## Chapter 33H PARK IMPACT FEE ORDINANCE [[1]](#BK_36DB9E8D1DCABC1B36B68CC2B69A76BB)

[Sec. 33H-1. Short title, applicability and purpose.](#BK_D72A5FBAAD8E31290F945DA8C942D8F6)

[Sec. 33H-2. Rules of construction.](#BK_9D75E29F6D399FB60CB0632CD7BBF175)

[Sec. 33H-3. Definitions.](#BK_DF6AA7E0531C4C2BC4A85A004F6A60F0)

[Sec. 33H-4. General provisions.](#BK_9749504C4EDC07FC12C92C54F7DC9B16)

[Sec. 33H-5. Park impact fee.](#BK_1DFFB209A1E6452DA7831793088C3035)

[Sec. 33H-6. Requirements for local park open space fees.](#BK_704D612028992508ED3E4A51C892A92E)

[Sec. 33H-7. Requirement for local public park improvement fee.](#BK_3D00FC159EC67EB796A6E462607BC499)

[Sec. 33H-8. Fee computation by adopted schedule.](#BK_CDBDF63C828334E1F14DA05B531B5739)

[Sec. 33H-9. Fee computation by independent study.](#BK_815730CDAC706A68BF562364F505BA93)

[Sec. 33H-10. Land suitability.](#BK_78214C7FEE9510FA3667048911B6947D)

[Sec. 33H-11. Impact fee benefit districts and trust accounts.](#BK_DC6C1EBE9DDC979DBDCE6A5BA68F78A7)

[Sec. 33H-12. Impact fee expenditures.](#BK_E260B1A285CFF7B52E042308E8374A20)

[Sec. 33H-13. Refund of impact fees.](#BK_CA1F8D91A6B87AAE16FFEA51DAC32F86)

[Sec. 33H-14. Exemptions.](#BK_85FADBD3A8757E690AC35FAE1B8FD407)

[Sec. 33H-15. Credits.](#BK_10EA7F9B8B68074D513DFD72F3ACF003)

[Sec. 33H-16. Appeals of administrative decisions.](#BK_DF5D3FC43AF17E219DD625751E6D46F4)

[Sec. 33H-17. Vested rights.](#BK_9AA9C276D64D4D452C056B6D343ED05B)

Sec. 33H-1. Short title, applicability and purpose.

(a) This chapter [Ordinance Number 90-59] shall be known and may be cited as the "Park Impact Fee Ordinance."

(b) This chapter shall apply to the development of property for residential use located within the boundaries of the unincorporated area of Miami-Dade County. Nonresidential development of property shall not be subject to the terms of the chapter.

(c) The existence of public parks has substantial benefits to proximate residential development. These benefits include actual use by residents of such development and aesthetic, recreational, and environmental benefits to the residential area and its population. These benefits accrue to all properties and residents of the area.

(d) The purpose of this chapter is to provide not only for the minimum level of service established by the CDMP, but also for the additional public park open space and recreation facilities necessary to adequately serve the impacts and demands of new residential development; and to require that future residential growth contribute its fair share to the cost of additions and improvements to the County's public park system in amounts reasonably anticipated to offset the impacts and demands generated by such growth. This cost does not include operational and maintenance cost.

(Ord. No. 90-59, § 2, 6-19-90)

Sec. 33H-2. Rules of construction.

(a) This chapter shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare.

(b) Unless otherwise stated, the following rules of construction shall apply to the text of this chapter.

(1) If there is any conflict between the text of this chapter and any table, summary table or illustration, the text shall control.

(2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(3) The phrase "used for" includes "arranged for," "designed for," or "occupied for."

(4) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(5) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(6) Words used in the present tense shall include the future; words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; and use of the masculine gender shall include the feminine.

(7) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either…or," the conjunction shall be interpreted as follows:

(a) "And" indicates that all the connected terms, conditions, provisions or events shall apply.

(b) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

(c) "Either…or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(Ord. No. 90-59, § 2, 6-19-90)

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:

(a) *Applicant* means the person who applies for a building permit or submits a plat or waiver of plat.

(b) *Areawide park* means a county park designed to fulfill the recreational needs of both incorporated and unincorporated area residents and tourists. They serve large populations and draw users from great distances and include Metropolitan Parks and Special Activity areas.

(c) *Board* means the Board of County Commissioners of Miami-Dade County, Florida.

(d) *Building* means any structure having a roof entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or any similar opening and erected for the purpose of providing support or shelter for persons, animals, things or property of any kind.

(e) *Building permit* means an official document or certificate issued by the Miami-Dade County Building Official, authorizing the construction or siting of any building. For purposes of this chapter, the term "building permit" shall also include tie-down permits for those structures or buildings, such as a mobile home, that do not require a building permit in order to be occupied.

(f) *Community park* means a County park typically from twenty (20) to one hundred (100) acres in size that serves a group of neighborhoods. Community parks are actively programmed and staffed recreation areas that retain their park-like identity through landscape design. They are all "drive-to" facilities. These parks are designed to provide a broad range of recreational facilities that are sensitive to the particular needs of the surrounding community. Opportunities can range from staffed recreation and sports centers, athletic fields, and picnic areas to natural landscaped open space. Community parks collectively support larger, more distant, and more diversified District Parks.

(g) *Comprehensive Development Master Plan (CDMP)* means the Comprehensive Plan of the County adopted pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, 163.3161 et seq., Florida Statutes as may be amended from time to time.

(h) *Contributions* mean all dedications of land and/or provision of specific improvements in lieu of cash.

(i) *County park system* or *park system* means all park and recreation land and facilities owned, operated or maintained by the Department.

(j) *County wide* as it relates to this chapter means both unincorporated and incorporated areas of Miami-Dade County.

(k) *Credits* means the present value of past, present or future provisions made by new developments for the cost of existing or future capital improvements or dedications.

(l) *Day* means calendar days.

(m) *Department* means the Miami-Dade County Park and Recreation Department.

(n) *Department of Planning and Zoning* means the Miami-Dade County Department of Planning and Zoning 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) *Planning Director* means the director of the Miami-Dade County Department of Planning and Zoning or its designee.

(r) *District Park* means a large County park and recreation area that serves major portions of the County. The emphasis of District Parks is on intensive recreational activities and programming. This includes the provision of larger facilities, recreation centers, multiple ballfields, sport court complexes, large pools, active and user oriented facilities, and include opportunities for picnicking and fresh water beaches.

(s) *Dwelling unit* means a building or portion of a building designed for or whose primary purpose is for residential occupancy, and which consists of one or more rooms which are arranged, designed or used as living quarters for one or more persons. Dwelling unit includes mobile home, motel/hotel/rooming house if converted to condominium, servants' quarters or congregate living facilities as that term is defined by Section 400.402, Florida Statutes.

(t) *Encumbered* means monies committed by contract or purchase order in a manner that obligates the County to expend the funded amount upon delivery of goods, the rendering of services or the conveyance of real property provided by a vendor, supplier, contractor or owner.

