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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(E)

(Second Reading 12-1-15)

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

DATE: October 20, 2015

FROM: Abigail Price-Williams County Attorney

SUBJECT: Ordinance relating to impact fees; enabling electronic forms of payment for impact fees; amending administrative fees and providing for transactional fees related to electronic payment; providing for fees to be assessed based on plan submittal date; providing authority to lien real property and to charge collection fees for unpaid impact fees; clarifying impact fee formula and fee computation process; clarifying availability of refunds of impact fees paid; clarifying process to appeal impact fee assessment; updating definitions; amending Chapters 33E, 33H, 33I, 33J, and 33K of the Code

Ordinance No. 15-144

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Vice Chairman Esteban L. Bovo, Jr. and Co-Sponsors Commissioner Jose "Pepe" Diaz and Commissionner Audrey M. Edmonson.

Abigail Price-Williams
County Attorney

APW/cp

Memorandum

Date: December 1, 2015

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

From: Carlos A. Gimenez
Mayor

Subject: Proposed Ordinance Enabling Electronic Forms of Payment and Modifying Various Administrative Procedures for Impact Fee Assessment, Collections and Refunds

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Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance enabling electronic forms of payment and modifying various administrative procedures related to County Impact Fee assessment, collections and refunds as described in Chapters 33E, 33H, 33I, 33J and 33K (Road, Parks, Police, Fire, and Educational Facilities Impact Fee Ordinances) of the Miami-Dade County Code.

Scope

This Ordinance amends administrative procedures related to impact fees which apply countywide.

Fiscal Impact/Funding Source

The proposed ordinance will result in no additional fiscal impact. Programming required to adjust the impact fee system as described below to fee according to date of plan submission and to allow other forms of payment will be absorbed as part of the Department of Regulatory and Economic Resources' (RER's) service level agreement with ITD.

Social Equity Statement

The proposed ordinance is not anticipated to have a specific social equity benefit or burden as described by Ordinance No. 15-83. Administrative changes described below relating to enabling electronic forms of payment may help expedite processes and improve service to all customers. While these changes have the potential to yield positive economic benefits to our customers, a specific benefit is not quantifiable at this time.

Track Record/Monitor

RER administers the assessment, collection and refund of impact fees on behalf of all County Departments and the School Board at the County's Permitting and Inspection Center. The operation of this facility is overseen by Juliana Salas, P.E., Building Official and Assistant Director for Construction, Permitting and Boards Code Division, RER.

Background

The proposed ordinance amends various administrative procedures related to Road, Parks, Police, Fire, and Educational Facilities Impact Fees to ensure uniform administrative practices in assessment, collection, and refund of said fees. Specifically, this ordinance:

- Addresses industry requests for alternative forms of payment of impact fees, specifically the enabling of acceptance of electronic payments such as credit cards. Because the current ordinance language explicitly restricts forms of payment to cash, personal check, cashier's check, or money order, the County has heretofore been unable to accept credit card and other forms of electronic payment of impact fees. Because electronic payments often come with transactional fees charged by banking institutions, this ordinance also provides a mechanism for the County to recover any costs incurred by the acceptance of electronic payment options.
- Addresses industry requests that assessment of impact fees due be based on the date of plan submittal to Miami-Dade County rather than on date of payment. The code currently specifies that impact fees due are based on the date of payment to the County. A fee-payer's ability to pay the County depends on the County's plan review staff having received the plans and conducted a full review. Impact fee assessments can sometimes require complex calculations and are performed in conjunction with zoning plan review. Because of periodic changes in pricing indexes for the various impact fees, the County often experiences unusually high volumes of impact fee plan submittals as applicants attempt to lock in their fee rates in the days prior to scheduled escalations. In cases of complex projects, plans cannot always be reviewed on the same day. Hence, a clarification in the code that the fee be based on the date of submittal will guarantee that fee-payers will not be penalized by high volumes of plan submittal on the eve of escalation dates.
- Clarifies code language to conform with the current County practice of retaining the administrative fee in cases of refunds or reassessments.
- Clarifies and makes uniform code language regarding the lien and collections procedures to be followed in cases where impact fees are found to have been unpaid. These references already exist in certain impact fee chapters but are either omitted or not uniformly worded in other chapters.
- Clarifies and makes uniform code language regarding refund procedures in each of the various impact fee chapters.
- Clarifies code language relating to the process for appeals of administrative determinations of impact fee assessments.
- Removes the requirement for an annual presentation of an updated Road Impact Fee ordinance and manual. The ordinance will continue to be periodically reviewed and assessed, with recommended changes presented for Board consideration. However, because the most recent road impact fee update covered a multi-year period, reference to an additional annual presentation is not needed.
- Updates names, definitions, and references to the Mayor and to Directors of the various departments involved in impact fee determination, assessment, and collection, as applicable.

Jack Osterholt, Deputy Mayor

MEMORANDUM

(Revised)

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

DATE: December 1, 2015

FROM: Abigail Price-Williams County Attorney

SUBJECT: Agenda Item No. 7(E)

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**

_____ **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. 7(E)
12-1-15

ORDINANCE NO. 15-144

ORDINANCE RELATING TO IMPACT FEES; ENABLING ELECTRONIC FORMS OF PAYMENT FOR IMPACT FEES; AMENDING ADMINISTRATIVE FEES AND PROVIDING FOR TRANSACTIONAL FEES RELATED TO ELECTRONIC PAYMENT; PROVIDING FOR FEES TO BE ASSESSED BASED ON PLAN SUBMITTAL DATE; PROVIDING AUTHORITY TO LIEN REAL PROPERTY AND TO CHARGE COLLECTION FEES FOR UNPAID IMPACT FEES; CLARIFYING IMPACT FEE FORMULA AND FEE COMPUTATION PROCESS; CLARIFYING AVAILABILITY OF REFUNDS OF IMPACT FEES PAID; CLARIFYING PROCESS TO APPEAL IMPACT FEE ASSESSMENT; UPDATING DEFINITIONS; AMENDING CHAPTERS 33E, 33H, 33I, 33J, AND 33K OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; 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. Chapter 33E of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Chapter 33E - ROAD IMPACT FEE [[S]] >>ORDINANCE<<

* * *

Sec. 33E-5. Definitions.

[[~~(a)~~]] The words and terms listed below are hereby defined for the purpose of this chapter:

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[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.

* * *

(6) County >>Mayor<< [[~~Manager~~]] means the [[~~Chief Administrative Officer~~]] >>Mayor<< of [[~~Metropolitan~~]] Miami-Dade County or his designee.

(7) County Public Works Director means the Director of the Miami-Dade County Public Works >>and Waste Management<< Department or >>successor department, or the Director's<< [[~~his~~]] designee.

(8) County Planning and Zoning Director >>or Zoning Director<< means the Director of the Miami-Dade County Department of >>Regulatory and Economic Resources<< [[~~Planning and Zoning~~]] or >>successor department, or the Director's<< [[~~or his~~]] designee.

* * *

(10) Existing development means the lawful land use physically existing at any time during the period from December 6, 1988 through June 4, 1989 and any development or additional development for which the landowner holds a valid building permit as of June 4, 1989. Existing development shall also include the maximum level of development activity for which a previous impact fee was paid under the provisions of this chapter. As used in this chapter, the term "lawful land use" shall not include a land use which has been established or maintained in violation of this chapter or applicable municipal codes.

* * *

Sec. 33E-6.1. Payment of road impact fees.

* * *

(b) Payment shall be made in >>a form acceptable to the Zoning Director. The Director may charge a nonrefundable convenience fee to cover any transactional costs imposed by the institution processing the form of payment.

Notwithstanding any other provision to the contrary, payment amount due shall be based on the fee in effect on the date the plans filed with a building permit application are submitted to Miami-Dade County for impact fee assessment.<< [[~~cash, personal check, cashier's check, or money order payable to Miami-Dade County; however, when a municipality is the permitting authority, payment shall not be made by personal check~~]].

* * *

(e) If the amount of the impact fee paid is found to have been insufficient for any reason, the appropriate County or city building department shall have the authority >>to<< stop all construction authorized by the permit until payment in full is received.

(f) The County shall have the authority to lien real property for which a Final Certificate of Use >>(C.U.) or Final Certificate of<< [[~~and~~]] Occupancy (C.O.) has been issued but for which the correct required road impact fee has not been paid in full. Such lien must be filed within three years from the date of issuance of the >>C.U. or<< C.O. >>The County may charge a collection fee above the value of the impact fee being collected to cover the cost of collection of unpaid impact fees.<<

(g) Road impact fees exceeding twenty-five thousand dollars ($25,000.00) may be deferred provided that the feepayer submits either a surety performance bond (the bond) or an automatically renewable, irrevocable letter of credit (the bond), for the total amount of the impact fee. Upon acceptance of the bond by the County Planning and Zoning >>Director<< [[~~Department~~]] the building permit may be issued.

* * *

Sec. 33E-7. Road impact fee formula.

