

# PROPOSED

## ORDINANCE NO. 2020-

1 AN ORDINANCE OF THE BOARD OF COUNTY  
2 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,  
3 PERTAINING TO THE LAND DEVELOPMENT CODE;  
4 AMENDING SECTION 5-182.9 OF THE BROWARD  
5 COUNTY CODE OF ORDINANCES ("CODE"), PROVIDING  
6 FOR ADEQUACY OF SCHOOL FACILITIES AS PART OF  
7 DEVELOPMENT REVIEW; AND PROVIDING FOR  
8 SEVERABILITY, INCLUSION IN THE CODE, AND AN  
9 EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

8 WHEREAS, Section 163.31801, Florida Statutes, the "Florida Impact Fee Act,"  
9 recognizes impact fees as an important source of revenue for local governments to use  
10 in funding the infrastructure necessitated by new growth;

11 WHEREAS, the Broward County Land Development Code ("Land Development  
12 Code") establishes student generation rates and applicable school impact fees to be paid  
13 by developers of residential development to provide for the educational needs of the  
14 residents of new dwelling units;

15 WHEREAS, the Land Development Code provides for the collection of school  
16 impact fees by Broward County, with quarterly remission to the School Board of Broward  
17 County ("School Board") for expenditure consistent with the Land Development Code and  
18 relevant law;

19 WHEREAS, pursuant to that Third Amended and Restated Interlocal Agreement  
20 for Public School Facility Planning, Broward County, Florida (ILA), among Broward  
21 County, the School Board, and twenty-seven (27) municipalities within Broward County,  
22 the School Board has caused an update of the student generation rates to be conducted;

1 WHEREAS, the Broward County Public School Student Generation Rate and  
2 School Impact Fee Study Update prepared by Tindale Oliver and dated July 23, 2019  
3 (Update), provides for modified student generation rates and school impact fees;

4 WHEREAS, on August 6, 2019, the School Board adopted Resolution No. 20-03,  
5 recommending that Broward County amend the Land Development Code consistent with  
6 the student generation rates and school impact fees contained in the Update; and

7 WHEREAS, the Board of County Commissioners of Broward County, Florida,  
8 deems it in the best interest of the citizens of Broward County to amend the student  
9 generation rates and school impact fees contained within the Land Development Code  
10 consistent with the Update,

11  
12 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
13 BROWARD COUNTY, FLORIDA:

14  
15 Section 1. Section 5-182.9 of the Broward County Code of Ordinances is  
16 hereby amended to read as follows:

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

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

20 (1) *Public school concurrency.* Pursuant to the Public School Facilities  
21 Element of the Broward County Comprehensive Plan (PSFE) and the  
22 Third Amended and Restated Interlocal Agreement for Public School  
23 Facility Planning (ILA), Broward County shall collaborate with the School  
24 Board of Broward County (School Board) and Broward County

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1 municipalities to ensure that public school facilities will be available for  
2 current and future students.

3 . . .

4 c) *Level of service (LOS) standards.* ~~The following LOS standards shall~~  
5 ~~be achieved and maintained within the period covered by the five-~~  
6 ~~year schedule of capital improvements contained in the effective~~  
7 ~~Five-Year Adopted District Educational Facilities Plan (DEFP)~~ In  
8 order to ensure that the capacity of schools is sufficient to support  
9 student growth and that a uniform, districtwide LOS is applied for  
10 public schools of the same type, the following School Types and LOS  
11 are established:

12 1) School Type A is a bounded elementary, middle, or high  
13 school that has the equivalent of at least  
14 ten percent (10%) of its permanent Florida Inventory of  
15 School Houses (FISH) capacity available onsite in  
16 relocatable classrooms (relocatables). The LOS for School  
17 Type A shall be one hundred percent (100%) of gross  
18 capacity, including relocatables.

19 2) School Type B is a bounded elementary, middle, or high  
20 school that has less than the equivalent of  
21 ten percent (10%) of its permanent FISH capacity available  
22 onsite in relocatables. The LOS for School Type B shall be  
23 one hundred ten percent (110%) of permanent FISH  
24 capacity.

