Municipal Channel to Biscayne Bay and the
northern side of Dodge Island
North to NE 87th Street
West to NE 6th Avenue
South to NE 83rd Court
West to Little River Canal
Norwest-west on Canal to I-95 Expressway
South to NW 80th Street
West to NW 7th Avenue
South to NW 71st Street
West to NW 17th Avenue
South to NW 61st Street
West 150'
South to NW 60th Street
East to NW 17th Avenue
South to NW 58th Street
West to NW 19th Avenue
South to NW 38th Street
West to NW 27th Avenue
South to Approximately NW 37th Street
West to NW 37th Place
South to Northwest North River Drive
Southeast to NW 34th Street

North to Approximately NW 35th Street
 East to NW 27th Avenue
 South to NW 20th Street
 East to NW 37th Avenue (Douglas Road)
 North to Tamiami Canal
 West and Southwest along Tamiami Canal to Robert King High
 Park/ Carlos J. Aboleya Picnic ground
 North then South along park property back to Tamiami Canal
 Southwest along Tamiami Canal to SW 8th Street
West: West to Florida Turnpike (SR 821)
 South along Florida Turnpike to SW 184th Street
 East to US-1
 Southwest to SW 248th Street
South: East to the Atlantic Ocean (end point)
 SW 248th Street
East: Atlantic Ocean

Southwest Benefit District

Lands located within the following boundaries:

North: SW 8th Street – Tamiami Trail
West: Everglades
East/South: Begin at SW 8th Street and Florida Turnpike (SR 821)
 South along Florida Turnpike to SW 184th Street
 East to US-1
 Southwest to SW 248th Street
 East to Biscayne Bay(end point)