(u) *Existing development* means the lawful land use which physically exists or for which the landowner holds a valid building permit as of the effective date of this chapter or that maximum level of development activity for which a previous impact fee was paid under the provision 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 codes or a use of structure or land which has been abandoned for a period of more than five (5) years shall not be considered existing for purposes of this chapter.

(v) *Feepayer* means a person intending to commence a proposed development for which an impact fee computation is required, or a person who has paid an impact fee, provided a letter of credit, or made a contribution-in-lieu-of-fee pursuant to this chapter.

(w) *Flood criteria* means the minimum finished elevation required for all lands as established and shown on the flood criteria map recorded in Plat Book 53, pages 68, 69, and 70 of the public records of this County as the same may be modified from time to time.

(x) *Frontage* means the distance measured along a road right-of-way.

(y) *Greenway* means a linear trail or park that connects other parks and public places throughout the County by way of canals, railroads, highways, easements and open spaces and provide opportunities for pedestrian, bicycling and horseback use.

(z) *Impact* means the effect of additional population generated by residential construction on the park network in a given area.

(aa) *Impact determination* means the amount of property required or the cost related to the impact of residential dwelling units as calculated pursuant to the formula contained herein.

(bb) *Land valuation assumptions* means the fundamental assumptions and conditions to be used for an appraisal of land for a local park.

(cc) *Level of Service Standard (LOS)* means the Miami-Dade County's level of service standard for the minimum provision of local recreation open space in the unincorporated Miami-Dade County which is two and three-quarter (2.75) acres of local recreation open space per one thousand (1,000) permanent residents. These requirements do not apply to rural and agricultural residences on lots five (5) acres or larger outside the Urban Development Boundary (UDB) as defined in the CDMP.

(dd) *Local Park* means County-provided mini-parks, neighborhood parks, community parks, single purpose, and portions of district parks that serve local recreation needs and that are designated by the Department as local parks on the Property Management inventory on file with the Director. Such parks serve residents of the unincorporated areas living within close walking or close driving distance.

(ee) *Local Park Share* means the amount of the level of service standard that directly addresses that portion of public demand for local recreation open spaces in County-provided local parks as determined by statistical analysis as .00201 acres/person and include mini-parks, neighborhood parks, community parks, single purpose parks, and portions of those district and areawide parks that are used as local recreation open spaces and that are designated as local recreation open space in the facility inventory maintained by the Director.

(ff) *Local Recreation Open Spaces* consist of (1) County-provided mini-parks, neighborhood parks, community parks, single purpose parks, and portions of those district and areawide parks that are used as local recreation open spaces and that are designated as local recreation open space in the facility inventory maintained by the Director; (2) public school and public college playfields that are used as local recreation open space included under a Joint Parks-School Agreement between the County and the Miami-Dade County Public School System or State Board of Governors; and (3) private recreation open space and facilities inside the UDB may also be deemed to be local recreation open space. Collectively, these three (3) types of open space comprise the 2.75 acres/1,000 permanent resident.

(gg) *Metropolitan Park* means a large resource-oriented park, typically including prominent water features. The park preserves valuable natural and historical resources while providing a broad mix of resource-dependent recreation opportunities.

(hh) *Mobile home dwelling unit* means a manufactured structure, transportable in one or more sections, which is built on an integral chassis and is designed to be used as a single-family dwelling unit, with or without a foundation, when connected to the required utilities.

(ii) *Mini-Park* means a County park which has small passive open space areas typically less than one acre in size. Mini-Parks are usually located in densely populated areas, provide open space amenities unavailable elsewhere in the vicinity, and function as substitutes for private yards in residential areas. Mini-Parks provide a place for relaxation, socialization, recreation, and can also be found along some main traffic arteries where they function as roadway beautification areas.

(jj) *Multi-family dwelling unit* means a structure that contains more than two (2) residential housing units located in a single building or part of a multi-building complex. Units may be rental or owner-occupied.

(kk) *Neighborhood Park* means a County park which is typically from one (1) to ten (10) acres in size and considered a "walk-to" facility. Neighborhood parks contain open play fields, landscaping, and limited recreation facilities (backstops, courts, or tot lots) but do not contain a recreation center or program staff.

(ll) *Nonresidential development* means any development not providing for residential dwelling units within a planned project.

(mm) *Natural forest community* means all stands of trees (including their associated understory) which were designated as Natural Forest Communities on the Miami-Dade County Natural Forest Community Maps and approved by the Board of County Commissioners, pursuant to Resolution No. R-1764-84 and Ordinance No. 89-8. These maps may be revised from time to time by resolution in order to reflect current conditions and to insure that, at a minimum, the canopy and understory of designated natural forest communities are dominated by native plant species. Some upland areas identified as "Environmentally Endangered Lands" (EEL) under Ordinance No. 91-67 may be included.

(nn) *Off-site park improvement* or *off-site improvement* means any improvement located outside of the boundaries of a parcel proposed for development or platted subdivision parcel but within the same Park Benefit District.

(oo) Off-site park open space or off-site acquisition means any land proffered outside of the boundaries of a parcel proposed for development or platted subdivision parcel but within the same Park Benefit District.

(pp) *Owner* means the person holding legal title to the real property.

(qq) *Parent tract* means a parcel of land designated as land to be subdivided for purposes of subdivision.

(rr) *Park benefit district* means a statistical area of the Official Miami-Dade County Park District Map indicating three (3) districts as determined by geographical boundaries.

(ss) *Park impact fee manual* or *manual* means the document prepared by the County Manager and adopted by the Board of County Commissioners which contains information, sets forth procedures and implements policies essential to the administration of the Impact Fee Ordinance, all pursuant to the standards set forth in this chapter.

(tt) *Park improvement* means preliminary engineering, design studies, land surveys, engineering, permitting, construction and, installation and/or modification of land, structures, landscaping, and/or equipment thereon.

(uu) *Park land value* means a determination of the average value of potential park land located in the same park benefit district for which building permits are being requested, based on the valuation assumptions specified in [Section 33H-9](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-9FECOINST)(d)(1).

(vv) *Park service zone* means the zone of influence a local park and its facilities have on residents in relation to the amount of time and distance they are willing to travel to a facility, i.e., up to five (5) mile distance.

(ww) *Residential development* means any single-family attached, single-family detached, multi-family attached building or buildings designed to be used as residential dwelling units. Dwelling unit may be one (1) single-family dwelling unit or two (2) or more dwelling units in a planned project or subdivision.

(xx) *Single-family attached dwelling unit* means a housing unit which shares a common wall with an adjoining unit. The common wall must extend from the foundation through the attic.

(yy) *Single-family detached dwelling unit* means a conventional home where one family normally occupies one (1) unit in one (1) structure. May be found in subdivision or on single lot.

(zz) *Single-Purpose Park* means a single-use County park that supports a public local park or recreation function. The park is typically developed for a specific function and draws a more specialized user group than do similar facilities in other local parks. Examples include tennis centers, athletic fields, senior citizen and boxing centers. These parks may be operated by non-profit organizations.

(aaa) *Unit(s) of development* means a quantifiable increment of development activity dimensioned in terms of dwelling units, or other appropriate measurements contained in the impact fee schedule.

