

MEMORANDUM

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Agenda Item No. 1G1

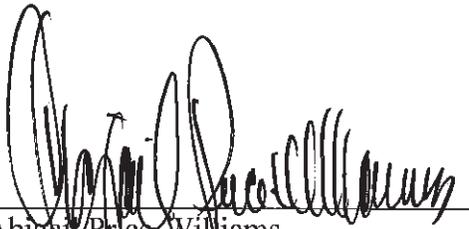
TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: October 13, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to road impact fees; amending chapter 33E of the Code; revising procedures for fee computation by independent study, for contributions in lieu of fee, and for exemptions, credits, and refunds; authorizing certain select transit capital improvements as contributions in lieu of fee; updating definitions and making other technical amendments

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.



Abigail Price-Williams
County Attorney

APW/smm

Memorandum



Date: November 1, 2016
To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners
From: Carlos A. Gimenez 
Mayor
Subject: Fiscal Impact Statement for Ordinance Amending Chapter 33 of the Code Related to
Road Impact Fees

The proposed ordinance relating to road impact fee amends Chapter 33E of the Code of Miami-Dade County to: clarify that Select Transit Capital Improvements are eligible as contributions in lieu of road impact fees; provide a road impact fee payer the flexibility to complete and submit an independent fee computation study within 12 months after the issuance of the permit, consistent with the current practice, as opposed to the six (6) months currently afforded in the Code; and also affords up to one (1) year after the most recent issuance of either a certificate of occupancy or a certificate of use for an impact fee payer to submit an enterprise zone refund application. Lastly, it is important to note that the proposed ordinance acknowledges that the enterprise zone program sunsets on December 31, 2018 and allows for continued program benefits in the interim.

The proposed ordinance is not anticipated to have a fiscal impact to Miami-Dade County.



Jack Osterholt
Deputy Mayor

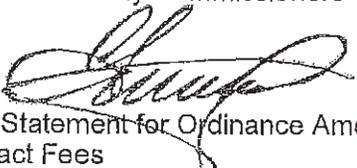
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Memorandum



Date: November 1, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

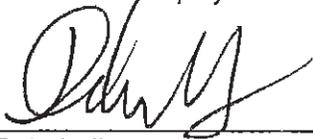
From: Carlos A. Gimenez
Mayor 

Subject: Social Equity Impact Statement for Ordinance Amending Chapter 33 of the Code
Related to Road Impact Fees

The proposed ordinance amends Chapter 33 of the Code, which is the road impact fee ordinance. More specifically, the proposed ordinance does the following to the existing Code:

- Clarifies that Select Transit Capital Improvements are eligible as contributions in lieu of road impact fees.
- Allows a fee payer the ability to complete and submit the independent fee computation study within 12 months after the issuance of the permit, as opposed to the six (6) months currently afforded in the Code, to reflect the current practice.
- Acknowledges the enterprise zone program sunsets on December 31, 2018 and allows for continued program benefits in the interim.
- Provides more flexibility for applicants seeking enterprise zone benefits by allowing them up to 12 months from the issuance of either a certificate of use or certificate of occupancy, whichever is later.

No specific social equity or benefit can be determined at this time.



Jack Osterholt
Deputy Mayor

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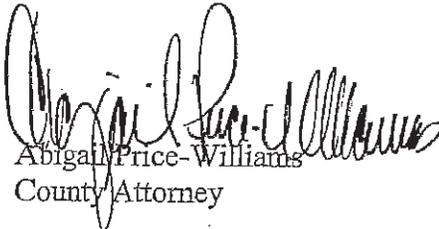


MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: November 1, 2016

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- "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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's _____, 3/5's _____, unanimous _____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(1)
7-19-16

ORDINANCE NO. _____

ORDINANCE RELATING TO ROAD IMPACT FEES; AMENDING CHAPTER 33E OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PROCEDURES FOR FEE COMPUTATION BY INDEPENDENT STUDY, FOR CONTRIBUTIONS IN LIEU OF FEE, AND FOR EXEMPTIONS, CREDITS, AND REFUNDS; AUTHORIZING CERTAIN SELECT TRANSIT CAPITAL IMPROVEMENTS AS CONTRIBUTIONS IN LIEU OF FEE; UPDATING DEFINITIONS AND MAKING OTHER TECHNICAL AMENDMENTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, Chapter 33E of the Code of Miami-Dade County, Florida, requires the payment of road impact fees for development activity, in amounts determined by the formula set forth therein; and

