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

(a) This chapter [Ordinance No. 95-79] shall be known and may be cited as the "Educational Facilities Impact Fee Ordinance."

(b) The Board of County Commissioners of Metropolitan Miami-Dade County have the authority to adopt this Ordinance pursuant to Article VIII, Section 6 of the Florida Constitution (1968), Section 1.01, Miami-Dade County Charter, Chapter 163, Part II, Florida Statutes, and Sections 235.19 and 235.193, Florida Statutes.

(c) This chapter shall be applicable to all land development within the entire area of Miami-Dade County.

(d) This chapter is intended to implement and be consistent with the CDMP.

(Ord. No. 95-79, § 2(1), 5-2-95)

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

(a) Section 235.19, Florida Statutes, requires the School Board of Miami-Dade County, Florida, and the Board of County Commissioners of Metropolitan Miami-Dade County to coordinate school site planning and the Comprehensive Development Master Plan (CDMP) for Miami-Dade County.

(b) Section 235.193(1), Florida Statutes, requires the coordination of planning between school boards and local governing bodies to ensure that plans for the construction and opening of public educational facilities are coordinated in time and place with plans for residential development and other necessary services.

(c) The CDMP for Miami-Dade County, adopted by Ordinance Numbers 88-110 and 88-119, established the goal to provide the best possible distribution of land use, by type and density, to meet the physical, social, cultural and economic needs of the present and future resident and tourist population in a manner that will maintain or improve the quality of the natural and manmade environment and amenities, and ensure the timely and efficient provision of services (CDMP, Land Use Element, Goal).

(d) The CDMP Capital Improvements Element includes a goal specifying that Miami-Dade County shall plan for and manage in a fiscally prudent manner, its facilities and infrastructure in order to adequately serve current and new residents while efficiently using and maintaining existing public investments, and making timely provision of required new capital investment (CDMP Capital Improvements Element Goal); and sets forth policies that service and facility impacts of new development must be identified and quantified so that sufficient public facilities will be planned and programmed to be available when needed (CDMP, Capital Improvements Element, Policy 3B); and Appropriate funding mechanisms will be adopted and applied by Miami-Dade County in order to assure the fiscal resources to maintain acceptable levels of service. Such funding mechanisms include ..... impact fees, ..... among others (CDMP, Capital Improvements Element, Policy 4B).

(e) It has been determined that there will be a significant amount of new residential development in Miami-Dade County over the next twenty (20) years.

(f) It has been determined that after the construction of new residential development, it is reasonably expected that this new residential development will be occupied by school age children that will need to be accommodated by the Miami-Dade County public school system and provided the opportunity of a free public school education.

(g) It has also been determined that traditional revenue resulting from new residential development will not be adequate to support the capital educational facilities necessary to accommodate the school age children generated from the new residential development.

(h) In order to make up for this shortfall and ensure that the School Board can continue to provide adequate capital educational facilities to accommodate new school age children, the School Board of Miami-Dade County, Florida has requested the Board of County Commissioners of Metropolitan Miami-Dade County to adopt an educational facilities impact fee to be paid by new residential development and to be earmarked for the construction of new capital educational facilities to accommodate the school age children generated as a result of new residential development.

(i) The Florida legislature through the enactment of Section 163.3202(3), Florida Statutes has sought to encourage local governments to adopt impact fees.

(j) The Miami-Dade County Home Rule Amendment to the Florida Constitution, Article VIII, Section 6, of the Florida Constitution (1968); Section 1.01, Miami-Dade County Charter; and Chapter 163, Part II, Florida Statutes (F.S.), authorize the regulation of land development, which includes the imposition of developmental impact fees.

(k) Each of the types of new residential development described in this chapter will place additional students in the public schools of Miami-Dade County, necessitating the development of additional capital educational facilities including the acquisition of school sites, the construction of new public schools, and the expansion of existing educational facilities.

(l) The educational facilities impact fees are derived from, are based upon, and do not exceed the costs of providing these new capital educational facilities necessitated by this new residential development

(m) The Board of County Commissioners of Metropolitan Miami-Dade County have reviewed, accepted, and incorporated as Attachment "A" into this chapter by reference *Educational Facilities Impact Fee Methodology and Technical Report,* prepared by James Duncan and Associates and Dr. James C. Nicholas, dated April 7, 1995, which establishes the need for the educational facilities impact fee and sets forth a reasonable methodology and analysis for the determination of the impact fee.