(bbb) *Unincorporated areas* means any land in the County not lying within the boundaries of a municipality.

(ccc) *Urban Infill Area or UIA* means that part of Miami-Dade County east of, and including NW/SW 77 Avenue and S.R. 286 (Palmetto Expressway), and excluding the City of Islandia.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 28, 9-3-98; Ord. No. 06-13, § 1, 1-24-06)

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.

(a) Land dedications shall be conveyed by plat and deed. All dedications shall be platted with the first final residential plat that is adjacent to the designated park site or by an alternate arrangement specified in a recordable agreement as determined by the Director. The determination by the Director to accept dedications shall be based on the County's present needs and availability of other park sites within the immediate vicinity of the development. Where land for a public local park is to be dedicated, and/or park improvements for a public local park are to be constructed, a recordable agreement shall be required stating which land and/or improvements will be dedicated for park purposes, before recording the first final plat within the subdivision in accordance with criteria in [Section 33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE)(c).

(b) 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. This requirement shall not prohibit a feepayer from initiating an independent fee computation study as provided for in [Section 33H-9](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-9FECOINST) herein.

(c) The public interest, convenience, health, welfare, and safety require that a minimum of two and three-quarter (2.75) acres for each one thousand (1,000) persons residing within unincorporated Miami-Dade County be devoted to local recreation open space.

(d) Each park site shall be physically suited for the use intended and shall meet the criteria given in [Section 33H-10](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-10LASU), Land Suitability.

(e) Notwithstanding a feepayer's compliance with this Chapter, other State and County development regulations may limit the issuance of building or use permits for development activity.

(f) The County 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 that shall be used for the administration of this chapter. The manual shall contain the following:

(1) The independent fee calculation methodology relating to [Section 33H-9](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-9FECOINST)

(2) The administrative cost provided for in [Section 33H-3](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-3DE), [33H-5](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-5PAIMFE), [33H-6](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-6RELOPAOPSPFE)(b), [33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE)(a), [33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE)(c), [33H-9](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-9FECOINST)(c),

(3) The standards and procedures for issuance of fee refunds set forth in [Section 33H-13](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-13REIMFE) and fee credits set forth in [Section 33H-15](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-15CR), and

(4) The standards, procedures and other matters required to administer this chapter.

(g) The manual shall be adopted by the Board of County Commissioners by resolution or by ordinance.

(h) The County Manager shall periodically adjust the adopted park impact fee ordinance and manual as set forth below. The 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, Impact Fee Administration Office.

(1) All building permits subject to Park Impact Fee issued within one year after the effective date of this ordinance shall be obligated to pay sixty percent (60%) of the computed fee as determined herein. All building permits subject to the Park Impact Fee and issued more than one year after but less than two years after the effective date of this Ordinance shall be obligated to pay eighty percent (80%) of the computed fee as determined herein. Beginning the third year after the effective date of this ordinance, all building permits subject to the Park Impact Fee shall be obligated to pay one hundred percent (100%) of the computed fee as determined herein.

(2) The County 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](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-8FECOADSC) 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.

(3) Unless otherwise directed by the County Commission, any adjustments to the park impact fee, made pursuant to this section, shall be effective the first day of October of each calendar year.

(4) If the index is changed by the United States Department of Labor so that the base year is different, the index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics.

(5) If the index is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the index had not been discontinued or revised.

(6) The County Manager shall annually adjust the park impact fee schedule provided in [Sec. 33H-8](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-8FECOADSC) 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.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 92-82, § 1, 7-21-92; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 06-13, § 1, 1-24-06)

Sec. 33H-5. Park impact fee.

The park impact fee is the sum of the local park open space fee (less a credit for fees and taxes paid toward capital expansion of local parks) and the local park improvement fee, together with impact fee administrative cost. This impact fee reflects the impact of residential development on both the need for local park open space and the need for improvements to local park property. Any person requesting a building permit for residential development shall pay the impact fee reflected in the impact fee schedule set forth in [Section 33H-8](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-8FECOADSC) and developed pursuant to the following:

(a) *Local park open space fee.* The local park open space fee formula described in [Section 33H-6](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-6RELOPAOPSPFE) shall be the basis for the computation of the local park open space fee. The local park open space fee shall take the form of monetary fee or the dedication of land for a local park or a combination thereof.

(b) *Local park improvement fee.* The local park improvement fee is intended to mitigate the impact of new residential development on the need for local park improvements. The cost to improve local parks is based upon the County's cost to provide those improvements described in [Section 33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE)

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 94-184, § 1, 9-22-94)

Sec. 33H-6. Requirements for local park open space fees.

Before a residential building permit is issued, the applicant will be required to pay monetary fees or to dedicate public local park land, or a combination thereof in accordance with this section. Unless otherwise specifically permitted by the Director the fee shall be the monetary fee hereinafter provided in [Section 33H-8](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-8FECOADSC). Provided, however, in subdivisions containing fifty (50) dwelling units or less, the payment of the fees shall be required.

(a) *Amount of local park open space monetary fee per dwelling unit.*

(1) General Formula: The amount of the local park open space fee shall be based upon the average value of potential park land per acre times the local park share of .00201 net acres per person, times population density by type of dwelling unit, less a credit for monies paid through ad valorem taxes toward capital expansion of local parks. Average land value shall be the average value of potential park land per acre located in the same park benefit district for which a building permit is being requested.

The local park open space monetary fee shall be determined in accordance with the following:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Local Park | | Average |  | .00201 Net | | People |  | Tax |
| Open Space | (=) | Parkland | (×) | Acres | (×) | per | (-) | Credit |
| Fee/ |  | Value/ |  | per |  | Dwelling |  | of |
| Dwelling Unit | | AC |  | Person |  | Unit |  | $304.97 |

The amount of the tax credit shall be based upon the total outstanding unincorporated area debt service for local park projects, divided by the total number of households in unincorporated areas.

(2) Determination of local park land value: The Board hereby establishes in accordance with the procedures specified in [Section 33H-6](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-6RELOPAOPSPFE)(a)(1) and the valuation assumptions in [Section 33H-9](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-9FECOINST)(d)(1), the average local park land value per acre by park benefit district is as follows:

Table 1 Open Space Cost1;

|  |  |
| --- | --- |
| Park Benefit District | Average Park Land Value Per Acre |
| 1 | $269,750 |
| 2 | $154,471 |
| 3 | $130,631 |

1 These values are subject to annual adjustment pursuant to [Section 33H-4](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-4GEPR).

(b) *Determination of land dedication in lieu of monetary fees.*

(1) Prior to the time of the earlier of a public hearing or tentative platting, for developments of more than fifty (50) residential dwelling units, or, if a site plan is not provided and the highest permissible development is more than fifty (50) residential dwelling units, the feepayer may request a local park open space determination by the Director for the purpose of determining whether land dedication in lieu of the open space fee is acceptable to the Director.