* * *

(b) In the case of development activity involving a change of >>existing<< use and/or magnitude of >>existing<< use in

which a building permit is required, the proposed development shall be required to pay an impact fee only for any increase in the development activity. >>In this case, the<< [[~~The~~]] impact fee shall be >>calculated by computing<< the difference between the [[~~computed~~]] impact fee for the proposed development activity and the [[~~computed~~]] impact fee for the existing development activity as defined in Section 33E-5 >>, less the applicable administrative fee<<. 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. No refunds will be given for proposed development activity resulting in a negative fee calculation.

(c) No impact fee payment shall be required for any applicants seeking development activity for which the computed fee amount under the terms of this chapter is less than fifty dollars ($50.00).

The above formula shall be used to compute the amount of the fee to be paid using either of the approaches set forth in Section 33E-8 or Section 33E-9, at the election of the feepayer.

(d) Any change of use, redevelopment or modification of an existing use which requires the issuance of a building permit and which generates additional vehicular trips shall pay a road impact fee based on the net increase in the impact fee above that which would have been required for the previous use.

Sec. 33E-8. Fee computation by adopted schedule.

The feepayer may elect to allow the County Public Works [[~~and Waste Management~~]] Director to use the impact fee schedule set forth below developed pursuant to the formula set forth in Section 33E-7(a). The Impact Fee Per Unit of Development shall be multiplied by the Present Day Cost (PDC) Multiplier for the year in which the fee is paid in accordance with the table in subsection 33E-8(d).

(a) The following impact fee schedule shall be used by the County Public Works [[~~and Waste Management~~]] Director in computing the road impact fee:

* * *

(c) In determining existing development activity, as defined in Section 33E-5 >>(10)<< [[~~(h)~~]] of this chapter, and the units of proposed or existing development, the County >>Public Works<< [[~~Regulatory and Economic Resources~~]] Director shall use the building permit and certificate of use information contained in the records of the Miami-Dade County Regulatory and Economic Resources Department and municipal building code and zoning regulation administering agencies.

* * *

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 [[~~and Waste Management~~]] Director notice of intent to utilize an independent fee computation study prior to, but no later than, the time of [[~~application for~~]] >>issuance of<< a building permit. All such studies initiated after the issuance of a building permit shall be completed and submitted to the Public Works [[~~and Waste Management~~]] Director within 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.

(a) If the feepayer elects to utilize an independent fee computation study, the feepayer shall, at the feepayer's own expense, prepare and present to the County Public Works [[~~and Waste Management~~]] Director such a study that shall document the basis upon which the value of each of the components of the fee formula set forth in Section 33E-7(a) was determined. The study shall use a methodology that has been approved by the Public Works [[~~and Waste Management~~]] Director. The study shall address the following subjects unless otherwise specified in writing by

the Public Works [[~~and Waste Management~~]] Director:

* * *

(b) The feepayer shall, at the time the independent fee computation study is submitted to the County Public Works [[~~and Waste Management~~]] Director, pay to the [[~~County Department of Regulatory and Economic Resources~~]] >>Zoning<< 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 [[~~and Waste Management~~]] Department. This amount shall not be credited against the road impact fee payment and shall not be refunded.

(c) The County Public Works [[~~and Waste Management~~]] Director shall determine if an independent fee computation study:

* * *

(3) Complies with the methodology approved by the Public Works [[~~and Waste Management~~]] Director; and

(4) Is prepared by an individual or entity qualified to perform Traffic Engineering and Operations Studies in accordance with the standards set forth in Rule 14-75.003 of the Florida Administrative Code.

(d) Upon approval of the independent fee calculation study by the County Public Works [[~~and Waste Management~~]] Director, the fee may be computed based upon the findings of the study using the road impact fee formula set forth in Section 33E-7.

(e) In the event that the Public Works [[~~and Waste Management~~]] Director determines that the conditions described in Section 33E-9(c) have not been fully met by the independent fee study, a letter shall be sent to the applicant identifying the deficiencies in the study that must be corrected and stating an intent to reject the independent fee calculation study unless the deficiencies are corrected. If the County Public Works [[~~and Waste Management~~]]

Director determines that the deficiencies in the independent fee study have not been corrected within sixty (60) working days from the date of the letter of intent, the Director shall issue a second letter rejecting the independent fee study.

(f) Any appeals from a decision of the County Public Works [[~~and Waste Management~~]] Director to reject an independent fee study because of deficiencies shall be filed with the >>County Zoning<< [[~~Department of Regulatory and Economic Resources~~]] Director within 30 days of the decision and shall be reviewed and decided by the County Developmental Impact Committee Executive Council.

(g) In his annual review of the impact fee ordinance the County >>Mayor<< [[~~Manager~~]] may recommend to the Board of County Commissioners that the type of use and fee rates approved pursuant to an independent study prepared under this section be added to or substituted in the impact fee schedule contained in Section 33E-8.

* * *

Sec. 33E-11. Impact fee benefit districts and trust accounts.

* * *

(c) A financial and management report on the impact fee trust funds shall be prepared annually by the County Public Works >>Director<< [[~~Department~~]] and submitted to the County >>Mayor<< [[~~Manager~~]] within one hundred twenty (120) days of the end of the County's fiscal year.

* * *

Sec. 33E-12. Impact fee expenditures.

* * *

(b) Highest priority for roadway trust fund expenditures shall be for roadway capacity improvements deemed by the Miami-Dade County Metropolitan Planning Organization (MPO) as most needed to serve new development. Such determination by the MPO shall consider recommendation from the County Public Works [[~~and Waste Management~~]]

//

Director. In preparation for said recommendation to the MPO, the Director shall solicit and consider recommendations from the various municipalities located in Miami-Dade County. The Director's recommendation is not limited to only County or State designated roadways, but may include municipal roads and select transit capital improvements pursuant to subsection 33E-12(d). Before funds can be allocated or expended for any capacity enhancement projects on local roads within any one Road Impact Fee District, funding for all programmed capacity needs for County arterial and collector roadways, and municipal collector roadways, within said District must have been identified and encumbered, as determined by the Miami-Dade County Public Works [[~~and Waste Management~~]] Director. Trust account funds shall be deemed expended in the order in which they are collected. Policies to be used in scheduling the expenditure of roadway trust funds through the long range transportation plan and short range transportation improvement program shall be set forth in the impact fee manual.

* * *

(d) Roadway trust funds may be expended on select transit capital improvements provided that the Board of County Commissioners, after recommendation from the Mayor in consultation with the Public Works [[~~and Waste Management~~]] Director and after public hearing, determines that any such transit use of roadway trust funds would be effective as part of the county's strategy for providing roadway capacity within the Urban Infill Area. Roadway trust funds may only be used for select transit capital improvements within the Urban Infill Area. Only impact fees generated from within the Urban Infill Area may be used for select transit capital projects. Transit projects are to be selected for road way trust fund funding on the basis of their expected effectiveness as roadway capacity improvements.

(e) Each year the County Public Works [[~~and Waste Management~~]] Director shall present to the Metropolitan Planning Organization pursuant to the Organization's procedures for their review and approval, the annual program for expenditure of roadway trust funds for roadway capacity improvements projects, to be included

within the Transportation Improvements Program. After solicitation and consideration of comment from municipalities, the Public Works [[~~and Waste Management~~]] Director shall also recommend priorities for the expenditure of roadway trust fund monies. Trust fund monies, including any accrued interest not assigned in any fiscal year, shall be retained in the trust fund until the next fiscal year, except as provided by the refund provisions of this chapter pursuant to Section 33E-13.

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

(a) If a building permit encompassing feepaying development expires or is revoked, >>if an error in the impact fee calculation is discovered, or if the feepayer 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 feepayer 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, 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.

(b) Any fee trust funds not expended by the end of the fiscal quarter immediately following six (6) years from the date the fee was paid shall be returned to the feepayer by the County Planning and Zoning Director with accrued interest. Funds shall be expended in the order in which they are collected and shall be deemed expended for purposes of this chapter when a road contract or agreement obligating all or a portion of the payment of said funds shall be approved by Miami-Dade County. [[~~The impact fee manual shall set forth a procedure to be used for identifying the source of monies expended.~~]] The feepayer shall be required to submit a written request for refund to the County Planning and Zoning Director before issuance of the refund can be authorized. No refunds of road impact fees will be provided for in the event the feepayer does not

request such a refund prior to the expiration of one (1) year following the six-year period from the date the road impact fee was paid.

(c) The feepayer may request a refund of road impact fees paid for a development that has been exempted pursuant to Section 33E-14 >>, in accordance with the provisions set forth therein<<. The amount of the exemption refund shall exclude the administrative cost portion of the fee >>and any applicable convenience fees<<. [[~~Application must be made within one (1) year of the issuance of a certificate of completion or a certificate of occupancy for the subject of the exemption and shall be made in accordance with the provisions of the road impact fee manual~~]].

Sec. 33E-14. Exemptions and credits.