WHEREAS, Chapter 33E provides for road impact fees to be adjusted based on an independent fee computation study submitted by a fee payer, or for road impact fees to be satisfied through the construction of all or part of an off-site roadway improvement (a “contribution in lieu of fee”); and

WHEREAS, Chapter 33E provides for refunds of and credits for road impact fees paid and for limited exemptions from payment of the fees, including for certain commercial or industrial development activity located within a state-designated enterprise zone; and

WHEREAS, this Board wishes to clarify and make uniform certain administrative procedures related to County consideration of fee computations by independent study, contributions in lieu of fee, and exemptions and credits; and

WHEREAS, this Board wishes to clarify that Select Transit Capital Improvements approved pursuant to Section 33E-12 are eligible as contributions in lieu of fee; and

WHEREAS, this Board wishes to provide more flexibility in the deadlines for feepayers to apply for refunds and exemptions and in the materials required for such applications, by allowing feepayers to submit independent studies and negotiate contributions in lieu of fee even after building permits have been issued, by allowing feepayers to obtain full refunds based on those mechanisms if refund applications are timely submitted, and by basing the deadline to apply for enterprise zone exemptions on certificates of use, because a business cannot legally open and provide the required jobs without a valid certificate of use; and

WHEREAS, this Board also wishes to update the procedure and requirements for the enterprise zone exemption based on the sunseting of the State Enterprise Zone Act as of December 31, 2015, and the Florida Legislature's authorization to continue state Enterprise Zone benefits and incentives through December 31, 2018, pursuant to Ch. 2015-221, Laws of Fla.; and

WHEREAS, this Board also wishes to update definitions and make certain technical amendments to the Road Impact Fee Ordinance,

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

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

Chapter 33E ROAD IMPACT FEE ORDINANCE

* * *

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.

Sec. 33E-5. Definitions.

The words and terms listed below are hereby defined for the purpose of this chapter:

* * *

- (7) *County Public Works Director* means the Director of the Miami-Dade County ~~Department of Transportation and~~ Department of Transportation ~~Public Works~~ ~~[[and—Waste—Management Department]]~~ or successor department, or the Director's designee.
- (8) *County Planning and Zoning Director* or *Zoning Director* means the Director of the Miami-Dade County Department of Regulatory and Economic Resources or successor department, or the Director's designee.

* * *

- (23) *Select Transit Capital Improvement* means a specific transit capital project that has been determined by the Board of County Commissioners to be of strategic value in providing roadway capacity pursuant to Section 33E-12(d).

* * *

Sec. 33E-6. Road impact fee imposition.

- (a) Any application for a building permit for development activity within Miami-Dade County shall be subject to the imposition of a road impact fee in the manner and amount set forth in this chapter.

~~>>(1)<<~~ All building permits issued after ~~>>June 4, 1989,<<~~ >>June 4, 1989, ~~[[the effective date of this chapter]]~~ shall be subject to the imposition of the computed impact fee as determined herein. However, any application for a building permit where the required road impact fee payment is made prior to October 1, 1994 shall not be subject to Ordinance 94-134 amending Chapter 33E of the Code of Miami-Dade County and the Miami-Dade Manual provided said building permits are issued prior to January 29, 1995.

>>(2)<< No such building permit shall be issued by the County or any Miami-Dade County municipality unless and until the applicant has paid such impact fee, or presented a letter of credit for such impact fee in a form acceptable to the Miami-Dade County Planning and Zoning Director~~[[, for contributions in lieu of fee as provided in Section 33E-10]]~~. This shall not prohibit a feepayer from initiating an independent fee computation study >>or a negotiation for a contribution in lieu of fee<< as provided for in Section>>s<< 33E-9 >>and 33E-10<< herein.

* * *

Sec. 33E-9. Fee computation by independent study.

The feepayer may elect, either prior to or subsequent to paying the scheduled impact fee (Section 33E-8), to utilize an independent fee computation study pursuant to the formula set forth in Section 33E-7(a). The feepayer shall provide the County Public Works Director notice of intent to utilize an independent fee computation study ~~[[prior to, but no later than, the time of issuance of a building permit. All such studies initiated after the issuance of a building permit]]~~ >>, which<< shall be completed and submitted to the Public Works Director within >>12<< ~~[[six (6)]]~~ months of issuance of building permit. Nothing within this section shall allow a building permit for development activity to be issued without the payment of a road impact fee as provided for in Section 33E-6 herein or without an authorized deferral of payment upon acceptance of a letter of credit as provided in Section 33E-6.1 or upon the acceptance of a voluntary lien as provided in Section 33E-18.