(2) The Director, based on specific review of the development and the criteria set forth below shall determine whether land dedication or monetary fees, or a combination thereof would be in the best interest of the County. The Director's determination shall be in writing and shall be made within thirty (30) days from the date the application was received and shall be in accordance with the following criteria and for the purpose of maintaining the permanent level of service:

a. Ensuring that new local parks are available within a short distance to serve new residential development.

b. Addressing future needs by maintaining not less than the minimum permanent level of service for local parks as population growth occurs.

c. Completion of public projects started.

d. Initiation of new public projects identified in the Multi-Year Capital Plan of the County Budget.

(3) Each feepayer shall pay the Department a nonrefundable general administrative service charge in the amount set forth in the Manual for processing the land dedication determinations.

(c) *Amount of required local park land dedication.* In the event the feepayer proposes to dedicate land, and if the Director determines such dedication of land to be in the County's best interest in accordance with [Section 33H-6](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-6RELOPAOPSPFE)(b)(2), then the amount of land to be dedicated shall be based upon the projected population for the area in question and the local park share of .00201 net acres per person. The actual amount of land to be dedicated shall be determined by the following formula but in no case will the dedication be less than five (5) acres unless determined to be in the best interest of the County by the Director in accordance with [Section 33H-10](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-10LASU)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Amount of |  | Total Number |  | No. of Persons |  | .00201 Net |
| Req'd Park | (=) | of Dwelling | (×) | Per Dwelling | (×) | Acres Per |
| Land (Net Acres) |  | Units |  | Unit |  | Person |

(1) Determination of the number of dwelling units. The basis for determining the total number of dwelling units shall be the lesser of:

a. The actual number of dwelling units reflected on the building permit application, final plat or permitted by a legally recorded covenant running with the land; or

b. The maximum number of dwelling units permitted within the proposed development based upon zoning regulations.

(2) Determination of population density. Population density, that is, the number of persons per dwelling unit, occupied and unoccupied shall be in accordance with the latest available census data and consistent with the Official Park Benefit District Map of Miami-Dade County indicating three (3) districts (a copy of which is appended as Exhibit A and incorporated by reference) and the population density shall be projected as shown in Table 2. The persons per dwelling unit shall be adjusted periodically based on the most recent census data updates provided by the Department of Planning and Zoning.

*Table 2*   
Persons Per Dwelling Unit By Type  
Park Benefit Districts  
*Miami-Dade County*

|  |  |  |  |
| --- | --- | --- | --- |
| Park Benefit District | PPU Single-Family Detached House | PPU Single-Family Attached | Multi-Family Unit Structures |
| 1 | 3.37 | 2.90 | 2.11 |
| 2 | 3.26 | 2.74 | 2.20 |
| 3 | 3.16 | 2.94 | 2.13 |

The statistical area shall be constantly monitored by the Research Division, Miami-Dade County Planning and Zoning Department which shall submit to the County Commission revised statistical data when appropriate.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 28, 9-3-98; Ord. No. 06-13, § 1, 1-24-06)

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

(a) *Determination of local park improvement fee.* Before a residential building permit in the unincorporated area of Miami-Dade County is issued, the feepayer shall be required to pay a fee for local park improvements or make improvements at a local park, or a combination thereof in accordance with the following:

(1) Projects involving less than fifty (50) dwelling units shall be required to pay the local park improvement fee.

(2) For projects involving fifty (50) or more dwelling units, the feepayer may request a local park improvement impact fee determination by the Director to determine whether park improvement fees or credit for improvements at a local park or a combination thereof is acceptable. A feepayer shall only be required to make improvements at a local park in lieu of a monetary fee upon the mutual agreement of the feepayer and the Director.

(3) The Director shall determine, based on specific review of each request, whether improvement fees or credit for improvements at a local park or a combination thereof would be in the best interest of Miami-Dade County in accordance with criteria in [Section 33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE)(c). This determination shall be in writing and shall specify the amount of fees and/or improvements required. The Director's determination shall be made within thirty (30) days from the date the request was received.

(4) Each feepayer shall pay to the Department, a nonrefundable general administrative charge in the amount set forth in the Manual for the processing of all materials relating to improvements at a local park.

(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 Manager in accordance with [Section 33H-4](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-4GEPR)(h).

The application of the following formula shall be used in determining the amount of fees to be paid for local park improvements:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Local Park Improvement |  | No. of Persons |  | Cost |
| Fees Per | (=) | Per Dwelling | (×) | Per |
| Dwelling Unit |  | Unit |  | Person |

(1) Determination of the number of dwelling units: The basis of determining the total number of dwelling units shall be in accordance with criteria in [Section 33H-6](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-6RELOPAOPSPFE)(c)(1).