* * *

(b) Unless provided for to the contrary in the current effective development order, all development activity which is subject to an existing Development of Regional Impact Development Order adopted pursuant to Chapter 380, Florida Statutes prior to June 4, 1989 shall be exempt from this chapter with regard to development approved by such development order. This exemption provision does not apply to those development orders which may have been revoked or determined to be null and void or to any development not authorized in such development order by Miami-Dade County or another unit of local government in Miami-Dade County issuing such development order. This exemption shall not apply to any additional development regardless of whether or not such additional development constitutes a substantial deviation pursuant to Chapter 380, Florida Statutes. Any Development of Regional Impact development order amended after January 1, 2009, which generates additional vehicular trips above the previously approved development order shall be not be exempt for said additional trips.

* * *

(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<< [[~~in accordance with the provisions of the manual~~]].

>>(1)<< Application for a refund under >>Section 33E-14<< [[~~this section~~]] shall be made within one (1) year of the issuance of a certificate of completion or certificate of occupancy for the building. 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.

>>(2)<< Notwithstanding the aforesaid, if an exemption is sought pursuant to Section 33E-14(d)(2), community development corporations as defined in Section 290.033(2), Florida Statutes [[~~(1991)~~]], and community-based organizations as defined in Section 420.602(4), Florida Statutes, that have received assistance from Miami-Dade County or the State of Florida in funding predevelopment costs to provide affordable housing to low and very low income families shall have the option of executing a covenant running with the land, in a form approved by the County Planning and Zoning Director, in lieu of payment of road impact fees prior to the issuance of the building permit. Joint ventures of either a community development corporation or a community based organization with a for-profit developer for the purpose of affordable housing development shall also have the right to execute the aforementioned covenant provided that the proposed affordable housing development for which an exemption is being sought has been approved by the Miami-Dade County Office of Community Development.

(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 [[~~as outlined in the road impact fee manual~~]] along with any additional documentation that may be required by the County Planning and Zoning Director.

Sec. 33E-15. Appeals of administrative decisions.

>>(a) *Administrative remedies.*<< Decisions of the >>County Public Works Director or the<< County Planning and Zoning Director may be appealed by the feepayer to the County Developmental Impact Committee Executive Council >>for a de novo review<<. Appeals of the decisions of the Executive Council shall be to the Board of County Commissioners [[~~in accordance with procedures specified in the adopted impact fee manual~~]]. >>If the feepayer appeals the decision of a Director or of the Developmental Impact Committee Executive Council, the decision on appeal shall be deemed a non-final order.<<

>>(b) *Procedure on appeal.*<< If a feepayer wishes to appeal an administrative decision of the County Public Works Director, or of the County Planning and Zoning Director >>,<< the feepayer shall first file >>with the Developmental Impact Committee Coordinator<< a notice of administrative appeal on a form >>approved by the Zoning Director<< [[~~specified in the adopted impact fee manual with the Developmental Impact Committee Coordinator~~]]. All appeals shall be filed within thirty (30) days after the earlier of: (a) the issuance of a written decision by the Public Works Director or the Planning and Zoning Director; or (b) the Planning and Zoning Director's acceptance of payment of the road impact fee. The feepayer shall, when filing an appeal, submit a letter which provides a full explanation of the request, the reason for the appeal, and any supporting documentation.

>>(c) *Proceedings before Developmental Impact Committee.*<< The Developmental Impact Committee Coordinator shall schedule the appeal before the Executive Council as soon as practically possible. The Executive Council shall vote to affirm, reject or revise the decision of the County Public Works Director or of the County Planning and Zoning Director. The written decision of the Council shall be mailed certified mail, return receipt requested. Any appeal >>to the County Commission<< [[~~pursuant to subsection 33-314(C)(1)~~]] must be filed >>with the Zoning Director pursuant to Section 33-314 of this code<< within thirty (30) days from the date of the receipt of the Council's written decision.

* * *

Sec. 33E-17. Miami-Dade County Road Impact Fee Manual.

(a) [[~~In not less than sixty (60) days prior to the effective date of this chapter, a~~]] >>A<< Miami-Dade County Road Impact Fee Manual (the impact fee manual) >>may<< [[~~shall~~]] be proposed to the Board of County Commissioners for adoption by resolution. [[~~The~~]] >>If proposed, the<< impact fee manual [[~~shall be used for the administration of this chapter and~~]] shall contain the following:

(1) The independent fee calculation methodology relating to Section 33E-9;

(2) The independent study administrative cost provided for in Section 33E-9(b);

(3) The standards and procedures for issuance of fee credits set forth in Section 33E-14(c); and

(4) The standards, procedures and other matters required to administer Sections 33E-7 through 33E-15.

(b) The Mayor or designee shall periodically review the contents of the adopted road impact fee ordinance and the impact fee manual and, if appropriate, make recommendations for revisions to the adopted road impact fee ordinance and impact fee manual to the Board of County Commissioners. [[~~The Board of County Commissioners shall consider the recommended revision(s) to the Miami-Dade County Road Impact Fee Ordinance and the road impact fee manual at least once every twelve (12) months.~~]] The recommendations and the Commission's action shall ensure that the benefits to a fee-paying development are equitable in that the fee charged to the paying development shall not exceed a proportionate share of the costs of mitigating road impacts, and the procedures for administering the impact fee process remain efficient.

Sec. 33E-18. Road Impact Fee Deferral For Certain Land Use Types.

(A) Notwithstanding anything in the code to the contrary an applicant for a building permit requiring payment of a road impact fee may request a deferral of road impact fee payment for one-half (1/2) of the assessed road impact fee for a period of up to three (3) years subject to the following terms, conditions, requirements and limitations:

* * *

(2) As condition of deferral of road impact fees pursuant to this section, the owner of the property that is subject to the road impact fee shall execute a voluntary lien securing payment of the deferred portion of the road impact fee on a form provided by the [[~~Director of~~]] >>County<< Public Works >>Director<< [[~~& Waste Management Department~~]] and filed in the Public Records of Miami-Dade County.

* * *

(10) The [[~~Director of~~]] >>County<< Public Works >>Director<< [[~~and Waste Management Department~~]] is authorized to foreclose on the lien for any deferred impact fees including and accrued interest that remain unpaid for more than one hundred and eighty (180) calendar days beyond the date when deferred impact fees are due and may assess reasonable fees associated with the foreclosure of the lien and collection of the road impact fee payment including reasonable attorney's fees and court costs.

(B) The [[~~Impact Fee Section of the Regulatory and Economic Resources Department~~]] >>County Planning and Zoning Director<< shall provide an annual report on the status of this program to the Board of County Commissioners.

* * *

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

Chapter 33H PARK IMPACT FEE ORDINANCE

* * *

Sec. 33H-3. Definitions.

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

* * *

(m) Department means the Miami-Dade County >>Parks, Recreation and Open Spaces<< [[~~Park and Recreation~~]] Department >>or successor department<<.

(n) Department of Planning and Zoning means the Miami-Dade County Department of >>Regulatory and Economic Resources<< [[~~Planning and Zoning~~]] or >>successor department<< [[~~or its designee~~]].

(o) Development means any construction, structures, creation of structures or alteration of the land surface, or use of land or natural resources which requires authorization by Miami-Dade County through issuance of a development order.

(p) Director or County Park and Recreation Director means the director of the [[~~Miami-Dade County Park and Recreation~~]] Department or his designee.

(q) >>County<< Planning >>and Zoning<< Director >>or Zoning Director<< means the director of the Miami-Dade County Department of >>Regulatory and Economic Resources<< [[~~Planning and Zoning~~]] or >>successor department, or the Director's<< [[~~its~~]] designee.

* * *

Sec. 33H-4. General provisions.

All residential development is deemed to create an impact and therefore an increased demand for public facilities including public open space, park and recreation facilities. As such, the cost of new public facilities should be borne by new users to the extent new use requires new facilities. Therefore, any application for a building permit within unincorporated Miami-Dade County enabling the construction of residential dwelling units on or after the effective date of this Ordinance shall be subject to the imposition of park impact fees in the manner and amount set forth in this chapter. All Park Impact Fees are due and payable at the same time as the Road, Fire, or Police Impact Fee is paid.

* * *

(b) >>Payment shall be made in a form acceptable to the County Planning and Zoning Director. The Zoning Director may charge a nonrefundable convenience fee to cover any transactional costs imposed by the institution processing the form of payment. Notwithstanding any other provision to the contrary, the payment amount due shall be based on the fee in effect on the date the plans filed with a building permit application are submitted to Miami-Dade County for impact fee assessment.<< All fee payments shall be made before a residential building permit is issued. The Building Official shall not issue a building permit until the applicant has satisfied the provisions of this chapter. >>The County shall have the authority to lien real property for which a Final Certificate of Use (C.U.) or Final Certificate of Occupancy (C.O.) has been issued but for which the correct required impact fee has not been paid in full. Such lien must be filed within three years from the date of issuance of the C.U. or C.O. The County may charge a collection fee above the value of the impact fee being collected to cover the cost of collection of unpaid impact fees.<<

* * *

(f) The County >>Mayor<< [[~~Manager~~]], pursuant to Section 4.02 of the Miami-Dade County Home Rule Charter shall propose to the Board of County Commissioners, a Park Impact Fee Manual >>to<< that shall be used for the

administration of this chapter. The manual shall contain the following:

* * *

(h) The County >>Mayor<< [[~~Manager~~]] shall periodically adjust the adopted park impact fee ordinance and manual as set forth below. The >>Mayor's<< [[~~Manager's~~]] action shall ensure that the benefits to a feepayer are equitable in that the fee charged to the feepayer shall not exceed a proportionate share of the costs of mitigating park impacts. The adjusted Impact Fee Schedule shall be on file with the [[~~Department of Planning and~~]] Zoning >>Director<< [[~~, Impact Fee Administration Office~~]].