* * *

- (b) The feepayer shall, at the time the independent fee computation study is submitted to the County Public Works Director, pay to the ~~[[Zoning]]~~>>County Public Works<< Director a nonrefundable independent study administrative cost in the amount set forth in the Implementing Order to be used solely for the processing and review of the independent fee calculation study ~~[[by the Public Works Department]]~~. This amount shall not be credited against the road impact fee payment and shall not be refunded.

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* * *

Sec. 33E-10. Roadway improvement >>or select transit capital improvement<< contributions in-lieu-of-fee.

(a) In lieu of payment of all or part of the road impact fee, the County Public Works Director may accept the offer of a feepayer to construct all or part of an off-site roadway improvement >>or select transit capital improvement approved pursuant to Section 33E-12 of this chapter<<.

>>(1)<< All contributions in-lieu-of-fee shall be in accordance with the Comprehensive Development Master Plan and the short range transportation improvement program.

>>(2)<< Such contributions in-lieu-of-fee shall be credited against payment of an impact fee in the amount determined by the County Public Works Director pursuant to Sections 33E-8 or 33E-9. The total amount of contributions in-lieu-of-fee shall not exceed the road cost portion of the impact fee formula in Section 33E-7.

>>(3)<< Contributions in-lieu-of-fee shall not be applied to the ~~[[two-(] 2 []]]~~ percent County administrative cost portion of the impact fee which shall remain the responsibility of the feepayer ~~[[and must be paid at the time of building permit issuance]]~~.

Where a feepayer seeks to apply a contribution in-lieu-of-fee credit against payment of the road impact fee, the administrative fee portion of the impact fee shall be the sum of: (a) ~~[[two-(] 2 []]]~~ percent of the contribution in-lieu-of-fee or ~~[[one thousand dollars-(]~~ \$1,000.00 >>₁<< ~~[[]]]~~ whichever is less >>₁<< and (b) ~~[[two-(] 2 []]]~~ percent of the remaining road cost not satisfied by the contribution in-lieu-of fee.

>>(4)<< Previously approved contributions in-lieu-of-fees which are: (1) unused and (2) based on a net road cost which has been subsequently adjusted, shall be entitled to an adjustment equal to the percentage increase or decrease of the net road cost in the road impact fee formula. Previously approved contributions in-lieu-of-fees which are: (1) unused and (2) based on a road cost which has been subsequently adjusted, shall be entitled to an adjustment equal to the percentage increase or decrease of the road cost in the road impact fee

formula. Any such adjustment shall only be utilized to offset road impact fees and shall not be refundable.

* * *

- (e) If pursuant to Section 33E-10(a) and 33E-10(b), the County Public Works Director accepts improvements with a cost in excess of the impact fee computed pursuant to Section 33E-8 or Section 33E-9 herein, the feepayer, upon written request, shall be reimbursed for the amount of the excess cost as said cost is determined by the Public Works Director pursuant to Section 33E-10 of this chapter. It shall be the burden of the feepayer to make a written request for reimbursement ~~[[at the time of building permit application]]~~. The feepayer shall only be eligible for reimbursement after such time as the improvement is completed and accepted by ~~>>the<<~~ County Public Works Director or the State. Reimbursements shall be made from ~~[[available monies existing within]]~~ the corresponding benefit district trust fund. No reimbursement shall be made ~~>>:<<~~ after ~~[[six-]] 6 [[-]]~~ years from the date of first building permit issuance ~~>>~~; or for the cost of completed improvements that do not exceed the computed impact fee<<.

* * *

- (g) Any claim for contributions in lieu of road impact fee shall have been submitted to and received approval from the County Public Works Director ~~[[prior to]]~~ ~~>>~~within 12 months of<< issuance of any building permit intended to use said contributions in lieu of fee and prior to commencement of any road construction ~~>>~~, construction of any select transit capital improvement,<< or dedication of any right-of-way for which said contributions in lieu of fee are being claimed.