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1 The LOS for schools containing magnet programs shall be  
2 considered the same as for each pertinent school level (elementary,  
3 middle, and high). The LOS standard shall be achieved and  
4 maintained within the period covered by the five-year schedule of  
5 capital improvements contained in the effective Five-Year Adopted  
6 District Educational Facilities Plan (DEFP).

7 . . .

8 (2) In order to provide lands, facilities, or funds to be used to meet the need  
9 for school sites and facilities created by residential development, a  
10 developer must satisfy one (1) of the following three (3) requirements, or  
11 a combination thereof:

12 a) Convey land acceptable to the ~~Broward County~~ School Board of  
13 suitable size, dimension, soil type, topography, and general  
14 character to meet the need for school sites created by the  
15 development, as set forth in paragraphs (4) and (5) of this  
16 ~~subsection~~;

17 b) Provide facilities acceptable to the ~~Broward County~~ School Board  
18 to meet the need for school facilities created by the development,  
19 as set forth in paragraphs (3) and (4) of this section;

20 c) Deposit in a nonlapsing account, established and maintained by the  
21 County, an amount of money as set forth in the fee schedule below,  
22 as adjusted and in effect at the time of payment, for each dwelling  
23 unit to be constructed within the developed area ~~based on the fee~~  
24 ~~schedule in effect at the time of payment~~. Any money paid to the

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County under this section shall be reimbursed to the developer if the County is presented with credible evidence from the appropriate municipality that one (1) of the following has occurred: no building permit application was filed within thirty (30) days ~~of~~ after the Planning and Development Management Division Approval authorized under ~~s~~Section 27-66 of the Code of Ordinances; the building permit application has expired; or the building permit was issued and has expired. The amount of money to be deposited for each dwelling unit to be constructed shall be as follows and for each fiscal year after September 30, 201421, shall be adjusted on October 1 by the amount of change reflected for the previous twelve (12) month period in the Implicit Price Deflator of the Gross National Product prepared by the United States Department of Commerce, Bureau of Economic Analysis.

Fee assessments, and ~~credits, and payments~~ shall occur during the review of construction plans submitted for County Environmental Review Approval required by ~~s~~Section 27-66, Broward County Code of Ordinances. Payments shall not be accepted prior to this review. No building permit shall be issued by the County or by any municipality without confirmation from the Planning and Development Management Division that the applicable school impact fees have been paid.

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The developer shall comply with c) hereof, unless the County Commission, upon recommendation of the School Board, determines that the developer shall comply with a) or b) hereof.

SCHOOL IMPACT FEE SCHEDULE

| Dwelling Type                         | Bedrooms   | -Fee Per Unit-          |                         |                   |
|---------------------------------------|------------|-------------------------|-------------------------|-------------------|
|                                       |            | <del>Eff. 1/26/15</del> | <del>Eff. 1/26/16</del> |                   |
| Single Family                         | 3 or fewer | <del>\$6,461.00</del>   | \$6,558.00              | <u>\$9,049.00</u> |
|                                       | 4 or more  | <del>8,241.00</del>     | 8,241.00                | <u>12,295.00</u>  |
| Townhouse, Duplex,                    | 2 or fewer | <del>2,969.00</del>     | 3,783.00                | <u>4,918.00</u>   |
| Villa                                 | 3 or more  | <del>5,712.00</del>     | 6,418.00                | <u>7,377.00</u>   |
| Garden Apartment                      | 1 or fewer | <del>358.00</del>       | 358.00                  | <u>559.00</u>     |
|                                       | 2          | <del>3,790.00</del>     | 4,182.00                | <u>4,918.00</u>   |
|                                       | 3 or more  | <del>6,037.00</del>     | 7,598.00                | <u>5,901.00</u>   |
| <del>Mid-Rise</del> <u>Midrise</u>    | 1 or fewer | <del>279.00</del>       | 279.00                  | <u>437.00</u>     |
|                                       | 2 or more  | <del>960.00</del>       | 1,098.00                | <u>1,718.00</u>   |
| <del>High-Rise</del> <u>High Rise</u> | All        | <del>208.00</del>       | 344.00                  | <u>538.00</u>     |
| Mobile Home*                          | 2 or fewer | <del>2,904.00</del>     | <del>2,995.00</del>     | <u>3,688.00</u>   |
|                                       | 3 or more  | <del>6,329.00</del>     | 6,440.00                | <u>8,016.00</u>   |

\* ~~Fee based on 2008 student generation rates and 2014 updated net funding deficit per new student.~~

...