* * *

(2) The County >>Mayor<< [[~~Manager~~]] shall annually adjust the Open Space Costs (Table 1), Improvement Costs (Table 3), and the park impact fee schedule provided in Sec. 33H-8 by indexing the tables and the schedule to inflation as defined by the Consumer Price Index - All Urban Consumers for the United States, published by the United States Department of Labor, Bureau of Labor Statistics. The first indexing calculation adjustment shall occur during the 2006-2007 County budget year using the difference in Consumer Price Index figures for calendar years 2005 and 2006.

* * *

(6) The County >>Mayor<< [[~~Manager~~]] shall annually adjust the park impact fee schedule provided in Sec. 33H-8 by providing credit for any outstanding debt from General Obligation Bonds issued to finance capital projects for local park improvements which meet needs generated by population growth and development.

* * *

Sec. 33H-7. - Requirement for local public park improvement fee.

* * *

(b) Amount of fees for local park improvement per dwelling unit. Local park improvement fees are intended to mitigate the impact of the residential use on the need for local public improvements. The cost to improve the local parks is based upon the cost to provide improvements to local parks as described in Table 3 below. The cost as shown in Table 3 below shall be adjusted annually by the County >>Mayor<< [[~~Manager~~]] in accordance with Section 33H-4(h).

* * *

Sec. 33H-12. - Impact fee expenditures.

* * *

(c) If the Miami-Dade County standards for local parks have been met within the park benefit district, the Board of County Commissioners following a public hearing, may authorize the County >>Mayor<< [[~~Manager~~]] or his designee, to expend the funds for land acquisition or improvements in an adjacent benefit district or within the prescribed park service zone. Said authorization shall only be permitted upon a finding that the expenditure will mitigate the impacts of and will benefit the residential development paying the fees in question.

(d) The County >>Mayor<< [[~~Manager~~]] shall periodically review this chapter and the park impact fee manual and, if appropriate, make recommendations to the Board of County Commissioners for revisions to this chapter and the park impact fee manual. The purpose of this review is to ensure that the benefits to a fee paying development are equitable in that the fee charged to the paying development shall not exceed a proportionate fair share of the costs of mitigating park impacts of new developments, and that the procedures for administering the impact fee shall remain efficient. Additionally, within one hundred twenty (120) days from the date of the end of the fiscal year, the Office of Capital Improvements shall submit to the County

>>Mayor<< [[~~Manager~~]] a financial and management report on the impact fee trust funds. No later than thirty (30) days after submission of the report, the County >>Mayor<< [[~~Manager~~]] shall conduct a public meeting, for the purpose of presenting the report and receiving public comment on the report as well as the impact fee program. This meeting shall be advertised at least seven (7) days in advance in a newspaper of general circulation. No later than thirty (30) days after the public meeting, the County >>Mayor<< [[~~Manager~~]] shall schedule the report, which shall serve as the County's Annual Impact Fee Report, for the Board of County Commissioner's consideration. The County >>Mayor<< [[~~Manager~~]] shall provide a companion report to the Board advising of any County >>Mayor<< [[~~Manager~~]] recommended impact fee program changes and detailing comments received from the annual impact fee public meeting.

Sec. 33H-13. Refund of Impact Fees

(a) If a residential building permit encompassing feepaying development expires or is revoked prior to final inspection, >>if an error in the impact fee calculation is discovered, or if the feepayer 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 feepayer shall >>, upon submission of a written request to the County Planning and Zoning Director,<< be entitled to a refund without interest of the impact fee >>, or the appropriate portion thereof,<< minus [[~~seven and one-half (7½) percent~~]] >>any<< general administrative fee >>and any applicable convenience fees<<. However, no refund shall be provided for impact fees deemed expended pursuant to Section 33H-12(b) and (c) or for the cost of completed improvements contributed in-lieu-of-fee except as provided in Section 33H-7(c) herein [[~~and as specified in the manual~~]].

(b) Any impact fee trust funds not expended by the end of the fiscal quarter immediately following six (6) years from the date the fee was paid shall be returned to the feepayer by the Planning and Zoning Director with accrued interest. The feepayer shall be required to submit a written request for refund to the Planning and Zoning Director before issuance of the refund can be authorized. No refunds of

park impact fees will be provided for in the event the feepayer does not request such a refund prior to the expiration of [[~~the end of the fiscal quarter~~]] >>one (1) year<< following the six-year period from the date the park impact fee was paid. [[~~Developments of regional impact whose long term buildout and whose development has been approved by the Board of County Commissioners are exempt from this time frame.~~]]

(c) Fees shall be deemed expended for purposes of this chapter when any portion of the payment of the fee, except for the general administrative >>and convenience<< portion of the fee, is encumbered by contract or agreement by Miami-Dade County. The manual shall set forth a procedure to be used for identifying the source of monies expended.

>>(d) The feepayer may request a refund of impact fees paid for a development that has been exempted pursuant to Section 33H-14 in accordance with the provisions set forth therein. The amount of the exemption refund shall exclude the administrative cost portion of the fee and any applicable convenience fees.<<

* * *

Sec. 33H-14. - Exemptions.

* * *

(b) All development activity permitted by an existing development of regional impact development order (D.O.) adopted pursuant to Chapter 380, Florida Statutes, approved prior to the effective date of this chapter shall be exempt from this chapter unless otherwise provided in the development order. This exemption provision does not apply to those development orders which have been revoked or determined to be null and void or to any development not authorized in such development order by Miami-Dade County. This exemption shall not apply to any additional development regardless of whether or not such additional development constitutes a substantial deviation pursuant to Chapter 380, Florida Statutes.

* * *

(d) An exemption must be claimed by the feepayer prior to paying the impact fee. Any exemption not so claimed shall be deemed to have been waived by feepayer. If an exemption is sought pursuant to Section 33H-14(c), 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 Planning and Zoning Director, >>on a form acceptable to the Director<< [[~~in accordance with the provisions of the manual~~]].

>>(1)<< Application for a refund under >>Section 33H-14<< [[~~this section~~]] shall be made within one (1) year of the later of: (1) the effective date of this ordinance or (2) the issuance of a certificate of completion or a certificate of use for the building. 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.

>>(2)<< Notwithstanding the aforesaid, if an exemption is sought pursuant to Section 33H-14(c), community development corporations (CDC) as defined in Section 290.033(2) and community-based organizations (CBO) as defined in Section 420.602(5), Florida Statutes [[~~(1991)~~]] that have received assistance from [[~~Metropolitan~~]] Miami-Dade County or the State of Florida in funding predevelopment costs to provide affordable housing to low and very low income families shall have the option of executing a covenant running with the land, in a form approved by the Planning and Zoning Director, in lieu of payment of impact fees prior to the issuance of the building permit, in accordance with the provisions of the manual. Joint ventures of either a CDC or a CBO with a for-profit developer, whose proposed affordable housing development has been approved by the Miami-Dade County Office of Community Development, shall also have the right to execute the aforesaid covenant.

(e) An exemption must be claimed by the feepayer at the time of the application for a building permit. Any exemption not so claimed shall be deemed to have been waived by the feepayer.

* * *

Sec. 33H-16. Appeals of administrative decisions.

(a) >>*Administrative remedies.*<< Except as otherwise provided in this chapter, decisions of the Parks and Recreation Director or of the Planning and Zoning Director, may be appealed by the feepayer to the County Developmental Impact Committee Executive Council >>for a de novo review<<. Appeals of the decisions of the >>Developmental Impact Committee<< Executive Council shall be to the Board of County Commissioners [[~~in accordance with procedures specified in Section 33-314, Miami-Dade County Code~~]]. >>If the feepayer appeals the decision of a Director or of the Developmental Impact Committee Executive Council, the decision on appeal shall be deemed a non-final order.<<

(b) >>*Procedure on appeal.*<< If a feepayer wishes to appeal, the feepayer shall first file a notice of administrative appeal [[~~on the form specified in Section XVIII of the manual,~~]] with the Developmental Impact Committee Coordinator >>on a form approved by the Zoning Director<<. All appeals shall be filed within thirty (30) days after the earlier of: (a) the issuance of a written decision by the Parks and Recreation Director or the Planning and Zoning Director; or (b) the Planning and Zoning Director's acceptance of payment of the park impact fee. The feepayer shall, when filing an appeal, submit a letter which provides a full explanation of the request, the reason for the appeal, and any supporting documentation.