(n) The purpose of this chapter is to regulate the use and development of land so as to assure that new residential development bears a proportionate share of the cost of capital expenditures necessary to provide educational facilities as contemplated by the CDMP.

(o) This chapter is intended to implement the policies established in Section 235.193, Florida Statues.

(Ord. No. 95-79, § 2(2), 5-2-95)

Sec. 33K-3. Rules of construction.

(a) The provisions of this chapter shall be liberally construed so as to effectively carry out its purpose in the interest of furthering public education in Miami-Dade County.

(b) For the purposes of administration and enforcement of this chapter, unless otherwise stated in this chapter, 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) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

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

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

(6) 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, conditional provisions, or events shall apply singly but not in combination.

(7) 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.

(8) "Day" means calendar day.

(Ord. No. 95-79, § 2(3), 5-2-95)

Sec. 33K-4. Definitions.

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

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

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

(3) *Capital educational facilities* include but shall not be limited to land for public school sites, site preparation and infrastructure costs for school sites, public school buildings, furniture, fixtures and equipment (FF & E) for public school buildings, school buses, portable facilities used at public schools, and Miami-Dade County School Board buildings used to house transportation facilities and maintenance facilities.

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

(5) *Development of regional impact* means any development which because of its character, magnitude or location would have a substantial impact on the health, safety or welfare of the citizens of more than one county, and which has received a development order pursuant to Section 380.06, Florida Statutes.

(6) *Educational facilities impact fee,* *fee,* or *impact fee* means the proportionate fair share charge required to be paid in accordance with this chapter.

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

(8) *Existing residential development* means the lawful residential land development existing as of the effective date of this chapter, and any residential land development for which the landowner holds a valid building permit or valid mobile home dwelling unit tie-down permit as of the effective date of this chapter. Existing residential land development shall also include that maximum level of development activity for which a previous impact fee was paid under the provisions of this chapter. Residential land development shall include but not be limited to single family dwellings, multi-family dwellings, and mobile home dwelling units.

(9) *Feepayer* means a person intending to commence new residential land development during the life of the development by applying for the issuance of a building permit or mobile home tie-down permit to construct new residential development, expand residential development, or change the use of a non-residential development to a new residential development for which an impact fee is required to be paid pursuant to the terms of this chapter. Feepayer also includes a person who has paid an impact fee, or provided a letter of credit pursuant to this chapter.

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

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

(12) *Person* means individuals, partnerships, trusts, corporations, and all other legal entities authorized by the law of Florida to own and develop real property.

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

(14) *School board* means the School Board of Miami-Dade County, Florida.

(15) *Unit size* means the unadjusted square footage of a new or existing residential development contained under roof (including garage and roofed patio areas).

(Ord. No. 95-79, § 2(4), 5-2-95; Ord. No. 95-215, § 1, 12-5-95)

Sec. 33K-5. Imposition of educational facilities impact fee.

(a) Any application for a building permit for new residential development within Miami-Dade County shall be subject to the imposition of an educational impact fee in the manner and amount set forth in this chapter. All building permits issued after the effective date of this chapter shall be subject to the imposition of the computed impact fee as determined herein.

(b) No such building permit shall be issued by the County or any Miami-Dade County municipality unless and until the applicant has paid such impact fee, or presented a letter of credit for such impact fee in a form acceptable to the Miami-Dade County Planning and Zoning Director.

(c) Notwithstanding the payment of an educational facilities impact fee, other state, County, or municipal developmental regulations may limit the issuance of building permits for development activity.

(d) Nothing in this chapter shall prohibit any municipality, School Board, or Miami-Dade County from paying the required impact fee on behalf of any applicant or feepayer. In such an instance, the impact fee payment shall be from allowable fundable sources other than prior impact fee revenues.

(e) The educational facilities impact fee manual (the manual) shall be used for the administration of this chapter.