TABLE 31   
ITEMIZED BREAKDOWN  
THE COST TO IMPROVE LOCAL PARKS  
COST PER PERSON

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Cost | Cost/Acre | Acre/Pers. | Cost/Pers. |
| Neighborhood Park Improvements (Based on 5 Acres) | | | | |
| Clear and Grub (5 Ac) | $43,560 |  |  |  |
| Finish Fill and Contour | $9,333.00 |  |  |  |
| Finish Grading (4 Ac) | 26,136 |  |  |  |
| Sod with topsoil (4 Ac) | 121,968 |  |  |  |
| Trees (4 Ac) | 30,240 |  |  |  |
| Walkways | 49,155 |  |  |  |
| Signage | 6,000 |  |  |  |
| Park Furniture | 7,500 |  |  |  |
| Tot Lot (Sm) | 75,000 |  |  |  |
| Multipurpose Courts (2) (not lighted) | 80,000 |  |  |  |
| Access Control | 36,507 |  |  |  |
| New Parking | 25,000 |  |  |  |
| Sub-Total Facility Cost | 510,399 |  |  |  |
| 20% A&E, Design, Inspection | 102,080 |  |  |  |
| 12% Contingency | 61,248 |  |  |  |
| Neighborhood Park Improvements | 673,728 | 134,745 | x 0.00060 = | 80.85 |
| *Community Park Improvements (Based on 30 Acres)* |  |  |  |  |
| Clear and Grub (30 Ac) | 196,020 |  |  |  |
| Finish Grading (20 Ac) | 130,680 |  |  |  |
| Sod w/topsoil (20 Ac) | 609,840 |  |  |  |
| Trees (20 Ac) | 101,160 |  |  |  |
| Irrigation | 177,724 |  |  |  |
| Pump House | 30,000 |  |  |  |
| Signage | 12,000 |  |  |  |
| Park Furniture | 22,500 |  |  |  |
| Tot Lot (Lg) | 125,000 |  |  |  |
| Access control (internal and external) | 99,550 |  |  |  |
| Walkways | 135,000 |  |  |  |
| Recreation Center Building | 802,500 |  |  |  |
| Concession/Storage/Restroom Building | 423,750 |  |  |  |
| Picnic Shelters(2) medium | 121,500 |  |  |  |
| Lighted Soccer Fields(2) | 400,000 |  |  |  |
| Lighted Multipurpose Courts(4) | 108,000 |  |  |  |
| Lighted Tennis Courts(4) | 240,200 |  |  |  |
| Vita Course and Signage | 35,000 |  |  |  |
| Parking, lighted | 540,000 |  |  |  |
| Security/Area Lighting | 232,500 |  |  |  |
| Utilities | 364,113 |  |  |  |
| Sub-Total Facility Cost | 4,916,038 |  |  |  |
| 20% A&E, Design, Inspection | 983,207 |  |  |  |
| 12% Contingency | 589,924 |  |  |  |
| 1.5% Structures-Art | 20,216 |  |  |  |
| Community Park Improvements | 6,509,387 | 216,979 | x .00060 = | 130.19 |
| *District Park Improvements (Based on 200 Acres w/25 AC Lake)* |  |  |  |  |
| Clear and Grub | 1,306,800 |  |  |  |
| Finish Fill and Contour Finish Grading (138 Ac) | 1,782,240 |  |  |  |
| Sod w/topsoil (138 Ac) | 3,005,640 |  |  |  |
| Trees (138 Ac) | 1,043,280 |  |  |  |
| Shrubs/Groundcover/Accents | 150,000 |  |  |  |
| Irrigation System | 1,071,576 |  |  |  |
| Pump House | 60,000 |  |  |  |
| Signage and Entry Feature | 120,000 |  |  |  |
| Park Furniture | 150,000 |  |  |  |
| Tot Lot (1 Large) | 125,000 |  |  |  |
| Tot Lot (1 Small) | 60,000 |  |  |  |
| Access control (perimeter) | 679,649 |  |  |  |
| Walkways/Path | 595,565 |  |  |  |
| Recreation Center Building (Large) | 1,050,000 |  |  |  |
| Fieldhouse/Gymnasium | 2,760,000 |  |  |  |
| Concession/Storage/Restroom Building | 1,695,000 |  |  |  |
| Maintenance Building | 200,000 |  |  |  |
| Maintenance and Equipment Yard | 900,000 |  |  |  |
| Picnic Shelters |  |  |  |  |
| 1 Large | 135,000 |  |  |  |
| 6 Medium | 364,500 |  |  |  |
| 6 Small | 162,000 |  |  |  |
| Fields |  |  |  |  |
| 3 Baseball Lighted | 693,606 |  |  |  |
| 4 Softball Lighted | 924,808 |  |  |  |
| 5 Football/Soccer Lighted | 1,250,000 |  |  |  |
| Courts |  |  |  |  |
| 6 Tennis-Lighted | 360,000 |  |  |  |
| Batting Cage | 315,000 |  |  |  |
| Aquatic Facility | 4,500,000 |  |  |  |
| Parking, lighted | 3,476,400 |  |  |  |
| Area/Security Lighting | 2,160,000 |  |  |  |
| Utilities | 2,166,510 |  |  |  |
| Roadway | 1,560,000 |  |  |  |
| Sub-Total Facility Cost | 35,943,702 |  |  |  |
| 20% A&E, Design, Inspection | 7,188,740 |  |  |  |
| 12% Contingency | 4,313,244 |  |  |  |
| 1.5% Structures-Art | 176,497 |  |  |  |
| District Park Improvements | 47,622,185 | 238,110 | x .00054 = | 128.58 |
| *Single Purpose Park (Based on 15 Acres)* |  |  |  |  |
| Clear and Grub (15 Ac) | 105,544 |  |  |  |
| Finish Fill and Contour Finish Grading (7 Ac @ $3500) | 33,366 |  |  |  |
| Sod w/topsoil (7 Ac) | 243,936 |  |  |  |
| Irrigation (7 Ac) | 69,696 |  |  |  |
| Pump House | 30,000 |  |  |  |
| Signage | 6,000 |  |  |  |
| Park Furniture | 15,000 |  |  |  |
| Access control | 59,368 |  |  |  |
| Walkways | 61,500 |  |  |  |
| Field Center | 423,570 |  |  |  |
| Practice Field Unit (2000 sq. ft. @ 150 sq. ft. | 150,000 |  |  |  |
| Soccer fields-3 Lighted | 810,000 |  |  |  |
| Parking, lighted | 315,000 |  |  |  |
| Utilities | 188,736 |  |  |  |
| Sub-Total Facility Cost | 3,216,281 |  |  |  |
| 20% A&E, Design, Inspection | 643,256 |  |  |  |
| 12% Contingency | 385,953 |  |  |  |
| 1.5% Structures-Art | 8,606 |  |  |  |
| Single Purpose Improvements | 4,254,097 | 283,606 | x .00027 = | 76.57 |
| LOCAL PARK IMPROVEMENTS PER PERSON |  |  |  | 416.19 |

1These values are subject to annual adjustment pursuant to [Section 33H-4](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-4GEPR).

(2) Determination of population density shall be in accordance with [Section 33H-6](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-6RELOPAOPSPFE)(c), Table 1.

(3) The cost of local park improvement fees per person shall be the sum of (1) the cost per acre for neighborhood park improvements multiplied by .00060, (2) the cost per acre for community park improvements multiplied by .00060, (3) the cost per acre for district park improvements multiplied by .00054 and (4) the cost per acre for single purpose park improvements multiplied by .00027.

(c) *Improvements to local public park land in lieu of improvement fee.* When the feepayer agrees to supply, build, or install park and recreation improvements to a local park in lieu of or in combination with a monetary fee, the value of those improvements may be credited up to one hundred (100) percent of the local park improvement fee requirements. Such credit is based on a finding by the Director, that the improvements are in the public interest based upon criteria below. The feepayer shall be subject to the administrative, architectural and engineering (A&E), design, and inspection charges and procedures found in the manual.

(1) Improvements shall be located within the same park benefit district as the development specified in [Section 33H-11](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-11IMFEBEDITRAC) and the improvements shall conform to the park master plan in accordance with [Section 33-303](../level3/PTIIICOOR_CH33ZO_ARTXXXVIZOPR.docx#PTIIICOOR_CH33ZO_ARTXXXVIZOPR_S33-303EXPR) of the Miami-Dade County Code.

(2) Improvements by the feepayer are determined to accelerate an approved County park development schedule and reduce the costs that the County would otherwise pay for the improvements as specified in [Section 33H-11](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-11IMFEBEDITRAC)

(3) The improvements proposed shall be park facilities that will meet the needs of the residents of the development as determined by the Director. Facilities other than those listed as minimum required may be provided where there are local needs identified in the leisure interest survey on file with the Department and where such improvements are equal in value to the improvements listed in Table 3. The Director must approve any and all proposed alternative facilities.

(4) A detailed site plan of the facilities shall be reviewed and approved by the Director, and all improvements shall conform to Park and Recreation Department specifications.

(5) A one hundred ten (110) percent performance bond or letter of credit shall be posted prior to the time of building permit issuance for all improvements in accordance with procedures set forth in the manual. After the Department of Planning and Zoning receives the bond or letters of credit and the feepayer has paid the computed A&E, design, inspection charges, and the administrative fee, the County may issue building permits for that part of the proposed development for which the park improvement fee is determined by the County to be satisfied by the improvements. Release of such bonds or letters of credit for improvements shall not be issued by the Department of Planning and Zoning until such contributed improvements have been completed and accepted by the Director.

(6) All improvements shall become the sole property of the County upon completion and acceptance by the County.