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

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STUDENT GENERATION RATES

| <i>Dwelling Type</i>                  | <i>Bedrooms</i>       | <i>Elementary</i> | <i>Middle</i> | <i>High</i> | <i>Total Rate</i>    |
|---------------------------------------|-----------------------|-------------------|---------------|-------------|----------------------|
| Single Family Homes                   | 3 or fewer            | 0.17276           | 0.09131       | 0.10661     | 0.37068 <u>0.368</u> |
|                                       | 4 or more             | 0.23203           | 0.11136       | 0.12242     | 0.46581 <u>0.500</u> |
| Townhouse <sub>1</sub>                | <del>4 or fewer</del> | 0.06000           | *             | *           | 0.06000              |
| Duplex <sub>1</sub> Villa             | <u>2 or fewer</u>     | 0.10891           | 0.04878       | 0.05615     | 0.21384 <u>0.200</u> |
|                                       | 3 or more             | 0.17667           | 0.07568       | 0.11039     | 0.36274 <u>0.300</u> |
| Garden Apartment                      | 1 or fewer            | 0.01293           | 0.00323       | 0.00405     | 0.02021 <u>0.140</u> |
|                                       | 2                     | 0.13579           | 0.05622       | 0.04433     | 0.23634 <u>0.200</u> |
|                                       | 3 or more             | 0.19338           | 0.11324       | 0.12282     | 0.42944 <u>0.240</u> |
| <del>Mid-Rise</del> <u>Midrise</u>    | 1 or fewer            | 0.00788           | 0.00395       | 0.00395     | 0.01578 <u>0.030</u> |
|                                       | 2 or more             | 0.02840           | 0.01311       | 0.02053     | 0.06204 <u>0.080</u> |
| <del>High-Rise</del> <u>High Rise</u> | All                   | 0.01013           | 0.00356       | 0.00575     | 0.01944 <u>0.030</u> |
| Mobile Home**                         |                       | *                 | *             | *           | *                    |
|                                       | 2 or fewer            | 0.084             | 0.083         | *           | 0.167 <u>0.150</u>   |
|                                       | 3 or more             | 0.182             | 0.182         | *           | 0.364 <u>0.326</u>   |

\* ~~No students were observed in the sample.~~

\*\* ~~Mobile home generation rates based on 2008 study.~~

(6) Funds deposited pursuant to this section shall be segregated according to service planning areas as follows: set forth in the map herein, Figure 5A, "Broward County Public Schools Planning Areas." ~~The four (4) proposed service areas will run east to west between the following borders:~~

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- 1 a) ~~North: Broward County's northern boundary;~~  
2 ~~South: Commercial Boulevard (extended);~~
- 3 b) ~~North: Same as "South" of paragraph (a) hereof;~~  
4 ~~South: Las Olas Boulevard west to U.S. 1, north on U.S. 1 to~~  
5 ~~Broward Boulevard, west on Broward Boulevard to Southwest~~  
6 ~~125th Avenue, south on Southwest 125th Avenue to North New~~  
7 ~~River Canal, and west on North New River Canal (extended);~~
- 8 c) ~~North: Same as "South" of paragraph (b) hereof;~~  
9 ~~South: Sheridan Street west to Florida's Turnpike, north on~~  
10 ~~Florida's Turnpike to Stirling Road, west on Stirling Road~~  
11 ~~(extended);~~
- 12 d) ~~North: Same as "South" of paragraph (c) hereof;~~  
13 ~~South: Broward County's southern boundary.~~