(Ord. No. 95-79, § 2(5), 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 31, 9-3-98)

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

(a) The feepayer shall pay an educational facilities impact fee amount based on the formula set forth below. Such fee is based on the capital cost required to serve the increased demand for capital educational facilities resulting from proposed new residential development, together with impact fee administration charges. The formula to be used to calculate the educational facilities impact fee shall be established as follows for all new residential development, except as applied to the expansion of existing residential units which is addressed below in [Section 33K-5](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-5IMEDFAIMFE)(e). The Director of the Miami-Dade County Department of Planning and Zoning shall employ the following formula to compute the amount of the fee to be paid:

New Residential Unit Size\*

(square feet)

×

Square Footage Fee\*\*

($0.90)

+

Base Fee

($600.00)

+

2% Administrative Fee

=

Educational Facilities Impact Fee

\*Provided by the Miami-Dade County Department of Planning and Zoning or municipality at the time of building permit application or change of use, whichever is applicable.

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

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

(c) In the case of new residential development involving a change of use from non-residential development to residential units, a fee shall be determined for each new individual residential unit created based on the unit size of that new individual residential unit, pursuant to the formula in [Section 33K-6](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-6COAMEDFAIM)(a).

(d) In the case of the creation of additional residential units from existing residential units, a fee shall be determined for each new additional residential unit created based on the unit size of the new residential unit, pursuant to [Section 33K-6](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-6COAMEDFAIM)(a).

(e) In the case of the expansion of any existing residential unit, a fee shall be determined only for the increase in unit size. The impact fee shall be determined by the following formula:

Increase In Unit Size

(square feet)

×

Square Footage Fee

($0.90)

+

2% Administrative Fee

=

Educational Facilities Impact Fee

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

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

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

(i) The County Planning and Zoning Director, in consultation with the School Board, shall annually review the contents of the Educational Facilities Impact Fee chapter, its formula, and the Educational Facilities Impact Fee Methodology and Technical Report, and if appropriate, make recommendations for revisions to the Board of County Commissioners. The Board of County Commissioners shall consider the County Planning and Zoning Director's and School Board's recommendations within three (3) months of their receipt. The County Department of Planning and Zoning and School Board's recommendation and the Commission's action shall ensure that the benefits to a feepaying development are equitable in that the fee charged to the paying development shall not exceed a proportionate share of the cost of mitigating capital educational facilities impacts, and the procedures for administering the impact fee process remain efficient.

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

(Ord. No. 95-79, § 2(6), 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 31, 9-3-98)

Sec. 33K-7. Assessment and payment of fee.

(a) The person applying for the issuance of a building permit for new residential development not exempted pursuant to [Section 33K-8](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-8EX) shall pay the educational facilities impact fee pursuant to [Section 33K-6](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-6COAMEDFAIM), less any applicable credits as provided for in [Section 33K-9](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-9CR), to the County Planning and Zoning Director prior to the issuance of the building permit. No such permits shall be requested, issued, or approved until the applicable impact fee is paid.

(b) All funds collected shall be properly identified and promptly transferred for deposit in the Educational Facilities Impact Fee Trust Fund and shall be held in a separate account as determined in [Section 33K-10](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-10BEDITRFU) of this chapter and shall be used solely for the purposes specified in this chapter.

(c) No building permit shall be requested, issued or approved by Miami-Dade County or any municipality until such applicable impact fee has been paid.

(Ord. No. 95-79, § 2(7), 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 31, 9-3-98)

Sec. 33K-8. Exemptions.

The following shall be exempt from the terms of this chapter. An exemption must be claimed by the feepayer at the time of application for a building permit or mobile home tie-down permit Any exemption not so claimed shall be deemed to have been waived by the feepayer.

(a) Any land development activity that is not capable of creating capital educational facilities demand during its useful lifetime as a matter of law and fact.

(b) Multi-family units contained in one (1) or more buildings with a minimum of six (6) units per building and which units do not contain kitchen facilities for the exclusive use of one (1) family.

(c) The construction of accessory buildings or structures on residentially zoned properties which are detached from the primary use and which will not result in the occupancy of additional school age children.

(d) The replacement of any residential structures which physically and lawfully existed at any time subsequent to January 1, 1992 for which the landowner held a valid building permit.