(c) >>*Proceedings before Developmental Impact Committee.*<< The Developmental Impact Committee Coordinator shall schedule the appeal before the Development Impact Committee Executive Council as soon as practically possible. The Development Impact Committee Executive Council shall vote to affirm, reject or revise the decision of the Parks and Recreation Director or of the Planning and Zoning Director. The written decision of the Council shall be mailed certified mail, return receipt requested. Any appeal to the Board of County Commissioners shall be filed >>with the Zoning Director pursuant to Section 33-314 of this code<< within thirty (30) days from the date of the receipt of the Council's written decision.

* * *

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

Chapter 33I - POLICE SERVICES IMPACT FEE
>>ORDINANCE<<

Sec. 33I-4. Definitions

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

* * *

(8.1) >>County<< [[~~Director of the Department of~~]] 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<< [[~~Planning and Zoning or his designee~~]].

* * *

Sec. 33I-5. Imposition of Police Services Impact Fee.

* * *

(b) No building permit shall be issued by the County until the applicant has paid the assessed impact fees as calculated pursuant to Sections 33I-6 and 33I-14. [[~~Payment of the police services impact fee pursuant to this chapter shall not prohibit a feepayer from initiating an independent fee computation study in accordance with Section 33I-9.~~]]

>>(1) Payment shall be made in a form acceptable to the Zoning Director. The Zoning Director may charge a nonrefundable convenience fee to cover any transactional costs imposed by the institution processing the form of payment. Notwithstanding any other provision to the contrary, the payment amount due shall be based on the fee in effect on

the date the plans filed with a building permit application are submitted to Miami-Dade County for impact fee assessment.

(2) The County shall have the authority to lien real property for which a Final Certificate of Use (C.U.) or Final Certificate of Occupancy (C.O.) has been issued but for which the correct required impact fee has not been paid in full. Such lien must be filed within three years from the date of issuance of the C.U or the C.O. The County shall charge a collection fee above the value of the impact fee being collected to cover the cost of collection of unpaid impact fees. In no case shall the administrative fee and any convenience fee be refunded.<<

* * *

Sec. 33I-7. - Exemptions.

* * *

(h) The following development shall be exempt from the requirement that impact fees be paid, subject to an application by the feepayer to the >>Zoning<< Director [[~~of the Department of Planning and Zoning~~]] and a determination by the >>Zoning<< Director [[~~of the Planning and Zoning Department~~]] that the proposed development activity is consistent with the CDMP and fits within one (1) or more of the following categories:

* * *

(2) Any commercial or industrial development activity located within an existing designated enterprise zone as defined in Section 290.004(1)(a), Florida Statutes (1987), and amendments thereto, provided that: (a) the proposed development activity has been granted a property tax exemption under Sections 29-81 through 29-89 of the Code of Miami-Dade County; (b) if such development activity is located within a municipality, the municipality has also granted property tax exemption under the aforesaid sections 29-81 through 29-89; and (c) the fee payer has furnished all the documentation required by the

County Planning and Zoning Director[[~~, in accordance with the provisions of the manual~~]].

* * *

(i) An exemption must be claimed by the feepayer prior to paying the impact fee. Any exemption not so claimed shall be deemed to have been waived by feepayer. If an exemption is sought pursuant to Section 33I-7 >>(h),<< [[~~(g)(1), (2), or (3)~~]] 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 >>Zoning<< Director >>, on a form acceptable to the Zoning Director<< [[~~of the Planning and Zoning Department, in accordance with the provisions of the manual~~]].

>>(1)<< Application for a refund under >>Section 33I-7<< [[~~this section~~]] shall be made within one (1) year of the later of: (1) the effective date of this ordinance or (2) the issuance of a certificate of completion or a certificate of use for the building. 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.

>>(2)<< Notwithstanding the aforesaid, if an exemption is sought pursuant to Section 33I-7 >>(h)<< [[~~(g)~~]](1), community development corporations (CDC) as defined in Section 290.033(2), Florida Statutes and community-based organizations (CBO) as defined in Section 420.602(5), Florida Statutes [[~~(1991)~~]] that have received assistance from Miami-Dade County or the State of Florida in funding predevelopment costs to provide affordable housing to low and very low income families shall have the option of executing a covenant running with the land, in a form approved by the >>Zoning<< Director [[~~of the Department of Planning and Zoning~~]], in lieu of payment of impact fees prior to the issuance of the building permit, in accordance with the provisions of the manual. Joint ventures of either a CDC or a CBO with a for-profit developer, whose proposed affordable housing development has been approved by the Miami-Dade County Office of Community Development, shall also have

the right to execute the aforesaid covenant.

* * *

Sec. 33I-10. - Benefit zones and trust funds.

* * *

(b) A separate interest bearing trust account shall be established for each benefit zone. All impact fees collected shall be promptly deposited into the trust account designated for the benefit zone where the feepaying development is located, except for general administrative costs >>and convenience fees<< [[~~paid pursuant to Section 33I-6(b)~~]], which shall be deposited into the operating account of the >>County<< Department of >>Regulatory and Economic Resources or successor department<< [[~~Planning and Zoning~~]]. Impact fee funds from each trust account shall be spent in accordance with Sections 33I-10 and 33I-11 within the benefit zone designated for that trust account.

* * *

(d) A financial report outlining expenditures and unexpended funds within impact fee benefit zones shall be prepared annually by the Miami-Dade Police Department and submitted to the County >>Mayor<< [[~~Manager~~]] within one hundred twenty (120) days following the end of the County's fiscal year.

* * *

Sec. 33I-12. Refund of Impact Fees Paid

(a) If a building permit encompassing feepaying development expires or is revoked, >>if an error in the impact fee calculation is discovered,<< or if the feepayer 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 Section 33I-9, then the feepayer may request from the >>County Planning and Zoning<< Director [[~~of the Department of Planning and Zoning~~]] a refund of the impact fee paid or the appropriate portion thereof. However, the County shall retain >>any convenience fees and<< the general administrative cost

portion of the fee to cover the cost of the administration of the impact fee calculation, collection and refund. The feepayer must submit an application for such refund to the >>Zoning<< Director [[~~of the Department of Planning and Zoning~~]] within thirty (30) days of notification of any of the enumerated circumstances. No refund shall be provided for impact fees deemed expended pursuant to Section 33I-11(c) if no timely claim was made. Funds shall be deemed expended for the purposes of this chapter when a contract or agreement encumbering all or a portion of the payment of said funds shall be approved by final County action. No refunds of police services impact fees shall be given for proposed development activity which results in a negative impact fee computation.

(b) Any impact fee trust funds not expended by the end of the fiscal quarter immediately following six (6) years from the date that the fee was paid shall be returned to the feepayer by the >>Zoning<< Director [[~~of the Department of Planning and Zoning~~]] with accrued interest[[~~; provided, however, that this subsection shall not apply to developments of regional impact with phased or long term buildout~~]]. >>The feepayer shall be required to submit a written request for refund to the County Planning and Zoning Director before issuance of the refund can be authorized. No refunds of impact fees will be provided for in the event the feepayer does not request such a refund prior to the expiration of one (1) year following the six-year period from the date the impact fee was paid.<<

* * *

>>(d) The feepayer may request a refund of impact fees paid for a development that has been exempted pursuant to Section 33I-7, in accordance with the provisions set forth therein. The amount of the exemption refund shall exclude the administrative cost portion of the fee and any applicable convenience fees.<<

Sec. 33I-13. Appeal of administrative decisions.

(a) >>*Administrative remedies.*<< Except as otherwise provided in this chapter, decisions of the Director of the Miami-Dade Police Department or of the >>County Planning and Zoning<< Director [[~~of the Department of Planning and Zoning~~]] under this chapter may be appealed

by the feepayer to the Developmental Impact Committee Executive Council >>for a de novo review<<. Appeals of the decisions of the Developmental Impact Committee Executive Council shall be to the Board of County Commissioners >>. If the feepayer appeals the decision of a Director or of the Developmental Impact Committee Executive Council, the decision on appeal shall be deemed a non-final order.<< [[~~in accordance with procedures specified in Section 33-314. The written decision of the Council shall be mailed by certified mail, return receipt requested. Any appeal shall be filed within thirty (30) days from the date of the receipt of the Council's written decision.~~]]

(b) >>*Procedure on appeal.*<< If a feepayer wishes to appeal an administrative decision of the Director of the Miami-Dade-Police Department or of the >>Zoning<< Director [[~~of the Department of Planning and Zoning~~]], the feepayer shall first file >>with the Developmental Impact Committee Coordinator<< a notice of administrative appeal on a form >>approved by the Zoning Director<< [[~~specified in the police services impact fee manual with the Developmental Impact Committee Coordinator~~]]. All appeals shall be filed within thirty (30) days of the issuance of a written decision of the Director of the Miami-Dade Police Department or of the >>Zoning<< Director [[~~of the Department of Planning and Zoning~~]] and shall be accompanied by a letter which provides a full explanation of the request, the reason for the appeal, and any supporting documentation.