(7) The time limit for completion and acceptance of said improvements to meet the requirements as specified above shall be the earlier of: two (2) years from date of a written agreement between the feepayer and the Director or prior to issuance of building permits for more than fifty (50) percent of the dwelling units.

(8) Failure to comply with the requirements in [Section 33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE)(c)(6) above will result in forfeiture of the bond and/or denial of future development orders.

(9) If the Director accepts improvements with a cost in excess of the impact fee computed herein, the feepayer, upon written request, shall be reimbursed without accrued interest for the amount of the excess cost as said cost is determined by the Director pursuant to [Section 33H-13](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-13REIMFE). The Director must receive a feepayer's written request for reimbursement within one (1) year from the date of the release of the bond. The feepayer shall only be eligible for reimbursement after the improvement is completed and accepted by the Director. Reimbursements shall only be made from available monies existing within the corresponding park benefit district trust fund. No reimbursement shall be made after one (1) year from the date of the release of the bond.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 28, 9-3-98; Ord. No. 06-13, § 1, 1-24-06)

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

(a) The feepayer shall pay a park impact fee amount based upon the impact fee schedule per dwelling unit set forth below developed pursuant to the formula set forth in Sections [33H-6](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-6RELOPAOPSPFE) and [33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE), together with impact fee administrative costs.

The following impact fee schedule shall be used by the Director in computing the park impact fee:

IMPACT FEE SCHEDULE1, 2

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| District | Single Family Detached | | Single Family Attached | | Multi-Family | |
| Park Open Space Fee/Unit | Park Improve- ment Fee/Unit | Park Open Space Fee/Unit | Park Improve- ment Fee/Unit | Park Open Space Fee/Unit | Park Improve- ment Fee/Unit |
| 1 | $1522 | $1403 | $1267 | $1207 | $839 | $878 |
| 2 | $707 | $1357 | $546 | $1140 | $378 | $916 |
| 3 | $525 | $1315 | $467 | $1224 | $254 | $886 |

The open space values in the fee schedule have been reduced by a tax credit to account for monies paid through ad valorem taxes toward capital expansion of local parks. The administrative fee set forth in [Section 33H-8](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-8FECOADSC)(b) is in addition to the impact fees or credits issued.

These values are subject to annual adjustment pursuant to [Section 33H-4](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-4GEPR)

(b) The cost per dwelling unit shall be the open space fee plus the improvement fee multiplied by [1.05](../level2/PTICOAMCH_ART1BOCOCO.docx#PTICOAMCH_ART1BOCOCO_S1.05FOOFCOELAPOFEM) to accommodate the general administrative charge of five (5) percent.

(c) In the case of development activity involving a change of use and/or magnitude of use in which a residential building permit is required, the applicant shall be required to pay the computed impact fee for any proposed residential development activity for which the impact fee has not previously been paid. When any building permit expires or is revoked after the effective date of this chapter and a fee has not previously been paid under this chapter, the applicant shall be required to comply with the provisions herein. No refunds will be given for proposed development activity resulting in a negative fee calculation.

(d) No impact fee payment shall be required for any development activity when the total calculated fee is less than fifty dollars ($50.00).

(e) If the type of dwelling unit within a proposed or current development is not specified in the above impact fee schedule, the Director shall use the dwelling unit most nearly comparable in computing the fee in accordance with the expanded list of land use categories which is appended as Exhibit B and incorporated herein by reference.

(f) In determining existing residential development activity and the units of proposed or existing development, the Director shall use the building permit and certificate of use information contained in the building or zoning records of Miami-Dade County.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 06-13, § 1, 1-24-06)

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

(a) Notwithstanding other provisions of this chapter, the feepayer may elect, to use an independent fee computation study. Such study shall calculate the fee pursuant to the formula in Sections [33H-6](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-6RELOPAOPSPFE) and [33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE). The feepayer shall provide the Director notice of intent to use an independent fee computation study prior to or within thirty (30) days of the issuance of any building permit on the property for which a park impact fee is due. Independent fee computation studies initiated after the notice of intent is filed shall be completed and submitted to the Director within three (3) months after the notice is filed. No building permits will be issued before the payment of the park impact fee.

(b) If the feepayer elects to use an independent fee computation study, the feepayer shall, at his own expense, prepare and present to the Director a study that documents the basis upon which the value of the following components were determined:

(1) Open space valuation for which a fee is to be paid.

(2) Number of dwelling units ascribed to the property.

(3) Number of persons ascribed to each dwelling unit.

The burden shall be upon the feepayer to provide the data, analysis and reports necessary for the Director to make a determination. The analysis and report must be based on the formula set forth in this chapter.

(c) The feepayer shall, at the time the independent fee computation study is submitted to the Director, pay a nonrefundable independent study review administrative charge to the Department of Planning and Zoning in the amount set forth in the Manual. The administrative charge shall be used by the Department to process and review the independent fee calculation study. The administrative charge shall not be credited against the impact fee.

(d) If the feepayer elects to use an independent fee computation study, and the subject of the study relates in whole or in part to the property valuation, the feepayer shall, at his own expense and in accordance with the provisions of the Manual, retain a real estate appraiser certified in accordance with Section 475.501, Florida Statutes to prepare the valuation element of such a study. The documentation shall be in accordance with procedures in the Manual. The appraiser shall use the land valuation assumptions contained in this section. The valuation shall be predicated on the following:

(1) Land valuation assumptions:

a. *Definition of value.* The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell in a competitive market with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress. Fundamental assumptions and conditions presumed in this definition are:

1. Buyer and seller are motivated by self-interest.

2. Buyer and seller are well-informed and are acting prudently.

3. The property is exposed for a reasonable time on the open market.

4. Payment is made in cash, its equivalent, or in specified financing terms.

5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

b. *Assumptions.* For the purposes of this appraisal, the following shall be assumed:

1. The property is ready to be developed with building improvements and no funds would have to be expended for site development work regulatory permitting or materials.

2. All utilities are in place and are at the perimeter of the site including roads, walks, curbs, water lines, sewer lines, electric service lines, and telephone service lines.

3. The property is filled and compacted to comply with applicable building and zoning codes and flood insurance laws and regulations. The fill and compaction are of sufficient quality to accept the building improvements contemplated.

c. *Items considered.* In the appraisal process, items to be considered include sales of finished lots (ready to build); sales of completed homes and lots; sales of raw land; entrepreneur's remuneration; and cost of land development work.

(e) Where the results of an independent fee computation study are at variance with: (1) The County's determination of the park land value; (2) the Director's initial determination of the number of dwelling units ascribed to this property; or (3) the Director's initial determination of the number of persons ascribed to each dwelling unit, the Director shall determine whether to accept all or part of the independent fee study. The Director's decision shall be based upon:

(1) Whether it adheres to the impact fee formula set forth in Sections [33H-6](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-6RELOPAOPSPFE) and [33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE)

(2) Whether the study was prepared by a qualified individual or entity as defined in the Manual.

(3) Whether the independent fee computation study provides complete, thorough and accurate information.

(4) In the case of a land value appraisal, whether the appraisal is in accordance with [Section 33H-9](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-9FECOINST)(d).