(e) The issuance of a tie-down permit for a mobile home on which an impact fee has been paid.

(Ord. No. 95-79, § 2(8), 5-2-95)

Sec. 33K-9. Credits.

(a) Credit for up to the full amount of the educational facilities impact fee shall be given by the County Planning and Zoning Director after review and recommendation of the School Board for monetary contributions or land dedication made toward capital educational facilities that were voluntarily proffered or required under a County or municipal development order issued for a development of regional impact or development of County impact or under other final legislative or administrative action approved prior to the effective date of this chapter.

(1) Credit shall be limited to the extent of monies paid or land dedicated.

(2) A credit shall be considered only for those properties encompassed by the development order or action.

(3) Any feepayer claiming such credit shall present documentation and any other evidence of a monetary contribution or land dedication for capital educational facilities.

(4) Any appeal from determination of the amount of credit pursuant to this subsection shall be to the Developmental Impact Committee Executive Council pursuant to the procedures set forth in [Section 33K-14](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-14APADDE) of this chapter.

(b) Credit shall also be provided to any feepayer by the County Planning and Zoning Director if the School Board accepts feepayer's offer to dedicate or convey land to the School Board for school sites, or accepts an offer to provide capital educational facilities, or provide a contribution. In the event that the feepayer offers to dedicate or convey land, the feepayer shall provide to the School Board prior to the School Board acceptance of feepayer's offer, an environmental site assessment which specifically complies with the requirements set forth in American Society For Testing and Materials (ASTM) Standards on Environmental Site Assessments for Commercial Real Estate, Second Edition, E1527-94 Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process and 1528-93 Standard Practice for Environmental Site Assessments: Transaction Screen Process. This requirement shall not be deemed exclusive and the School Board is authorized to require any and all conditions necessary prior to acceptance of feepayer's offer to dedicate or convey land.

(c) The credit shall equal the amount of the fair market value of the land dedication, capital educational facility provided, or contribution given. If the School Board accepts such an offer, it shall inform the County Planning and Zoning Director of the dedication or contribution and the value of the credit. The County Planning and Zoning Director shall review the materials submitted by the School Board, and then determine the appropriate credit and/or reimbursement due against the sum otherwise due. Reimbursements to the feepayer shall be made with available revenue from the benefit district within which the capital educational facilities have been provided. The fee or portion satisfied by the conveyance of land or contribution of capital educational facilities shall be deemed paid when the conveyance or contribution has occurred. In administering this provision, the County Planning and Zoning Director shall comply with the requirements of Section 380.06(16), Florida Statutes and the procedures in the Educational Facilities Impact Fee Manual.

(Ord. No. 95-79, § 2(9), 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 97-92, § 2, 6-17-97; Ord. No. 98-125, § 31, 9-3-98)

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

(a) For the purpose of ensuring feepayers receive sufficient benefit for fees paid, there are hereby created and established three (3) educational facilities impact fee benefit districts. The geographic locations of these benefit districts are reflected on Attachment "B", which exhibit is incorporated into and made a part of this chapter by reference.

(b) A separate interest bearing trust account shall be established for each benefit district for the purpose of insuring that the fees collected under this chapter are designated for the accommodation of impacts reasonably attributable to the new residential development paying the impact fee.

(c) All impact fees collected by the County Planning and Zoning Director shall be promptly deposited into the trust account designated for the benefit district where the residential development is located, except that general administrative costs not exceeding two (2) percent of the impact fee amount may be kept by the County and deposited into the administrative fund accounts of the County for the purpose of paying for the administrative costs. Miami-Dade County and the School Board shall enter into an Interlocal Agreement which provides for the periodic transfer of a portion of these administrative costs to the School Board to defray the School Board costs in assisting the County in the administration of this chapter. The Interlocal Agreement shall be adopted concurrent with this chapter. The County Planning and Zoning Director shall conduct a study every two (2) years to determine whether the two (2) percent charge continues to reasonably cover the cost of administering this chapter. The County shall adjust the administrative costs according to the findings of those studies and shall amend this provision of the chapter if the administrative costs need to be modified.

(Ord. No. 95-79, § 2(10), 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 31, 9-3-98)

Sec. 33K-11. Use of funds.