>>(c) *Proceedings before the Developmental Impact Committee.*<< The Developmental Impact Committee Coordinator shall schedule the appeal before the Developmental Impact Committee Executive Council as soon as practically possible. The Developmental Impact Committee Executive Council shall vote to affirm, reject or revise the decision of the Director of the Miami-Dade Police Department or of the >>County Planning and Zoning<< Director [[~~of the Department of Planning and Zoning~~]]. >>The written decision of the Council shall be mailed certified mail, return receipt requested. Any appeal to the County Commission shall be filed with the County Zoning Director pursuant to Section 33-314 of this code within thirty (30) days from the date of the receipt of the Council's written decision.<<

Sec. 33I-14. - Police Services Impact Fee Manual and periodic review.

* * *

(b) The County >>Mayor<< [[~~Manager~~]] shall periodically review this chapter and the police services impact fee manual and, if appropriate, make recommendations to the Board of County Commissioners for revisions to the chapter and the police services impact fee manual. The purpose of this review is to ensure that the benefits to a feepaying development are equitable in that the fee charged to the paying development shall not exceed a proportionate fair share of the costs of mitigating police service impacts of new developments, and that the procedures for administering the impact fee remain efficient. Additionally, within one hundred twenty (120) days from the date of the end of the fiscal year, the Office of Capital Improvements shall submit to the County >>Mayor<< [[~~Manager~~]] a financial and management report on the impact fee trust funds. No later than thirty (30) days after submission of the report, the County >>Mayor<< [[~~Manager~~]] shall conduct a public meeting, for the purpose of presenting the report and receiving public comment on the report as well as the impact fee program. This meeting shall be advertised at least seven (7) days in advance in a newspaper of general circulation. No later than thirty (30) days after the public meeting, the County >>Mayor<< [[~~Manager~~]] shall schedule the report, which shall serve as the County's Annual Impact Fee Report, for the Board of County Commissioners' consideration. The County >>Mayor<< [[~~Manager~~]] shall provide a companion report to the Board advising of any County >>Mayor<< [[~~Manager~~]] recommended impact fee program changes and detailing comments received from the annual impact fee public meeting.

Sec. 33I-15. - Vested rights.

Nothing in this chapter shall limit or modify the rights of any person to complete any development for which a lawful building permit was issued prior to the effective date of this chapter and on which there has been a good faith reliance and a substantial change of position. The >>County Planning and

Zoning<< Director [[~~of the Department of Planning and Zoning~~]], upon application by the feepayer, shall determine the extent of the applicability of vested rights. Appeal of the >>Zoning<< Director>>'s<< [[~~of the Department of Planning and Zoning's~~]] determination shall be to the Developmental Impact Committee Executive Council in accordance with Section 33I-13 and Section 2-114.1, Code of Miami-Dade County.

Sec. 33I-16. - Periodic Update of Fee Schedule.

(1) The County >>Mayor<< [[~~Manager~~]] shall annually adjust the police impact fee schedule provided in Sec. 33I-6 above by indexing the schedule to inflation as defined by the Consumer Price Index (CPI) - All Urban Consumers for the United States, published by the United States Department of Labor, Bureau of Labor Statistics. The first indexing calculation adjustment shall occur during the 2006-2007 County budget year using the difference in Consumer Price Index figures for calendar years 2005 and 2006. The adjusted Impact Fee Schedule shall be on file with the >>County<< [[~~Department of~~]] Planning and Zoning >>Director<< [[~~, Impact Fee Administration Office~~]].

* * *

(5) The County >>Mayor<< [[~~Manager~~]] shall periodically adjust the police impact fee schedule provided in Sec. 33I-6 above by providing credit in the police impact fee formula for any outstanding debt from General Obligation Bonds issued to finance capital projects for police purposes which meet needs generated by population growth and development.

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

Chapter 33J - FIRE AND EMERGENCY MEDICAL SERVICES IMPACT FEE >>ORDINANCE<<

* * *

Sec. 33J-4. Definitions

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

* * *

(r-1) >>County<< [[~~Director of the Department of~~]] 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<< [[~~Planning and Zoning or his~~]] designee.

* * *

Sec. 33J-5. Imposition of Fire and Emergency Medical Services Impact Fee.

(a) All development is deemed to create an impact and therefore create a demand for increase fire and rescue service capacity. As such, the cost of new facilities should be borne by new users to the extent new uses require new facilities. Therefore, building permits subject to Fire Rescue Impact Fee issued within one year after the effective date of this ordinance shall be obligated to pay seventy-six (76) percent for residential, ninety (90) percent for retail, ninety-four (94) percent for office, fifty-eight (58) percent for industrial, and fifty (50) percent for hospital of the computed fee as determined herein. All building permits subject to the Fire Rescue Impact Fee and issued more than one year after the effective date of this Ordinance shall be obligated to pay one hundred (100) percent of the computed fee as determined herein.

>>(1)<< For building permits which expire or are revoked after the effective date of this chapter the feepayer shall be entitled to a refund of previously paid impact fees (see Section 33J-13) provided that in the case of reapplication for permit, the impact fee in effect at the time of reapplication shall be paid.

>>(2)<< No such building permit shall be issued by the County or any Miami-Dade County municipality within the District unless and until the feepayer has paid such impact fee, or presented adequate security for such impact fee, in a form permitted by this

chapter and acceptable to the >>County<< [[~~Department of~~]] Planning and Zoning Director, for a contribution in-lieu-of fee as provided in Section 33J-7.

>>(3) Payment shall be made in a form acceptable to the Zoning Director. The Zoning Director may charge a nonrefundable convenience fee to cover any transactional costs imposed by the institution processing the form of payment. Notwithstanding any other provision to the contrary, the payment amount due shall be based on the fee in effect on the date the plans filed with a building permit application are submitted to Miami-Dade County for impact fee assessment. In no case shall the administrative fee and any convenience fee be refunded.

(4) The County shall have the authority to lien real property for which a Final Certificate of Use (C.U.) or Final Certificate of Occupancy (C.O.) has been issued but for which the correct required impact fee has not been paid in full. Such lien must be filed within three years from the date of issuance of the C.U. or C.O. The County shall charge a collection fee above the value of the impact fee being collected to cover the cost of collection of unpaid impact fees.<<

* * *

Sec. 33J-6. - Fee computation formula.

(a) The feepayer shall pay a fire impact fee amount based on the formula set forth below. Such fee will be based on the capital costs of fire and rescue improvements required to serve the increased demand for fire and emergency medical service resulting from proposed new development activities, together with impact fee administrative costs. The formula to be used to calculate the fire impact fee shall be established as follows for each land use/occupancy type:

* * *

3 "Fire and Rescue Alarms by Property Class 2004," Miami-Dade County Fire Rescue Department. "Building Size by Property Class and Fire District,

2004," Miami-Dade County Property Appraiser. Statistical information supporting the calculation for the Fire and Rescue Impact Fee is contained in the Technical Memorandum on the Methods of Calculating an Updated Fire and Impact Fee prepared for Miami-Dade County by James C. Nicholas, P.H.D. dated August 13, 2005 which memorandum shall be on file with the [[~~Impact Fee Section of the Miami-Dade~~]] County [[~~Department of~~]] Planning and Zoning >>Director<<.

* * *

Sec. 33J-7. - Fire service impact contributions in-lieu-of fee.

* * *

(e) When proposed contributions in-lieu-of fee are not consistent with standards set forth by the Miami-Dade Fire Rescue Department, the Fire Director shall reject the offer of contributions in-lieu-of fee. If a proposed contribution in-lieu-of fee is rejected, the [[~~Department of Planning and Zoning~~]] >>Fire<< Director shall state in writing the reasons for the rejection. Any appeal from such a decision of the Fire Director shall be reviewed by the Developmental Impact Committee Executive Council pursuant to the procedures set forth in Section 33J-14 [[~~and in the impact fee manual~~]].

* * *

Sec. 33J-8. - Exemptions.

* * *

(b) All development activity which is subject to an existing development of regional impact development order (D.O.) adopted pursuant to Chapter 380, Florida Statutes, approved prior to the effective date of this chapter, shall be exempt in its entirety from this chapter, with regard to development approved by such development order, unless otherwise provided for in the current development order. This exemption provision does not apply to those development orders which have been revoked or determined to be null and void or to any development not

authorized in such development order by Miami-Dade County or another unit of local government in Miami-Dade County issuing such development order. This exemption shall not apply to any additional development regardless of whether such additional development constitutes a substantial deviation under Chapter 380, Florida Statutes.

* * *

(h) The following development shall be exempt from the requirement that impact fees be paid, subject to an application by the feepayer to the [[~~Department of Planning and~~]] Zoning Director and a determination by the [[~~Department of Planning and~~]] Zoning Director that the proposed development activity is consistent with the CDMP and fits within one (1) or more of the following categories:

* * *

(2) Any commercial or industrial development activity located within an existing designated enterprise zone as defined in Section 290.004(1)(a), Florida Statutes (1987), and amendments thereto, provided that: (a) the proposed development activity has been granted a property tax exemption under Sections 29-81 through 29-89 of the Code of Miami-Dade County; (b) when 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 Department of Planning and~~]] Zoning Director, in accordance with the provisions of the manual. Development activity meeting these criteria shall receive, upon application for and confirmation of tax exemption, an impact fee refund.

