

# PROPOSED

ORDINANCE NO. 2021-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO SCHOOL IMPACT FEES AND STUDENT GENERATION RATES; AMENDING SECTIONS 5-182.9 AND 5-184 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"), PROVIDING FOR APPLICABILITY, STUDENT GENERATION RATES, AND SCHOOL IMPACT FEE WAIVERS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 5-182.9 of the Broward County Code of Ordinances is hereby amended to read as follows:

**Sec. 5-182.9. Adequacy of school sites and facilities.**

(a) *Land suitable for residential development pursuant to applicable land development regulations shall be subject to public school concurrency.*

(1) *Public school concurrency.* Pursuant to the Public School Facilities Element of the Broward County Comprehensive Plan (PSFE) and the Third Amended and Restated Interlocal Agreement for Public School Facility Planning (ILA), Broward County shall collaborate with the School Board of Broward County (School Board) and Broward County municipalities to ensure that public school facilities will be available for current and future students.

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b) *Exemptions and vested development.*

- 1) The following residential applications for residential plat, replat, plat note amendment, or any unincorporated area site plan shall be forwarded to the School Board for a determination as to whether the applications are exempt from the requirements of public school concurrency:

...

- b. An application for age-restricted communities ~~with no permanent residents under the age of eighteen (18) meeting the definition of "housing for older persons," as defined in Section 760.29(4), Florida Statutes.~~ Exemption for an age-restricted community meeting the definition of "housing for older persons" shall only be available subject to a recorded Restrictive Covenant prohibiting the residence of school aged children in a manner consistent with federal, state, or local laws or regulations.

...

(b) *Development subject to adequacy determination.*

...

- (2) In order to provide lands, facilities, or funds to be used to meet the need for school sites and facilities created by residential development, a developer

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 must satisfy one (1) of the following three (3) requirements, or a combination  
 2 thereof:

3 . . .

4 SCHOOL IMPACT FEE SCHEDULE

<i>Dwelling Type</i>	<i>Bedrooms</i>	<i>-Fee Per Unit-</i>	
		<i>Eff. 11/1/20</i>	<i>Eff. 1/1/22*</i>
. . .			

8 ~~\* Consistent with the County Commission's motion in enacting these increased fees, the~~  
 9 ~~County Commission reserves the right to delay, reduce, or eliminate the increased fees~~  
 10 ~~if, prior to January 1, 2022, the date such increase would otherwise take effect, the School~~  
 11 ~~Board has not, as determined by the County Commission, made an appropriate~~  
 12 ~~modification to its impact fee waiver policy to address the increased impact fees assessed~~  
 13 ~~against developments meeting the housing needs of moderate income persons, as that~~  
 14 ~~term is defined in the Broward County Land Use Plan.~~

15 . . .

16 (5) For purposes of this section, the estimated number of students generated  
 17 by dwelling type is hereby found to be as follows:

18 STUDENT GENERATION RATES

<i>Dwelling Type</i>	<i>Bedrooms</i>	<u><i>Elementary School</i></u>	<u><i>Middle School</i></u>	<u><i>High School</i></u>	<u><i>Rate Total</i></u>
Single	3 or fewer	<u>0.167</u>	<u>0.070</u>	<u>0.131</u>	0.368
Family Homes	4 or more	<u>0.218</u>	<u>0.115</u>	<u>0.167</u>	0.500
	2 or fewer	<u>0.102</u>	<u>0.039</u>	<u>0.059</u>	0.200