(5) Whether the independent fee calculation study, in its entirety, is logical and reasonable.

(f) If the Director after considering the factors described in [Section 33H-9](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-9FECOINST) (e)(1) through (5) intends to reject either in whole or in part the independent fee computation study, he shall issue a letter to the feepayer. The Director shall state the deficiencies and his intent to reject the study unless the deficiencies are corrected. If the Director has not received an adequately corrected study, within sixty (60) days from the date the letter of intent was received, he shall issue a letter rejecting the study.

(g) Any appeal from the Director's decision to reject a study shall be filed in accordance with [Section 33H-16](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-16APADDE)

(h) When the feepayer's study has been accepted in whole or in part the feepayer shall pay the amount of the fee so computed and be entitled to a refund of any amount previously paid in excess thereof.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 28, 9-3-98; Ord. No. 06-13, § 1, 1-24-06)

Sec. 33H-10. Land suitability.

Site characteristics. The location, configuration, size and/or other general factors of the land proposed for dedication shall follow the guidelines in [Section 33H-10](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-10LASU). All land dedications for park and recreation purposes, shall be reviewed and approved by the Director. The Director shall consider:

(1) Size: The size of the parcel shall be expressed in net acres. The net acre calculation shall exclude street right-of-way, existing and proposed easements, borrow pits, lakes, other man-made and natural conditions which restrict or impede the intended use of such areas for local park and recreation purposes. Five (5) net acres is the minimum acceptable size for local parks. Smaller sites may only be accepted, at the sole discretion of the Department, if:

a. they meet the provisions in [Section 33H-10](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-10LASU)(7), "Traditional Neighborhood Development" (Section [33-284.46](../level3/PTIIICOOR_CH33ZO_ARTXXXIIIHTRNEDETNDI.docx#PTIIICOOR_CH33ZO_ARTXXXIIIHTRNEDETNDI_S33-284.46PUIN), Miami-Dade County Code), or

b. the site may presently or in the future be combined with other public park properties, or

c. the site is part of an "Urban Center District," or

d. the site will be maintained by other than County funding.

(2) Unity: The land to be dedicated shall form a single parcel except where two (2) or more parcels would be in the public interest.

(3) Shape: The parcel shall be usable for recreational activities as identified in Table 2 and other active and passive leisure pursuits.

(4) Location: The parcel to be dedicated shall be located within the same park benefit district and/or park service zone as the development.

(5) Access: Public access to the parcel to be dedicated shall be provided by improved public street frontage.

(6) Usability: A dedicated parcel shall meet the following criteria:

a. The parcel is platted and ready to be developed so that no funds would be required to be expended for site development.

b. All utilities are in place and are at the perimeter of the site and include roads, walks, curbs, water lines, sewer lines, electric service lines, and telephone service lines.

c. All utilities are of sufficient quality and quantity to adequately serve the site.

d. The parcel is filled and compacted to comply with all applicable subdivision codes, building and zoning codes, and flood insurance laws and regulations. The fill and compaction are of sufficient quality to accept the building improvements.

(7) Sensitive land: The Board of County Commissioners hereby finds that steep slopes, canals, lakes, watercourses, beaches, golf courses, and wetlands shall not constitute usable land for local recreation activities. However, credit may be given to designated pine and hammock forested lands identified as "Natural Forest Community" in Ordinance No. 89-8, designated sites identified as "Environmentally Endangered Lands" (EEL). (Chapter [24A](../level2/PTIIICOOR_CH24ARE.docx#PTIIICOOR_CH24ARE) of the Code of Metropolitan Miami-Dade County), and listed on the A or B Acquisition Lists, and to sites with aesthetic or historic value where passive use, conservation, and preservation objectives are consistent with neighborhood and community needs.

(a) Designated sites containing "Natural Forest Communities or EEL," may be considered for up to a maximum of fifty (50) percent credit toward the park open space fee requirement. In all instances, a minimum of fifty (50) percent of the total land dedication requirements must be suitable for local park open space use.

(b) The balance of the park open space fee not receiving credit as specified above, shall be paid by the applicant in accordance to the provisions of [Section 33H-6](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-6RELOPAOPSPFE) herein.

(c) In cases of natural or historical sites which are exceptional or unique, areas less than five (5) acres may be considered.

(8) Plans: County, regional and State plans shall be taken into consideration when evaluating land dedication.

(9) The Director shall determine, based on specific review of each application, whether the proposed site meets the requirements within this section. The Director's determination shall be in writing and shall specify the reasons the site was approved or denied credit. The Director's determination shall be made within thirty (30) days from the date the request was received.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 06-13, § 1, 1-24-06)

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

(a) To insure that fees collected will benefit feepaying developments, all local park open space fees and local park improvement fees paid in accordance with the provisions of this chapter shall be deposited in the "Local Park Trust Fund," a combination of interest bearing trust accounts for each park benefit district for local park open space and local park improvements. The fund shall be established and maintained by the County Finance Department with fees accountable by the Finance Division, Park and Recreation Department.

(b) Park benefit districts shall correspond to the Miami-Dade County Park Benefit District map indicating three (3) districts. These benefit districts are delineated in Exhibit A and described in detail in Exhibit A.1 which attachments are incorporated herein by reference and made a part hereof.

(c) All park impact fees collected by the Department of Planning and Zoning shall be promptly deposited into the proper account in the local park trust fund. General administrative charges collected by the Department of Planning and Zoning shall be directed to the park impact fee administrative fund account for the purpose of paying the cost of administering determinations of credits, contributions, suitability and this chapter.

(d) Architectural and engineering, design and inspection charges for public park improvements shall be deposited into the Improvement Fee Account within the respective Park Benefit District.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 28, 9-3-98)

Sec. 33H-12. Impact fee expenditures.

(a) Except as otherwise provided herein, funds from the local park trust funds, including any accrued interest, shall be limited to the financing of park acquisition, park expansion, park improvements to real property, capital facilities (including start-up equipement and technology), or for principal and interest payments (including sinking fund payments) on bonds or other borrowed revenues. Such funds shall only be used to mitigate the impact of and benefit new development within the respective park benefit districts from which the fees are collected or for projects in other park benefit districts which benefit the park benefit district from which the funds were collected. Trust account funds may be used to purchase additional land from a feepayer where such purchase is consistent with the purpose of this chapter or for excess improvement costs approved in accordance with [Section 33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE)(c)(8).

(b) Trust account funds shall be deemed expended in the order in which they are collected. Policies to be used in scheduling the expenditure of local park trust funds shall be set forth in the manual.

(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 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 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 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 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 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 Manager shall provide a companion report to the Board advising of any County Manager recommended impact fee program changes and detailing comments received from the annual impact fee public meeting.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 06-13, § 1, 1-24-06)

Sec. 33H-13. Refund of impact fees.

(a) If a residential building permit encompassing feepaying development expires or is revoked prior to final inspection, the feepayer shall be entitled to a refund without interest of the impact fee minus seven and one-half (7½) percent general administrative fee. However, no refund shall be provided for impact fees deemed expended pursuant to [Section 33H-12](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-12IMFEEX)(b) and (c) or for the cost of completed improvements contributed in-lieu-of-fee except as provided in [Section 33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE)(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 immediately 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 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.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 28, 9-3-98)

Sec. 33H-14. Exemptions.

