

PROPOSED

ORDINANCE NO.

1 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
2 COUNTY, FLORIDA, PERTAINING TO EDUCATIONAL IMPACT FEE COLLECTION;
3 AMENDING SECTIONS 5-182.9, 5-182.13, 5-184, AND 27-66 OF THE BROWARD
4 COUNTY CODE OF ORDINANCES ("CODE"), PROVIDING FOR COLLECTION OF
5 EDUCATIONAL IMPACT FEES AND THE ISSUANCE OF DEVELOPMENT AND
6 ENVIRONMENTAL REVIEW APPROVALS; AMENDING CHAPTERS 5 AND 27 TO
7 UPDATE REFERENCES TO ENVIRONMENTAL REVIEW APPROVALS; AND
8 PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE
9 DATE.

10 (Sponsored by the Board of County Commissioners)

11
12 WHEREAS, on August 21, 2025, the Board of County Commissioners of Broward
13 County, Florida ("Board"), approved an item terminating for convenience the Interlocal
14 Agreement for the Collection of School Impact Fee Monies ("ILA") between Broward
15 County and The School Board of Broward County, Florida ("School Board");

16 WHEREAS, the ILA termination is effective on November 19, 2025;

17 WHEREAS, environmental review approvals have been renamed as development
18 and environmental review approvals; and

19 WHEREAS, the Board is desirous of amending the Broward County Code of
20 Ordinances to reflect the termination of the ILA and the collection of educational impact
21 fees by the School Board and to update references to environmental review approvals,

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

Section 1. Chapters 5 and 27 of the Broward County Code of Ordinances are hereby amended to replace each instance of “environmental review approval” throughout each chapter with “development and environmental review approval.”

Section 2. 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.

...

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

...

c) Deposit in a nonlapsing account, established and maintained by the ~~County~~ School Board, an amount of money as set forth in the fee schedule below, as adjusted and in effect at the time of payment, for each dwelling unit to be constructed within the developed area. Any money paid to the ~~County~~ School Board under this section shall be reimbursed to the developer if the ~~County~~ School Board is presented with credible evidence from the appropriate municipality

that one (1) of the following has occurred: ~~No~~ no building permit application was filed within thirty (30) days after the Housing and Urban Planning Division approval authorized under Section 27-66 of the Broward County Code of Ordinances ("Code"); 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:

Fee assessments and credits shall occur during the review of construction plans submitted for County Development and Environmental Review Approval required by Section 27-66; ~~Broward County Code of Ordinance~~ of the Code, with the payment occurring no later than at the time of building permit issuance. ~~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 ~~Urban Planning Division~~ School Board that the applicable school impact fees have been paid.

...

- (6) Funds deposited pursuant to this section shall be segregated according to planning areas as set forth in the map herein, Figure 5A, "Broward County Public Schools Planning Areas."

...

- d) The School Board may leverage school impact fees to pay for existing and new debt service or for previously approved projects,

provided there is a reasonable connection to, or a rational nexus with, the increased impact generated by the new residential development, consistent with Section 163.31801, Florida Statutes, as amended.

...

(7) ~~The County shall remit quarterly to the School Board m~~Monies from the funds hereunder created, to shall be spent by the School Board in its sole discretion, subject to such agreements between the County and the School Board as may be necessary to ensure that the requirements of this section and other applicable laws are met. The School Board shall furnish to the County, at least annually, and no later than within three (3) months after the end of the School Board's fiscal year, a report specifying the School Board's receipts and expenditures, by site and planning area, of the monies collected.

...

Section 3. Section 5-184 of the Broward County Code of Ordinances is hereby amended to read as follows:

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

...

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

...