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1	Townhouse,	3 or more	<u>0.142</u>	<u>0.056</u>	<u>0.102</u>	0.300
2	Duplex, Villa					
3	Garden	1 or fewer	<u>0.079</u>	<u>0.060</u>	<u>0.001</u>	0.140
4	Apartment	2	<u>0.053</u>	<u>0.007</u>	<u>0.140</u>	0.200
5		3 or more	<u>0.088</u>	<u>0.047</u>	<u>0.105</u>	0.240
6	Midrise	1 or fewer	<u>0*</u>	<u>0*</u>	<u>0.030</u>	0.030
7		2 or more	<u>0.022</u>	<u>0.019</u>	<u>0.039</u>	0.080
8	High Rise	All	<u>0.009</u>	<u>0.015</u>	<u>0.006</u>	0.030
9	Mobile Home	2 or fewer	<u>0.073</u>	<u>0.036</u>	<u>0.041</u>	0.150
10		3 or more	<u>0.159</u>	<u>0.078</u>	<u>0.089</u>	0.326

11 \*No students were observed.

12 ...

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 14 Section 2. Section 5-184 of the Broward County Code of Ordinances is hereby  
 15 amended to read as follows:

16 **Sec. 5-184. Presumptions, limitations, agreements, and security for development**  
 17 **review requirements.**

18 ...

19 (b) *Limitation on required dedications and improvements; money in lieu of*  
 20 *dedications and improvements.*

21 ...

22 (4) When an application for a development permit is made for the construction  
 23 of affordable housing, as defined by Division 6 of this article, the County  
 24 Commission may waive, upon a request therefor, dedications of land,

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1 payments of money in lieu thereof, administrative fees, and application fees,  
2 as set forth herein, if the County Commission or the Planning and  
3 Development Management Division Director finds that the proposed project  
4 will provide affordable housing for very low income or low income persons  
5 as defined by the Broward County Housing Finance and Community  
6 Redevelopment Division. Prior to consideration of any waiver request, the  
7 developer must provide certification from the Broward County Housing  
8 Finance and Community Redevelopment Division stating that the project  
9 qualifies as affordable housing at a specified income level.

10 Any such waiver shall be only for that portion of the development that  
11 qualifies as affordable housing. The percentage of any waiver granted shall  
12 be one hundred percent (100%).

13 If the application is subject to site plan review or payment of an impact or  
14 concurrency fee prior to application for a municipal building permit, the  
15 Planning and Development Management Division Director may grant a  
16 waiver request, in accordance with the above-cited requirements, or refer it  
17 to the County Commission pursuant to Section 5-181(g). All waivers  
18 granted by the Planning and Development Management Division Director  
19 shall be reported to the County Commission quarterly.

20 With the exception of waivers for affordable housing, the County  
21 Commission or the Planning and Development Management Division  
22 Director shall identify the source of funds that will be used to pay for the  
23 services or facilities that would otherwise have been paid for by such  
24 dedications, payments, or fees, not including application fees. A waiver of

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1 educational impact fees shall not be granted unless the School Board of  
2 Broward County has approved said waiver ~~and identified the source of~~  
3 ~~funds in writing.~~

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6 Section 3. Severability.

7 If any portion of this Ordinance is determined by any court to be invalid, the invalid  
8 portion will be stricken, and such striking will not affect the validity of the remainder of this  
9 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be  
10 legally applied to any individual, group, entity, property, or circumstance, such  
11 determination will not affect the applicability of this Ordinance to any other individual,  
12 group, entity, property, or circumstance.

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14 Section 4. Inclusion in the Broward County Code of Ordinances.

15 It is the intention of the Board of County Commissioners that the provisions of this  
16 Ordinance become part of the Broward County Code of Ordinances as of the effective  
17 date. The sections of this Ordinance may be renumbered or relettered and the word  
18 "ordinance" may be changed to "section," "article," or such other appropriate word or  
19 phrase to the extent necessary in order to accomplish such intention.

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Section 5. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED

**PROPOSED**

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:  
Andrew J. Meyers, County Attorney

By /s/ Alexis Marrero Koratich 05/06/2021  
Alexis Marrero Koratich (date)  
Assistant County Attorney

By /s/ Maite Azcoitia 05/06/2021  
Maite Azcoitia (date)  
Deputy County Attorney

AIK/gmb  
School Student Generation Ordinance  
05/06/2021  
#41005-0002

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