(a) Any educational facilities impact fees collected under this chapter are expressly designated and earmarked for the accommodation of capital educational facility impacts reasonably attributable to new residential development as hereinafter provided in this section.

(b) Miami-Dade County and the School Board shall enter into an Interlocal Agreement which provides for the periodic transfer of educational facilities impact fees from the County Planning and Zoning Director to the School Board. The Interlocal Agreement shall be adopted prior to the effective date of this chapter. The Interlocal Agreement shall authorize Miami-Dade County to perform an annual administrative audit of the School Board's use of impact fee funds, including an economic evaluation of the use of such funds. The Interlocal Agreement shall also provide that Miami-Dade County at its option may request assistance of the State Auditor General. Miami-Dade County under the Interlocal Agreement shall have the authority to withhold transfer of impact fees should the School Board refuse to submit to an audit as provided herein. The School Board shall spend these educational facility impact fees solely for capital educational facilities necessitated by new residential development consistent with the provisions of this chapter and as permitted by State Law. The Interlocal Agreement shall provide for a maintenance of effort with [respect] to existing capital expenditures by the School Board and not reduce its funding efforts by substituting funds derived from impact fees. These funds may be used to provide refunds pursuant to [Section 33K-13](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-13REIMFEPA). If the School Board fails to encumber these impact fees for the specified purposes within six (6) years of their payout, they shall be returned to the County Planning and Zoning Director for redeposit in the appropriate impact fee trust accounts, and refunded pursuant to [Section 33K-13](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-13REIMFEPA)

(c) Impact fee funds from each trust account shall be spent within the benefit district from which the new residential development for which the fees are paid are located. The impact fee funds shall be spent in accordance with [Section 33K-12](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-12IMFEEX) of this chapter.

(d) Trust account funds shall be deemed to be spent or encumbered for expenditure on the assumption that the first money placed in the appropriate trust funds shall be the first money taken out when withdrawals are made.

(e) Monies, including any accrued interest, not encumbered in any fiscal period shall be retained in the appropriate trust account until the next fiscal period except as provided by the refund provisions of this chapter.

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

(Ord. No. 95-79, § 2(11), 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 31, 9-3-98)

Sec. 33K-12. Impact fee expenditures.

(a) Expenditures from the educational facilities impact fee accounts are authorized for the following:

(1) Capital educational facilities, including facilities acquired through public educational facilities acquisitions agreement;

(2) Planning, design, and construction plan preparation for capital educational facilities;

(3) Permitting and fees for capital educational facilities;

(4) Land and materials acquisition for capital educational facilities, including any costs of acquisition or condemnation;

(5) Site preparation for land;

(6) Relocation of utilities required by the construction of capital educational facilities;

(7) Costs for utility extension or improvements, or other capital facilities like roads that are necessary to accommodate capital educational facility buildings;

(8) Design and construction of new drainage facilities required by the construction of capital educational facilities and additions to capital educational facilities;

(9) Landscaping and site preparation for capital educational facilities, including demucking, filling to flood criteria and compaction;

(10) Construction management and inspection for capital educational facilities;

(11) Surveying, soils and materials testing and removal of hazardous and solid waste materials related to the construction of capital educational facilities; and

(12) Acquisition of furniture, fixtures and equipment (FF & E) for educational services.

(b) Monies collected shall be deemed to be spent or encumbered for expenditures on the assumption that the first money placed in the appropriate trust fund shall be the first money taken out of the trust fund when monies are spent or encumbered.

(c) The two (2) percent administrative fee portion of the impact fee shall be deposited into a separate operating account of the Miami-Dade County Department of Planning and Zoning and shall be used solely to pay the costs of administering the impact fee.

(Ord. No. 95-79, § 2(12), 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 31, 9-3-98)

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

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

(1) If a building permit within Miami-Dade County encompassing feepaying development expires or is revoked, or if the feepayer has paid impact fees in excess of the amount required in this chapter, then the feepayer shall be entitled to a refund of the impact fees paid or the appropriate portion thereof, without interest, from the County Planning and Zoning Director, except that the County Planning and Zoning Director may retain the administrative cost portion of the fee for the administration of the impact fee calculation, collection, and refund. If the County Planning and Zoning Director has transmitted the impact fee funds to the School Board pursuant to [Section 33K-11](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-11USFU)(b) that are required to be refunded, the School Board shall transmit back the monies to be refunded to the County Planning and Zoning Director.