(2) The amount of money required to be deposited with the County and, as applicable, the School Board, in lieu of dedication requirements and improvements shall be determined pursuant to the specific standards set forth in this division and the provisions of Section 163.31801, Florida Statutes, as amended. The use of such funds will be restricted to the acquisition, expansion, and development of service facilities for new users, provided that one percent (1%) of the funds received for roadway and park purposes pursuant to Sections 5-182.2, 5-182.7, and 5-182.12(d) shall be retained for administrative purposes, ~~and two percent (2%) of the funds received for transportation concurrency and educational purposes, pursuant to Section 5-182.1(a)(5)a) and the "Agreement between Broward County and The School Board of Broward County, Florida, relating to Educational Impact Fee Monies," shall be retained for administrative purposes.~~ The restriction on the use of funds deposited with the County shall not include monies deposited for Transportation Concurrency assessments.

...

- a) Any monies required pursuant to this division shall be deposited with the County and, as applicable, with the School Board, prior to County Development and Environmental Review Approval required by Section 27-66 of the Code.
- b) After building permits are issued for all the development approved by a development order previously received, if the development

114 reflected by building permits issued is less intensive than the
115 development that was used to compute required payment of monies
116 pursuant to Section 5-184(b), then, at the fee title holder's request
117 and upon appropriate proof, the County or the School Board, as
118 applicable, shall pay a refund of that portion of the monies
119 previously paid ~~to the County~~ that is proportional to the reduction in
120 intensity. If the developer has been required by the County
121 Commission to dedicate land, other than by a DRI Development
122 Order, then the amount of such refund shall be that portion of the
123 Property Appraiser's assessed value of the land at the time it was
124 dedicated or the value of the land shown by better evidence of value
125 presented to the County prior to the dedication that is proportional
126 to the reduction in intensity. In either of the above cases, no refund
127 shall be paid by the County or the School Board if it is determined
128 that ~~the County has expended~~ any sums paid by the developer, as
129 required herein, have been expended in reliance on completion of
130 the development under the development order, which determination
131 shall be made by the County Commission or the School Board, as
132 applicable.

- 133 c) The construction and dedication requirements of this division, or
134 any monies paid in lieu of such requirements, shall be considered
135 as benefits that run with the subject property. Any rights, credits, or
136 refunds that derive from such construction, dedication, or payments

shall inure to the property for which the corresponding development order was issued, unless otherwise provided for in an impact agreement, as described in ~~sub~~Section 5-184(c) of this article.

d) All funds paid to the County or the School Board under this division shall be refunded, upon application by the fee title holder, if:

1) The County or the School Board, as applicable, has not expended or encumbered the funds and is presented with credible evidence from the appropriate municipality that one (1) of the following has occurred: no building permit application was filed within ninety (90) days after the approval authorized under Section 27-66, ~~Broward County of~~ the Code of Ordinances; the building permit application has expired or been withdrawn; or the building permit was issued and has expired; ~~;~~ or

2) The County or the School Board, as applicable, has not expended or encumbered the funds by the end of the fiscal quarter immediately following six (6) years after the date the money was paid; ~~P~~provided, however, that for developments of regional impact with phased or a longer-term buildout, the six (6) year period of this section shall begin upon buildout of each particular phase. Any refunds authorized under this section shall be provided with

159 interest at the rate earned by the County or the School
160 Board, as applicable.

161 . . .

- 162 e) Prior to the acceptance of an impact/concurrency fee payment by
163 Broward County or the School Board, appropriate proof shall be
164 required documenting that the proposed construction does not
165 violate the approved and recorded plat note restriction or other
166 agreement that limits the intensity of the development. Said proof
167 shall include, but not be limited to, construction plans, including a
168 full set of mechanical, electrical, plumbing, and structural plans. The
169 County or the School Board may require a signed and sealed letter
170 or survey from the design professional and/or written verification
171 from the municipality of the development areas and uses.
172 Residential payments shall provide evidence of the dwelling unit
173 type(s) and the number of bedrooms in each dwelling unit, if the
174 payment is for less than the maximum specified in this article.
175 Nonresidential payments shall provide evidence of the gross square
176 footage of the building(s) including, but not limited to, permanent
177 canopies and overhangs for gas stations, drive-through facilities,
178 and overhangs designed for outdoor tables at a restaurant, and any
179 covered areas where business is conducted.

180 . . .