14 A separate fund will be created for each service of the planning areas and  
15 the fees will be spent within a reasonable period of time from collection  
16 within the service planning areas in which they are collected, or within the  
17 planning areas adjacent thereto, for the acquisition of school sites or the  
18 provision of facilities ~~which~~, as identified in the Broward County School  
19 Board's Adopted Five-Year DEFP, as may be amended, that will  
20 substantially benefit the residents of the developed area- as follows:

- 21 a) Primarily, the School Board shall utilize the school impact fees to  
22 provide needed school facilities including, but not limited to,  
23 acquiring new school sites, construction of new schools, classroom  
24 additions, addition to core capacities, and acquiring technology

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1 necessitated by the growth, at those schools identified in the SCAD  
2 Letter issued by the School Board as being impacted by the  
3 development proposed by the applicant.

4 b) If site constraints or other issues make it impracticable for the  
5 School Board to provide the needed school facilities at the affected  
6 schools as delineated in a), as feasible, the School Board will  
7 reasonably provide the needed school facilities within the  
8 applicable planning area(s) containing the primarily impacted  
9 schools, thus relieving overcrowding at the primarily impacted  
10 planning area(s).

11 c) If site constraints or other feasibility issues make it impracticable for  
12 the School Board to provide the needed school facilities within the  
13 primarily impacted planning area(s) containing the primarily  
14 impacted schools, then the School Board may provide the  
15 additional school facilities within the planning area(s) adjacent to  
16 the primarily impacted planning area(s) in a manner that ensures  
17 that the impact of the proposed development continues to be  
18 reasonably mitigated and connected to, or have a rational nexus  
19 with, the expenditure of the collected school impact fees and the  
20 benefits accruing to the new residential development.

21 d) The School Board may leverage school impact fees to pay for  
22 existing and new debt service or for previously approved projects,  
23 provided there is a reasonable connection to, or a rational nexus  
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1                   with, the increased impact generated by the new residential  
2                   development, consistent with Section 163.31801, Florida Statutes.

3           (7)   The County shall remit quarterly to the ~~Broward County~~ School Board,  
4           ~~from time to time~~, monies from the ~~Trust F~~ funds hereunder created, to be  
5           spent by the School Board in its sole discretion, subject to such  
6           agreements between the County and the School Board as may be  
7           necessary to ensure that the requirements of this section and other  
8           applicable laws are met.

9   . . .

10           Section 2.   Exhibit A attached hereto, Figure 5A, "Broward County Public  
11 Schools Planning Areas," is incorporated herein and made a part of Section 5-182.9 of  
12 the Broward County Code of Ordinances.

13           Section 3.   Severability.

14           If any portion of this Ordinance is determined by any court to be invalid, the invalid  
15 portion will be stricken, and such striking will not affect the validity of the remainder of  
16 this Ordinance. If any court determines that this Ordinance, in whole or in part, cannot  
17 be legally applied to any individual, group, entity, property, or circumstance, such  
18 determination will not affect the applicability of this Ordinance to any other individual,  
19 group, entity, property, or circumstance.

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

21           It is the intention of the Board of County Commissioners that the provisions of  
22 this Ordinance become part of the Broward County Code of Ordinances as of the  
23 effective date. The sections of this Ordinance may be renumbered or relettered and the  
24

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1 word "ordinance" may be changed to "section," "article," or such other appropriate word  
2 or phrase to the extent necessary in order to accomplish such intention.

3 Section 5. Effective Date.

4 This Ordinance is effective on January 1, 2021.

**PROPOSED**

6 ENACTED

7 FILED WITH THE DEPARTMENT OF STATE

8 EFFECTIVE

9  
10 Approved as to form and legal sufficiency:  
Andrew J. Meyers, County Attorney

11 By /s/ Maite Azcoitia 07/14/2020  
12 Maite Azcoitia (date)  
13 Deputy County Attorney

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School Impact Fees Ordinance  
24 07/14/2020  
#41005-0002

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# Figure 5A: Broward County Public Schools Planning Areas

**Legend**

- Elementary Schools
- Middle Schools
- High Schools
- Combination Schools
- ▲ Centers

NO's 1-7 Planning Area