* * *

(i) An exemption must be claimed by the feepayer prior to paying the impact fee. Any exemption not so claimed shall be deemed to have been waived the feepayer. If an exemption is sought pursuant to Section 33J-8>>(h)<< [[~~(g)(1), (2), or (3)~~]] 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 [[~~Department of Planning and~~]] Zoning Director, >>on a form acceptable to the Zoning Director<< [[~~in accordance with the provisions of the manual~~]].

>>(1)<< Application for a refund under >>Section 33J-8<< [[~~this section~~]] shall be made within one (1) year of the later of: (1) the effective date of this ordinance or (2) the issuance of a certificate of completion or a certificate of use for the building. 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.

>>(2)<< Notwithstanding the aforesaid, if an exemption is sought pursuant to Section 33J-8 >>(h)<< [[~~(g)(1)~~]], community development corporations (CDC) as defined in Section 290.033(2) [Florida Statutes] and community-based organizations (CBO) as defined in Section 420.602(5), Florida Statutes [[~~(1991)~~]] that have received assistance from Miami-Dade County or the State of Florida in funding predevelopment costs to provide affordable housing to low and very low income families shall have the option of executing a covenant running with the land, in a form approved by the [[~~Department of Planning and~~]] Zoning Director, in lieu of payment of impact fees prior to the issuance of the building permit. Joint ventures of either a CDC or CBO with a for-profit developer, whose proposed affordable housing development has been approved by the Miami-Dade County Office of Community Development, shall also have the right to execute the aforesaid covenant.

* * *

Sec. 33J-9. - Credits.

(a) Credits for up to the full amount of the impact fee less the administrative portion of the fee shall be given by the Fire Director for contributions or payments toward fire and emergency medical services capital and facilities that were voluntarily proffered or required under a County or

municipal development order issued for a development of regional impact or development of County impact or under other final legislative or administrative action approved prior to the effective date of this chapter.

>>(1)<< Credit shall be limited to the extent of monies paid or the fair market value of contributions in kind as of the time of the contribution. Any claim for credit pursuant to this section must be filed with the Fire Director and shall be in accord with the standards and procedures for issuance of credits provided in the impact fee manual. A credit shall be considered only for those properties encompassed by the previous development order or action.

>>(2)<< Any feepayer claiming such credit shall present documentation and any other evidence of the value of the land or the other contribution as of the time of the contribution. Such documentation and evidence shall be considered by the Fire Director in determining the amount of credit to be given toward the impact fee. The Fire Director shall be guided by the criteria set forth in the impact fee manual. No refunds shall be made under this section. Any appeal from the Fire Director's determination of the amount of credit shall be to the Developmental Impact Committee Executive Council pursuant to the procedures set forth in this chapter [[~~and in the impact fee manual~~]].

(b) The feepayer shall, at the time the application for credit is submitted to the Fire Director, pay to the >>County<< Planning and Zoning >>Director<< [[~~Department~~]] the charge for applications for credit set forth in the impact fee manual. That administrative charge shall be used by the County solely for the processing and review of the application for credit. The amount of the administrative charge shall not be credited against the impact fee.

Sec. 33J-10. - Fee computation by independent study.

* * *

(c) The feepayer shall, at the time the independent fee computation study is submitted to the Fire Director, pay to the [[~~Department of Planning and~~]] Zoning Director a nonrefundable independent study administrative charge in the amount set forth in the impact fee manual. That administrative charge shall be used by the County solely

for the processing and review of the independent fee calculation study. The amount of the administrative charge shall not be credited against the impact fee.

* * *

Sec. 33J-11. - Benefits, zones and trust funds.

* * *

(b) A separate interest-bearing trust account shall be established for each benefit zone. All impact fees collected shall be promptly deposited into the proper trust account, except for general administrative costs paid pursuant to Section 33J-6(b), which shall be deposited into a separate Department of >>Regulatory and Economic Resources<< [[~~Planning and Zoning~~]] operating account for the sole purpose of administering the impact fee. Impact fees collected by municipalities pursuant to this chapter shall be transmitted to the County at the end of each fiscal quarter except for the portion of the general administrative cost designated for retention by the municipality.

* * *

(d) A financial and management report on the impact fee trust funds shall be provided annually by the Fire Director to the County >>Mayor<< [[~~Manager~~]] within one hundred twenty (120) days of the end of the fiscal year.

Sec. 33J-12. - Impact fee expenditures.

* * *

(b) The four (4) percent general administrative cost portion of the impact fee shall be deposited into the operating account of the >>County<< Department of >>Regulatory and Economic Resources or successor department<< [[~~Planning and Zoning~~]] and shall be used solely to pay the costs of administering the impact fee.

(c) A collecting municipal governmental unit shall be entitled to thirty (30) percent of the four (4) percent general administrative cost portion of the impact fee collected within the municipality to compensate it for the administrative expense of collecting and administering its responsibilities under this ordinance and under agreements

with the County detailing such responsibilities. The remainder of the four (4) percent general administrative cost portion of the impact fee shall be used by the >>County<< Department of >>Regulatory and Economic Resources or successor department<< [[~~Planning and Zoning~~]] for the further administration of this chapter.

* * *

Sec. 33J-13. Refund of Impact Fees Paid

(a) If a building permit encompassing feepaying development expires or is revoked, >>if an error in the impact fee calculation is discovered, or if the feepayer 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 feepayer may request from the >>County<< Planning and Zoning Director a refund of the impact fee paid >>, or the appropriate portion thereof<<. However, the County and any designated collecting city shall retain >>any convenience fees and<< the general administrative cost portion of the fee to cover the cost of the administration of the impact fee calculation, collection and refund. No refund shall be provided for impact fees deemed expended pursuant to Section 33J-12(d), for the cost of completed improvements contributed in-lieu-of fee or if no timely claim is made. Funds shall be deemed expended for purposes of this chapter when a contract or agreement encumbering all or a portion of the payment of said funds >>, except for the general administrative and convenience portion of the fee,<< shall be approved by final County action.

(b) Any impact fee trust funds not expended by the end of the fiscal quarter immediately following six (6) years from the date of the fee was paid shall be returned to the feepayer by the [[~~Planning and~~]] Zoning Director with accrued interest[[~~; provided however, that this subsection shall not apply to developments of regional impact with phased or long term build-out~~]].

* * *

>>(d) The feepayer may request a refund of impact fees paid for a development that has been exempted pursuant to Section 33J-8, in accordance with the provisions set forth therein.

The amount of the exemption refund shall exclude the administrative cost portion of the fee and any applicable convenience fees.<<

Sec. 33J-14. Appeal of administrative decisions.

(a) >>*Administrative remedies.*<< Except as otherwise provided in this chapter, decisions of the Fire Director or of the >>County<< Planning and Zoning Director under this chapter may be appealed by the feepayer to the Developmental Impact Committee Executive Council >>for a de novo review<<. Appeals of the decisions of the Developmental Impact Committee Executive Council shall be to the Board of County Commissioners [[~~in accordance with procedures specified in Section 33.314. The written decision of the Council shall be mailed certified mail, return receipt requested. Any appeal shall be filed within thirty (30) days from the date of receipt of the Council's written decision.~~]] >>If the feepayer appeals the decision of a Director or of the Developmental Impact Committee Executive Council, the decision on appeal shall be deemed a non-final order.<<

(b) >>*Procedure on appeal.*<< If a feepayer wishes to appeal an administrative decision of the Fire Director or of the [[~~Planning and~~]] Zoning Director, the feepayer shall first file >>with the Developmental Impact Committee Coordinator<< a notice of administrative appeal on a form >>approved by the County Zoning Director<< [[~~specified in the impact fee manual with the Developmental Impact Committee Coordinator~~]]. All appeals shall be filed within thirty (30) days of the issuance of a written decision of the Fire Director or of the [[~~Director of the Department of Planning and~~]] Zoning >>Director<< and shall be accompanied by a letter which provides a full explanation of the request, the reason for the appeal, and any supporting documentation.

>>(c) *Proceedings before the Developmental Impact Committee.* The Developmental Impact Committee Coordinator shall schedule the appeal before the Developmental Impact Executive Council as soon as practically possible. The Developmental Impact Executive Council shall vote to affirm, reject or revise the decision of the Fire Director or of the >>County<< Planning and Zoning Director. >>The written decision of the Council shall be mailed certified

mail, return receipt requested. Any appeal to the County Commission shall be filed with the Zoning Director pursuant to Section 33-314 of this code within thirty (30) days from the date of the receipt of the Council's written decision.<<

Sec. 33J-15. - Fire impact fee and periodic review.

