

# MEMORANDUM

Agenda Item No. 7(D)

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**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

**DATE:** (Second Reading: 1-19-22)

July 20, 2021

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Ordinance relating to workforce housing development in the incorporated areas and impact fees; amending section 33-193.7 of the Code; providing for municipalities to enter into interlocal agreements with Miami-Dade County to participate in the County's Workforce Housing Development Program; amending chapter 33E and creating sections 33H-18, 33I-17, 33J-18, and 33K-17; authorizing deferral of all impact fees for workforce housing developments for up to five years subject to conditions; making technical changes

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime.



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Geri Bonzon-Keenan  
County Attorney

GBK/smm

# Memorandum



**Date:** January 19, 2022

**To:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

**From:** Daniella Levine Cava  
Mayor

A handwritten signature in blue ink, reading "Daniella Levine Cava".

**Subject:** Fiscal Impact Statement for Ordinance Relating to Workforce Housing Development

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The implementation of this ordinance will not have a fiscal impact to Miami-Dade County. This ordinance allows for municipalities to enter into an interlocal agreement with Miami-Dade County to participate in the County's workforce Housing Development Program. This would allow participating municipalities deferral of up to 90 percent the amount of a workforce housing project's impact fees for roads, parks, police, fire and emergency medical services and educational facilities for a period of up to five years, with limitations. The County will collect all assessed impact fees at the end of this period.


A handwritten signature in blue ink, appearing to read "Jimmy Morales".

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Jimmy Morales  
Chief Operations Officer

**Date:** January 19, 2022

**To:** Honorable Chairman Jose “Pepe” Diaz  
and Members, Board of County Commissioners

**From:** Daniella Levine Cava   
Mayor

**Subject:** Social Equity Statement for Ordinance Relating to Workforce Housing Development and Impact Fees

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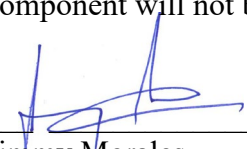
The proposed ordinance amends the Code of Miami-Dade County (Code) relating to workforce housing development and impact fees. The proposed ordinance extends the current deferral of road impact fees to the park, police, fire, and educational facilities impact fees, for workforce housing developments from two years to up to five years.

Currently, the Code allows for the deferral of up to 90 percent of road impact fees, assessed for those units for a period of up to two years, for workforce housing developments that target specific household median income ranges. To assure that the County is paid the impact fees that are ultimately owed, the deferral program requires the placement of a voluntary lien on the subject property for the amount of the deferred fees, and the standard lien developed by the administration currently also requires payment of the outstanding fees before the developer can convey the property to a new owner.

Separately, the proposed ordinance also provides for a municipal option to enter into an interlocal agreement with Miami-Dade County to utilize the County’s workforce housing development standards. The original ordinance required municipalities to evaluate, and authorized the adoption of their own standards, for the development of workforce housing. This modification allows municipalities to, by interlocal agreement, utilize the County’s workforce housing development standards in lieu of developing its own. This makes impact fee deferrals available to workforce housing projects that are in a municipality that either has an interlocal agreement with the County, or that has its own standards that are substantially similar to the County’s standards.

Implementation of the proposed ordinance aligns with the County’s effort to provide flexibility in the development of additional workforce housing units within Miami-Dade County and encourage greater participation in this voluntary program. Expanding the deferral of impact fees for up to five years may serve to accelerate development of workforce housing.

Please note the educational impact fee deferral option will be subject to the School Board’s concurrence. Should the School Board’s concurrence not be obtained, the education impact fee component will not be eligible for deferral.

  
Jimmy Morales  
Chief Operations Office  
211747




## MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

**DATE:** January 19, 2022

**FROM:**   
Gen Bonzon-Keenan  
County Attorney

**SUBJECT:** Agenda Item No. 7(D)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☒ 6 weeks required between first reading and public hearing
- ☒ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ 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(D)  
1-19-22