(2) In no event shall a refund be provided pursuant to this subsection [33K-13](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-13REIMFEPA)(a), for impact fees deemed expended pursuant to [Section 33K-12](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-12IMFEEX)

(3) Funds shall be deemed expended for the purposes of this chapter when a contract or agreement encumbering all or a portion of the payment of said funds shall be approved by final School Board action.

(b) For the purpose of refunds under this section, monies collected shall be deemed to be spent or encumbered for expenditure on the assumption that the first money placed in the appropriate trust fund shall be the first money taken out of the fund when monies are spent or encumbered.

(c) No refunds of educational facilities impact fees shall be given for new residential development which results in a negative impact fee computation.

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

(Ord. No. 95-79, § 2(13), 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 31, 9-3-98)

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

(a) Except as otherwise provided in this chapter, decisions of the County Planning and Zoning Director under this chapter may be appealed by the feepayer or the School Board to the Developmental Impact Committee Executive Council. Appeals of the decisions of the Developmental Impact Committee Executive Council may be made by either the feepayer or the School Board to the Board of County Commissioners in accordance with procedures specified in [Section 33-314](../level3/PTIIICOOR_CH33ZO_ARTXXXVIZOPR.docx#PTIIICOOR_CH33ZO_ARTXXXVIZOPR_S33-314DIAPAPCOCO). The written decision of the Developmental Impact Committee Executive Council shall be mailed by certified mail, return receipt requested. Any appeal shall be filed within thirty (30) days from the date of receipt of the Council's written decision.

(b) If the feepayer or School Board decides to appeal an administrative decision of the County Planning and Zoning Director, the feepayer or School Board shall first file a notice of administrative appeal with the Developmental Impact Committee Coordinator. All appeals shall be filed within thirty (30) days of the issuance of a written decision of the County Planning and Zoning Director and shall be accompanied by a letter which provides a full explanation of the request, the reason for the appeal, and any supporting documentation. The Developmental Impact Committee Coordinator shall schedule the appeal before the Council as soon as practically possible. The Developmental Impact Committee Executive Council shall vote to affirm, reject or revise the decision of the County Planning and Zoning Director.

(Ord. No. 95-79, § 2(14), 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 31, 9-3-98)

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

(a) The educational facilities impact fee manual shall be used for the administration of this chapter. The manual shall contain the following:

(1) The standards and procedures for issuance of credits as set forth in [Section 33K-9](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-9CR)

(2) The standards, procedures and other matters required to administer Sections [33K-4](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-4DE) through [33K-15](../level2/PTIIICOOR_CH33KEDFAIMFE.docx#PTIIICOOR_CH33KEDFAIMFE_S33K-15EDFAIMFEMAPERE)

(b) The County Planning and Zoning Director in conjunction with the School Board shall periodically review this chapter and, if appropriate, make recommendations to the Board of County Commissioners for revisions to the chapter. The purpose of this review is to ensure that the benefits to a feepaying development are equitable in that the fee charged to the feepaying development shall not exceed a proportionate fair share of the costs of accommodating that new development, and that the procedures for administering the impact fee remains efficient.

(Ord. No. 95-79, § 2(15), 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 31, 9-3-98)

Sec. 33K-16. Vested rights.

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

(Ord. No. 95-79, § 2(16), 5-2-95)

FOOTNOTE(S):

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**Editor's note—** Ord. No. 95-79, § 2, adopted May 2, 1995, created a new Ch. 33K, §§ 1—16, which provisions have been included herein at the discretion of the editor as §§ 33K-1—33K-16. [(Back)](#BK_98264D43874A56D86D75FE9669795470)

**Cross reference—** Road impact fees, Ch. 33E; park impact fee ordinance, Ch. 33H; police services impact fee, Ch. 33I; fire and emergency medical services impact fee, Ch. 33J. [(Back)](#BK_98264D43874A56D86D75FE9669795470)