(4) With the exception of educational impact fees, ~~W~~hen an application for a development permit is made for the construction of affordable housing, as defined by Division 6 of this article, the County Commission may waive, upon a request therefor, dedications of land, payments of money in lieu thereof, administrative fees, and application fees, as set forth herein, if the County Commission or the Housing and Urban Planning Division ("Division") Director finds that the proposed project will provide affordable housing for very low income or low income persons, as defined by the ~~Broward County Housing Finance and Community Redevelopment~~ Division. Prior to consideration of any waiver request, the developer must provide certification from the ~~Broward County Housing Finance and Community Redevelopment~~ Division stating that the project qualifies as affordable housing at a specified income level.

...

With the exception of waivers for affordable housing, the County Commission or the Housing and Urban Planning Division Director shall identify the source of funds that will be used to pay for the services or facilities that would otherwise have been paid for by such dedications, payments, or fees, not including application fees. Any waivers of educational impact fees shall ~~not~~ be granted ~~unless~~ by the School Board of Broward County ~~has approved said waiver.~~

The developer, as a condition of approval, shall record in the ~~public~~ official records restrictive covenants upon the property, or shall enter into an

agreement with Broward County, acceptable to the ~~Office of the County~~
Attorney's Office, to ensure that ~~the affordability~~ of the residential units will
be rented or sold to persons meeting specified affordability income levels,
as established by the Housing ~~Finance and Community Redevelopment~~
and Urban Planning Division, for a period of at least thirty (30) years. The
requirement for the agreement may be waived ~~by the Office of the County~~
Attorney if, in the opinion of the ~~Office of the County~~ Attorney's Office, the
developer provides ~~the County with~~ adequate alternate assurances.

(c) *Impact agreement.*

...

(2) Outstanding impact fee obligations.

a) For any application for a plat note amendment that involves an
increase in trips for additional dwelling units, students generated,
or a change in use or unit type; a replat; or the placement of a note
on a plat, approval of the application shall be conditioned on the
following:

- 1) Any existing agreements governing the payment of road,
transit, recreational, and/or educational impact fees ~~to~~
~~Broward County~~ shall be either paid in full prior to the time of
note or plat recordation or terminated by all parties. If it is not
feasible for an owner of a portion of land within a recorded
plat to obtain signatures of all owners of all property within
the plat, a partial termination of agreement may be

requested. If an agreement is terminated, in part or in whole,
impact fees may be paid ~~during the review of~~ when
construction plans are submitted for County Development
and Environmental Review Approval required by
Section 27-66 of the Code but must be paid no later than the
issuance of a building permit, with the fee assessment based
on the schedule in effect at the time of payment. ~~Payments~~
~~shall not be accepted prior to review of construction plans.~~
Subsequent amendments to the Code or the Broward
County Administrative Code that result in changes in the
amount that would otherwise have been due shall not
increase the amount due from the developer or result in a
credit to the developer. All corresponding securities held by
Broward County shall be released; and

- 2) The applicant shall record against the property a document,
in a form acceptable to the ~~Office of the County Attorney's~~
Office or the Office of the School Board General Counsel, as
applicable, that provides notice to prospective purchasers of
the property of the impact fee obligations ~~to Broward County.~~

...

Section 4. Section 27-66 of the Broward County Code of Ordinances is hereby
amended to read as follows:

Sec. 27-66. Development and Eenvironmental review approvals required prior to issuance of a county or municipal building permit.

. . .

(l) Development and Eenvironmental review approvals shall not be issued without evidence that all required impact fees have been paid ~~to the Broward County Housing and Urban Planning Division.~~

. . .

Section 5. Severability.

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

Section 6. Inclusion in the Broward County Code of Ordinances.

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

269 Section 7. Effective Date.

270 This Ordinance is effective on November 20, 2025.

ENACTED

PROPOSED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

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

By: /s/ Maite Azcoitia 10/08/2025
 Maite Azcoitia (date)
 Deputy County Attorney

MA/gmb
School Impact Fee Collection Ordinance
10/08/2025
#60049

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.