* * *

(b) The County >>Mayor<< [[~~Manager~~]] shall review the contents of this chapter and impact fee manual annually and, if appropriate, make recommendations to the Board of County Commissioners for revisions to the chapter and impact fee manual. The purpose of this review is to ensure that the benefits to a fee-paying development are equitable in that the fee charged to the paying development shall not exceed a proportionate fair share of the costs of mitigating fire and emergency medical service impacts of new developments, and that the procedures for administering the impact fee remain efficient. Additionally, within one hundred twenty (120) days from the date of the end of the fiscal year, the Office of Capital Improvements shall submit to the County >>Mayor<< [[~~Manager~~]] a financial and management report on the impact fee trust funds. No later than thirty (30) days after submission of the report, the County >>Mayor<< [[~~Manager~~]] shall conduct a public meeting, for the purpose of presenting the report and receiving public comment on the report as well as the impact fee program. This meeting shall be advertised at least seven (7) days in advance in a newspaper of general circulation. No later than thirty (30) days after the public meeting, the County >>Mayor<< [[~~Manager~~]] shall schedule the report, which shall serve as the County's Annual Impact Fee Report, for the Board of County Commissioner's consideration. The County >>Mayor<< [[~~Manager~~]] shall provide a companion report to the Board advising of any County >>Mayor<< [[~~Manager~~]] recommended impact fee program changes and detailing comments received from the annual impact fee public meeting.

Sec. 33J-16. - Vested rights.

Nothing in this chapter shall limit or modify the rights of any person to complete any development for which a lawful

building permit was issued prior to the effective date of this chapter and on which there has been a good faith reliance and a substantial change of position. The >>County<< Planning and Zoning Director, upon application by the feepayer, shall determine the extent of the applicability of vested rights. Appeal of the [[~~Planning and~~]] Zoning Director's determination shall be to the Development Impact Committee Executive Council in accordance with Section 33J-14 and Section 2-114.1, Code of Miami-Dade County.

Sec. 33J-17. - Periodic Update of Fee Schedule.

(1) The County >>Mayor<< [[~~Manager~~]] shall annually adjust the fire impact fee schedule provided in Sec. 33J-6 above by indexing the schedule to inflation as defined by the Consumer Price Index (CPI) - All Urban Consumers for the United States, published by the United States Department of Labor, Bureau of Labor Statistics. The first indexing calculation adjustment shall occur during the 2006-2007 County budget year using the difference in Consumer Price Index figures for calendar years 2005 and 2006. The adjusted Impact Fee Schedule shall be on file with the >>County<< [[~~Department of~~]] Planning and Zoning >>Director<< [[~~, Impact Fee Administration Office~~]].

* * *

(5) The County >>Mayor<< [[~~Manager~~]] shall periodically adjust the fire rescue impact fee schedule provided in Sec. 33J-6 above by providing credit in the fire impact fee formula for any outstanding debt from General Obligation Bonds issued to finance capital projects for fire rescue purposes which meet needs generated by population growth and development.

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

Chapter 33K - EDUCATIONAL FACILITIES IMPACT FEE
>>ORDINANCE<<

* * *

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:

* * *

>>(16) 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.<<

* * *

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, except as applied to the expansion of existing residential units which is addressed below in Section 33K-5(e). The >>County Planning and Zoning<< Director [[~~of the Miami-Dade County Department of Planning and Zoning~~]] shall employ the following formula 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)
+
2% Administrative Fee
=
Educational Facilities Impact Fee

*Provided by the [[~~Miami-Dade~~]] County [[~~Department of~~]] Planning and Zoning >>Director<< or municipality at the time of building permit application or change of use, whichever is applicable.

**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.

* * *

(g) In determining the unit size for new residential development, the County Planning and Zoning Director shall use the building permit and certificate of use information contained in the >>County<< 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.

* * *

(i) The County Planning and Zoning Director, in consultation with the School Board, shall annually review the contents of the Educational Facilities Impact Fee chapter, its formula, and the Educational Facilities Impact Fee Methodology and Technical Report, and if appropriate, make recommendations for revisions to the Board of County Commissioners. The Board of County Commissioners shall consider the County Planning and Zoning Director's and School Board's recommendations within three (3) months of their receipt. The County [[~~Department of~~]] Planning and Zoning >>Director's<< 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.

* * *

Sec. 33K-7. Assessment and Payment of Fee.

* * *

>>(d) Payment shall be made in a form acceptable to the County Planning and Zoning Director. The Zoning Director may charge a nonrefundable convenience fee to cover any transactional costs imposed by the institution processing the form of payment. Notwithstanding any other provision to the contrary, the payment amount due shall be based on the fee in effect on the date the plans filed with a building permit application are submitted to Miami-Dade County for impact fee assessment. In no case shall the administrative fee and any convenience fee be refunded.

(e) The County shall have the authority to lien real property for which a Final Certificate of Use (C.U.) or Final Certificate of Occupancy (C.O.) has been issued but for which the correct required impact fee has not been paid in full. Such lien must be filed within three years from the date of issuance of the C.U. or C.O. The County shall charge a collection fee above the value of the impact fee being collected to cover the cost of collection of unpaid impact fees.<<

* * *

Sec. 33K-11. - Use of funds.

* * *

(f) A financial and management report on the impact fee trust accounts shall be prepared annually by the County Planning and Zoning Director in conjunction with the School Board and submitted to the County >>Mayor<< [[~~Manager~~]] within one hundred twenty (120) days following the end of the County's fiscal year.

Sec. 33K-12. - Impact fee expenditures.

* * *

(c) The two (2) percent administrative fee portion of the impact fee shall be deposited into a separate operating account of the Miami-Dade County Department of >>Regulatory and Economic Resources or successor

department<< [[~~Planning and Zoning~~]] and shall be used solely to pay the costs of administering the impact fee.

Sec. 33K-13. Refund of Impact Fees Paid.

(a) The following shall apply upon expiration or revocation of a building permit.

(1) If a building permit within Miami-Dade County encompassing feepaying development expires or is revoked, >>if an error in the impact fee calculation is discovered,<< or if the feepayer has paid impact fees in excess of the amount required in this chapter, then the feepayer shall be entitled to a refund of the impact fees paid or the appropriate portion thereof, without interest, from the County Planning and Zoning Director, except that the County Planning and Zoning Director may retain >>any convenience fees and<< the administrative cost portion of the fee for the administration of the impact fee calculation, collection, and refund. If the County Planning and Zoning Director has transmitted the impact fee funds to the School Board pursuant to Section 33K-11(b) that are required to be refunded, the School Board shall transmit back the monies to be refunded to the County Planning and Zoning Director.

* * *

(d) Any impact fee trust funds not expended by the end of the fiscal quarter immediately following six (6) years from the date that the fee was paid shall be returned to the feepayer by the County Planning and Zoning Director with accrued interest>>.<< [[~~; provided however, that this subsection shall not apply to developments of regional impact with phased or long term buildout.~~]] The feepayer shall be required to submit a written request for refund to the County Planning and Zoning Director before issuance of the refund [[~~is~~]] >>can be<< authorized [[~~by the County Planning and Zoning Director~~]]. No refund of educational facilities impact fees shall be provided if the feepayer does not request such a refund prior to the expiration of [[~~the end of the fiscal quarter immediately~~]] >>one (1) year<< following the six (6) year period [[~~the School Board has to~~

~~spend the fee~~]] from the date the educational facilities impact fee was paid.

* * *

Sec. 33K-14. Appeal of administrative decisions.

(a) >>*Administrative remedies.*<< Except as otherwise provided in this chapter, decisions of the County Planning and Zoning Director under this chapter may be appealed by the feepayer or the School Board to the Developmental Impact Committee Executive Council >>for a de novo review<<. Appeals of the decisions of the Developmental Impact Committee Executive Council may be made by either the feepayer or the School Board to the Board of County Commissioners [[~~in accordance with procedures specified in Section 33.314. The written decision of the Developmental Impact Committee Executive Council shall be mailed by certified mail, return receipt requested. Any appeal shall be filed within thirty (30) days from the date of receipt of the Council's written decision~~]]. >>If the feepayer appeals the decision of a Director or of the Developmental Impact Committee Executive Council, the decision on appeal shall be deemed a non-final order.<<

(b) >>*Procedure on appeal.*<< If a feepayer or School Board decides to appeal an administrative decision of the County Planning and Zoning Director, the feepayer or School Board shall first file a notice of administrative appeal with the Developmental Impact Committee Coordinator >>on a form approved by the Zoning Director<<. All appeals shall be filed within thirty (30) days of the issuance of a written decision of the [[~~County Director of the Department of Planning and~~]] Zoning >>Director<< and shall be accompanied by a letter which provides a full explanation of the request, the reason for the appeal, and any supporting documentation.

>>(c) *Proceedings before the Developmental Impact Committee.* The Developmental Impact Committee Coordinator shall schedule the appeal before the Council as soon as practically possible. The Developmental Impact Committee Executive Council shall vote to affirm, reject or revise the decision of the County Planning and Zoning Director. >>The written decision of the Executive Council shall be mailed certified mail, return receipt requested. Any appeal to the County Commission shall be filed with the Zoning

Director pursuant to Section 33-314 of this code within thirty (30) days from the date of the receipt of the Executive Council's written decision.<<

* * *

Section 6. 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 7. 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 8. This ordinance shall become effective January 1, 2016, except that the provisions enabling electronic and other forms of payment of impact fees (Sec. 33E-6.1(b), Sec. 33H-4(b), Sec. 33I-5(b), Sec. 33J-5(a)(3), and Sec. 33K-7(d)) shall become effective as of July 1, 2016, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: December 1, 2015

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Dennis A. Kerbel