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO WORKFORCE HOUSING DEVELOPMENT IN THE INCORPORATED AREAS AND IMPACT FEES; AMENDING SECTION 33-193.7 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR MUNICIPALITIES TO ENTER INTO INTERLOCAL AGREEMENTS WITH MIAMI-DADE COUNTY TO PARTICIPATE IN THE COUNTY'S WORKFORCE HOUSING DEVELOPMENT PROGRAM; AMENDING CHAPTER 33E AND CREATING SECTIONS 33H-18, 33I-17, 33J-18, AND 33K-17; AUTHORIZING DEFERRAL OF ALL IMPACT FEES FOR WORKFORCE HOUSING DEVELOPMENTS FOR UP TO FIVE YEARS SUBJECT TO CONDITIONS; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, in January 2007, this Board adopted Ordinance 07-05, which established a voluntary workforce housing program to address the growing housing crisis for residents of unincorporated Miami-Dade County in the workforce target income group, and, after it sunsetted, readopted it in May 2008 in Ordinance No. 08-51; and

**WHEREAS**, in December 2016, in response to the ever-increasing need for housing, this Board adopted Ordinance No. 16-138, which comprehensively amended the Workforce Housing Development Program of Miami-Dade County, Florida to revise the workforce target income group from 65 to 140 percent of median family income to 60 to 140 percent; and

**WHEREAS**, Ordinance No. 16-138 imposed on municipalities the minimum standard that, with certain exemptions, required them to assess the workforce housing needs within their respective jurisdictions, decide whether they will adopt a workforce housing program to address any such needs, and to adopt their own standards and procedures for development of workforce housing; and

**WHEREAS**, to further incentivize the development of workforce housing units within Miami-Dade County and encourage greater participation in this voluntary program, this Board now wishes to provide for municipalities to participate in the County's process by entering into an interlocal agreement with the County; and

**WHEREAS**, Ordinance No. 16-138 also provided for deferral of road impact fee payments to facilitate the development of workforce housing units, but only provided for deferral for workforce housing units developed in accordance with the County's zoning code; and

**WHEREAS**, to facilitate development of necessary housing, this Board wishes to extend that deferral option to municipal workforce housing development programs that address the workforce target income group of 60 to 140 percent from 65 to 140 of median family income and to provide for deferral of other impact fees as well; and

**WHEREAS**, providing for impact fees to be deferred for up to five years, rather than the current maximum of two years, may also facilitate the development of this needed housing by reducing the upfront costs that must be paid before units can be built, without significantly impacting the amount of money available for, or the timing of, the capital facilities that will be necessary to serve the new development; and

**WHEREAS**, to assure that the County is paid the impact fees that are ultimately owed, the deferral program requires the placement of a voluntary lien on the subject property for the amount of the deferred fees, and the standard lien developed by the administration currently also requires payment of the outstanding fees before the developer can convey the property to a new owner; and

**WHEREAS**, in light of the extended deferral period, it is appropriate to codify the current administrative requirement that the outstanding fees be paid before conveyance, to ensure that the new owner of a workforce housing unit is not burdened with a lien or the need to pay additional fees after purchasing their home; and

**WHEREAS**, the concern regarding a new owner inheriting a lien for unpaid fees is not as great when the workforce housing development is a rental project that will continue to be owned by a single owner, so in that scenario, this Board wishes to allow the deferral to continue for the full five years, regardless of conveyance; and

**WHEREAS**, this Board acknowledges that educational facilities impact fees are subject to the Interlocal Agreement Between Dade County and The School Board of Dade County, Florida, related to Educational Facilities Impact Fee Monies dated September 28, 1995, as amended from time to time, which generally requires the written consent of the School Board before any changes to that impact fee become effective against the School Board; and

**WHEREAS**, accordingly, this Board desires to make the availability of any deferral of educational facilities impact fees subject to compliance with that interlocal agreement,

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

**Section 1.** This Board ratifies and adopts the foregoing recitals, as if fully set forth herein.

**Section 2.** Section 33-193.7 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 33-193.7. - Applicability in the incorporated and unincorporated areas; minimum standards; exemptions.**

\* \* \*

(B) Municipalities shall address the need for workforce housing within their respective territorial jurisdictions in the following manner:

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<sup>1</sup> 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.

- (1) *Exemptions.* The following municipalities are exempt from and not subject to the requirements of this article:

\* \* \*

- b. Any municipality which, as of >>June 30, 2021<< [[~~February 28, 2019~~]], has in place mandatory or voluntary land development code provisions that implement increased densities or other incentives in exchange for the provision of workforce housing. The municipality shall send a copy of any such adopted ordinance to the Director by >>December 31, 2021<< [[~~June 30, 2020~~]].