* * *

- (i) The fee payer shall pay a nonrefundable administrative cost~~>>~~,~~<<~~ in the amount set forth in ~~>>~~an implementing order approved by the Board of County Commissioners,<< ~~[[the road impact fee manual]]~~ to be used by the county for processing and review of the contributions in lieu of fee study. This fee shall not be credited against the amount of road impact fees due.

* * *

Sec. 33E-13. Refund of impact fees paid.

- (a) If a building permit encompassing fee-paying development expires or is revoked, if an error in the impact fee calculation is discovered, or if the fee-payer has paid impact fees in excess of the amount determined by an approved independent fee computation study completed in accordance with conditions set forth in this chapter, then the fee-payer shall, upon submission of a written request to the County Planning and Zoning Director on a form acceptable to the Director, be entitled to a refund of the impact fee paid, or the appropriate portion thereof, except that the county shall retain the general administrative cost portion of the fee and any applicable convenience fees to cover the cost of the administration of the impact fee calculation, collection and refund. However, ~~>>except for refunds of fees paid in excess of the amount determined by an approved independent fee computation study as provided herein.<<~~ no refund shall be provided for impact fees deemed expended pursuant to Section 33E-13(b) ~~[[or for the cost of completed improvements contributed in lieu of fee]].~~

* * *

Sec. 33E-14. Exemptions and credits.

* * *

- (d) Notwithstanding any other provisions of this chapter, development activity shall be exempt from the requirement of payment of road impact fees upon a determination by the County Planning and Zoning Director that such activity conforms to the following requirements:

* * *

- (3) Any commercial or industrial development activity located within an existing designated enterprise zone as defined in Section 290.0065, Florida Statutes, as the same may be amended from time to time ~~>>~~, and as approved pursuant to Ch. 2015-221, Laws of Fla.~~<<~~, provided that: (a) the proposed development activity has been ~~>>~~deemed to have been~~<<~~ granted a property tax exemption under ~~>>~~Section 29-84(c)~~<<~~ ~~[[Sections 29-81~~

~~through 29-89 of the Code of Miami-Dade County]; >>and<< (b) [[if such development activity is located within a municipality the municipality has also granted a property tax exemption under the aforesaid Sections 29-81 through 29-89; and (c)]] the feepayer has furnished all the documentation required by the County Planning and Zoning Director [[, in accordance with the provisions of the road impact fee manual]] and has executed a covenant running with the land, in a form approved by the County Planning and Zoning Director, obligating the feepayer, its successors and assigns to comply with the employee residency requirements of Sections 29-83(a) and 29-84(b) of >>this code<< [[the Code of Miami-Dade County]] for a minimum of [[five-()] 5 [()]] years; or~~

* * *

- (e) If an exemption is sought pursuant to Section 33E-14(d)(1), (2), (3), and (4), road impact fees shall be paid prior to the issuance of the building permit. However, the feepayer shall be entitled to a refund pursuant to this chapter upon submitting a formal application for a refund to and receiving approval from the County Planning and Zoning Director, on a form acceptable to the Director.

- (1) Application for a refund under Section 33E-14 shall be made within ~~[[one-()] 1 [()]]~~ year of the issuance of a certificate of completion>>₁<< ~~[[or]]~~ certificate of occupancy>>, or certificate of use<< for the building >>, whichever is later. If the commercial or industrial development activity for which exemption is sought pursuant to Section 33E-14(d)(3) entails an aggregation of multiple commercial or industrial uses to satisfy the job creation requirements under Sections 29-81 through 29-89 of this code, the application for a refund must be made within 1 year of the issuance of the most recent certificate of use being used to satisfy the job creation requirements; but in no event shall such application for refund be approved if submitted more than 18 months after the issuance of the certificate of occupancy for the building in which the development activity is taking place<<. Failure to apply for a refund by the feepayer [[,]] within the above-referred [[one-year]] period shall invalidate the right for a refund under this section.

* * *

(f) ~~[[The applicant shall submit a complete application for any exemption from Road impact fees prior to or concurrently with the building permit application]].~~ The applicant shall supply all documentation necessary to validate the requested exemption along with any additional documentation that may be required by the County Planning and Zoning Director.

* * *

Section 2. 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 3. 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 a 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 4. This ordinance shall become effective ten (10) days after the date of enactment unless 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:

APW
DJK

Prepared by:

Dennis A. Kerbel

Prime Sponsor: Commissioner Bruno A. Barreiro