(a) The following shall be exempted from payment of park impact fees:

(1) Alterations, expansion or replacement of existing dwelling unit(s) where no additional dwelling units are created and no additional population is generated.

(2) The construction of accessory buildings or structures which will not create additional dwelling units.

(3) The issuance of a tie-down permit on a mobile home on which applicable park impact fee has previously been paid.

(4) The re-occupancy of a mobile home space on which applicable park impact fee has previously been paid.

(5) The replacement of a dwelling unit(s) which replacement meets the requirements of Section 104.3 (D), South Florida Building Code (replacement necessitated by partial destruction).

(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.

(c) The following developments shall be exempt from the requirement that impact fees be paid, subject to an application by the feepayer to the Planning and Zoning Director and a determination by the Planning and Zoning Director that the proposed development activity is consistent with the CDMP that such residential development activity, or portion thereof, which provides affordable housing as defined in the "Florida Affordable Housing Act of 1986," Section 420.602(3)(a) (very low income) or (b) (low income), Florida Statutes (1987) and amendments thereto.

(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](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-14EX)(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, in accordance with the provisions of the manual. Application for a refund under 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. Notwithstanding the aforesaid, if an exemption is sought pursuant to [Section 33H-14](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-14EX)(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.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 92-153, § 4, 12-15-92; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 28, 9-3-98; Ord. No. 06-13, § 1, 1-24-06)

Sec. 33H-15. Credits.

(a) *Credits for Local Park Open Space Fee.*

(1) *Credit for past open space.* Credit for up to one hundred (100) percent of the Local Park Open Space Fee shall be given by the Director for dedication of land for a local park, fee-in-lieu of land dedication, or contributions of improvements at a local park in-lieu-of open space that were voluntarily proffered or required under a County development order issued for a development of regional impact or under other final county action approved prior to the date of implementation (June 29, 1990) of this chapter. Any claim for credit pursuant to this [Section 33H-15](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-15CR)(a) shall follow the crediting procedures for issuance of credits provided therein. A credit shall only be considered against the Park Open Space Fee for those properties encompassed by the previous development order.

(2) Any feepayer claiming such credit shall file a credit application and present documentation to be considered by the Director in determining the amount of credit to be given toward the local park open space fee. Such determination shall be subject to administrative charges specified below and procedures set forth in the manual. No refunds shall be made under this provision of this section. Any appeal from such a determination by the Director shall be reviewed by the Developmental Impact Committee Executive Council pursuant to the procedures set forth in the adopted manual.

(3) Where a feepayer seeks to apply a credit against payment of the park impact fee, the administrative fee portion of the impact fee shall be the sum of: (a) seven and one-half (7½) percent of the credit or one thousand dollars ($1,000.00) whichever is less and (b) seven and one-half (7½) percent of the remaining net park cost not satisfied by the credit.

(4) Previously approved park impact fee credits which are: (1) unused and (2) based on a net park cost which has been subsequently adjusted, shall be entitled to an adjustment equal to the percentage increase or decrease of the net park cost in the park impact fee formula. Any such adjustment shall only be utilized to offset park impact fees and shall not be refundable.

(b) *Credit for Future Local Park Dedications.*

(1) When the feepayer agrees to dedicate land for a local park in accordance with Sections 4.B and 6, a credit for up to the full amount of the open space fee may be given by the Director on an acre per acre basis.

(2) Where a feepayer seeks to apply a contribution in-lieu-of fee credit against payment of the park impact fee, the administrative fee portion of the impact fee shall be the sum of: (a) seven and one-half (7½) percent of the contribution in-lieu-of fee or one thousand dollars ($1,000.00) whichever is less and (b) seven and one-half (7½) percent of the remaining net park cost not satisfied by the contribution in-lieu-of-fee. The administrative fee, A&E, design and inspection charges must be paid prior to the time of the building permit issuance.

(c) *Credit for Local Park Improvements.*

(1) A credit for past local park improvements may be given. Where park improvements were voluntarily constructed within a local park, a credit may be given for up to one hundred (100) percent of the park improvement fee in accordance with the provisions of this section.

(2) A credit for future local park improvements may be given. Where the feepayer agrees to supply, build or install park and recreation improvements within a local park site pursuant to [Section 33H-7](../level2/PTIIICOOR_CH33HPAIMFEOR.docx#PTIIICOOR_CH33HPAIMFEOR_S33H-7RELOPUPAIMFE)(c), a credit may be given in the amount of such facilities agreed to be provided, up to one hundred (100) percent of the park improvement fee. Credits for improvements shall be created when the construction of the park improvement are completed and accepted by the Department for maintenance.

(3) Credits for the local park improvement fee shall not exceed those improvement costs shown in Table 2 herein.

(4) Where a feepayer seeks to apply a fee credit against payment of the park impact fee, the administrative fee portion of the impact fee shall be the sum of: (a) seven and one-half (7½) percent of the credit or one thousand dollars ($1,000.00) whichever is less and (b) seven and one-half (7½) percent of the remaining net park cost not satisfied by the contribution. The administrative fee must be paid prior to the time of the building permit issuance.

(5) Previously approved credits for local park improvements which are: (1) unused and (2) based on a prior park cost which has been subsequently adjusted, shall be entitled to an adjustment equal to the percentage increase or decrease of the net improvement cost in the park impact fee formula. Any such adjustment shall only be utilized to offset park impact fees and shall not be refundable.

(6) Credits shall not be given for the administrative fee portion of the impact fee which remains the responsibility of the feepayer and must be paid prior to the time the building permit is issued.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 92-83, §§ 1, 2, 7-21-92; Ord. No. 94-184, § 1, 9-22-94)

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

(a) Except as otherwise provided in this chapter, the 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. Appeals of the decisions of the Executive Council shall be to the Board of County Commissioners in accordance with procedures specified in [Section 33-314](../level3/PTIIICOOR_CH33ZO_ARTXXXVIZOPR.docx#PTIIICOOR_CH33ZO_ARTXXXVIZOPR_S33-314DIAPAPCOCO), Miami-Dade County Code.

(b) 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 Development Impact Committee Coordinator. All appeals shall be filed within thirty (30) days after the earlier of: (a) issuance of a written decision by the Parks and Recreation Director or by 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 all supporting documentation.

(c) The Development 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 within thirty (30) days from the date of receipt of the Council's written decision.

(Ord. No. 90-59, § 2, 6-19-90; Ord. No. 94-184, § 1, 9-22-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 28, 9-3-98)

Sec. 33H-17. 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.

(Ord. No. 90-59, § 2, 6-19-90)

FOOTNOTE(S):

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**Cross reference—** Park and Recreation Department, § 2-85 et seq.; parks and recreation generally, Ch. 25B; Park and Recreation Department rules and regulations, Ch. 26. [(Back)](#BK_3F7846BAEDCF623FBC9ECA222C3B4873)