\* \* \*

- (2) *Non-exempt municipalities.* As to other municipalities, each municipality shall adopt:

- a. A resolution making legislative findings demonstrating that the need for workforce housing within its territorial jurisdiction is being adequately addressed, or that workforce housing would be impractical to provide due to issues such as, but not limited to, the lack of availability of or the high value of vacant land or redevelopment sites>>:<< [[-]]
- b. Its own voluntary or mandatory workforce housing development program reliant on its own legislative findings; [[Ø]]
- c. An ordinance that adopts the standards set forth in Sections 33-193.7.1, 33-193.8, 33-193.9, and 33-193.11 of this article and that protects the rights of legally established nonconforming lots, uses, and structures to at least the same extent provided in Section 33-35 of this chapter. Each municipality shall be responsible for collecting and administering any monetary contributions in lieu of construction of WHUs that the municipality receives. The County shall indemnify and defend any municipality from a facial



challenge to the municipality's adoption of an ordinance adopted in accordance with this paragraph>>: or

- d. An interlocal agreement with the County providing for workforce housing to be developed and administered in the municipality in accordance with this article<<.

(3) *Time to comply.*

- a. Each municipality that is subject to the requirements of this section shall have until June 30, [[2020]] >>2022<<, within which to adopt a resolution making findings as to the need for or practicality of providing workforce housing within its territorial jurisdiction, and indicating whether or not it intends to adopt a voluntary or mandatory workforce housing program, or already has such a program.
- b. Each municipality that adopts a resolution indicating that it will adopt a voluntary or mandatory workforce housing program >>or an interlocal agreement<< shall have until December 31, [[2020]] >>2022<<, within which to adopt any ordinance or resolution necessary to address its need for workforce housing.

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(6) *Approval processes.*

- a. The site plan approval and other administrative processes described in this article are intended to apply only to the unincorporated area>>, except where a municipality has entered into an interlocal agreement with the County pursuant to this section. Absent such interlocal agreement, each municipality,<< [[~~—Municipalities~~]] shall either establish >>its<< [[~~their~~]] own procedures or utilize >>its<< [[~~their~~]] existing procedures for approving development pursuant to >>its<< [[~~their~~]] workforce housing program, if any.

- b. Municipalities shall also establish their own procedures for administering any necessary declarations of restrictive covenants or workforce housing agreements related to their workforce housing programs, if any>>, except where a municipality has entered into an interlocal agreement with the County<<.

(7) Municipal use of County staff resources.

- a. The County shall make the Department's resources available upon request to assist municipalities in gathering and analyzing data, and adopting municipal workforce housing ordinances, but may charge a reasonable fee as set forth in an implementing order adopted by the Board of County Commissioners.
- b. Municipalities may, through an interlocal agreement, arrange for any declarations of restrictive covenants or workforce housing agreements related to their workforce housing programs to be administered by the >>County<< ~~[[Miami Dade County Public Housing and Community Development Department or successor department]]~~ pursuant to >>chapter<< ~~[[Chapter]]~~ 17, >>article<< ~~[[Article]] IX [[of this Code]]~~.

- (8) *Effect of compliance.* After December 31, >>2022<< ~~[[2020]]~~, a municipality that adopts either its own voluntary or mandatory workforce housing development program or a resolution making legislative findings that the need for workforce housing within its territorial jurisdiction is being adequately addressed or that adopting a program would be impractical, and has provided a copy of it to the County as provided herein, shall not thereafter be subject to any other provision of this article.

**Section 3.** Chapter 33E of the Code of Miami-Dade County, Florida, is

hereby amended to read as follows:

**Chapter 33E - ROAD IMPACT FEE ORDINANCE**

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

\* \* \*

- (g) *Deferral of fees.* Road impact fees ~~[[exceeding \$25,000.00, and road impact fees assessed for development of workforce housing units provided in accordance with Chapter 33, Article XIIA of this code,]]~~ may be deferred >>only<< in accordance with >>section<< ~~[[Section]]~~ 33E-18 ~~[[of this article]]~~, >>and<< provided that>> except for development of workforce housing units,<< 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>>,<< the building permit may be issued.

\* \* \*

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

- (A) Notwithstanding anything in the Code to the contrary, (i) an applicant for a building permit requiring payment of a road impact fee that exceeds \$25,000.00 may request a deferral of road impact fee payment for one-half of the assessed road impact fee for a period of up to 3 years, or (ii) an applicant for a building permit for workforce housing units provided in accordance with >>chapter<< ~~[[Chapter]]~~ 33, >>article<< ~~[[Article]] XIIA [[of this Code]]>>~~, an interlocal agreement adopted pursuant to that article, or a municipal workforce housing ordinance that provides substantially similar requirements to obtain density or intensity bonuses as those provided in that article<<, may request a deferral of 90 percent of the road impact fees assessed for those units for a period of up to >>five<< ~~[[two]]~~ years, subject to the following terms, conditions, requirements and limitations:

- (1) The deferral program shall not be used to defer road impact >>fees<< ~~[[for uses under Section 33E-8]]~~ for ITE Land Use Types that are categorized as Residential, Recreational or Institutional according to Tables 100 & 100A>>.<<[[;]] except for workforce housing units as provided herein.
- (2) >>Voluntary lien required.
  - (i)<< As >>a<< 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 County Public Works Director and filed in the Public Records of Miami-Dade County >>that:
    - a. secures payment of the deferred portion of the impact fee; and
    - b. covenants that the outstanding portion of the impact fee shall immediately become due and payable upon any sale, conveyance, or other transfer of title to the property.
  - (ii) It is provided, however, that a workforce housing development that consists of a multi-family dwelling with a single owner may defer the outstanding portion of the impact fee for the full deferral period, regardless of sale, conveyance, or other transfer.<<

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- (C) The maximum total amount of road impact funds that may be deferred pursuant to this program is \$1,000,000.00, whereupon this program shall not be available to defer impact fees until such time as the total deferred amount has been reduced by payment of impact fees below the maximum set forth herein. It is provided, however, that this limitation shall not apply to: (i) >>deferred<< road impact fees assessed for development of workforce housing units >>as provided in this section<< [[provided in accordance with Chapter 33, Article XHA]]; or (ii) deferred impact fees that are secured by a bond or letter of credit pursuant to >>section<< [[Section]] 33E-6.1[[e)].

**Section 4.** Section 33H-18 of the Code of Miami-Dade County, Florida, is

hereby created to read as follows:

**>>Sec. 33H-18. - Impact fee deferral for workforce housing units.**

Notwithstanding anything in the code to the contrary, an applicant for a building permit for workforce housing units may request a deferral of 90 percent of the park impact fees assessed for those units, subject to the terms, conditions, requirements, and limitations set forth in section 33E-18.<<

**Section 5.** Section 33I-17 of the Code of Miami-Dade County, Florida, is

hereby created to read as follows:

**>>Sec. 33I-17. - Impact fee deferral for workforce housing units.**

Notwithstanding anything in the code to the contrary, an applicant for a building permit for workforce housing units may request a deferral of 90 percent of the police services impact fees assessed for those units, subject to the terms, conditions, requirements, and limitations set forth in section 33E-18.<<

**Section 6.** Section 33J-18 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

**>>Sec. 33J-18. - Impact fee deferral for workforce housing units.**

Notwithstanding anything in the code to the contrary, an applicant for a building permit for workforce housing units may request a deferral of 90 percent of the fire and emergency medical services impact fees assessed for those units, subject to the terms, conditions, requirements, and limitations set forth in section 33E-18.<<

**Section 7.** Section 33K-17 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

**>>Sec. 33K-17. - Impact fee deferral for workforce housing units.**

Notwithstanding anything in the code to the contrary, an applicant for a building permit for workforce housing units may request a deferral of 90 percent of the educational facilities impact fees assessed for those units, subject to the terms, conditions, requirements, and limitations set forth in section 33E-18. It is further provided that the availability of the deferral is subject to the applicable requirements of the Interlocal Agreement Between Dade County and The School Board of Dade County, Florida, related to Educational Facilities Impact Fee Monies dated September 28, 1995.<<

**Section 8.** 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 9.** 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 10.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

Prepared by:

Dennis A. Kerbel  
Terrence A. Smith


Prime Sponsor: Commissioner Jean Monestime