

# PARK IMPACT FEES AND SENIORS HOUSING

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The City of Olympia (City) imposes impact fees for parks, schools, and transportation under the provisions of Olympia Municipal Code (OMC) Title 15. OMC Section 15.04.060 provides several exemptions to these impact fees, including one that applies to seniors housing:

Any form of housing intended for and solely occupied by persons 62 years or older, including nursing homes and retirement centers, shall be exempt from the payment of park and school impact fees so long as those uses are maintained, and the necessary covenants or declaration of restrictions, in a form approved by the City Attorney and the School District attorney, required to ensure the maintenance of such uses, are recorded on the property.<sup>1</sup>

City staff has raised concerns that defining seniors housing in this way is no longer relevant and hinders the equitable imposition of park impact fees. We suspect that this concern is attributable to the changes in the seniors housing market that resulted from the Housing for Older Persons Act (HOPA), which became law in 1995. Before HOPA, age-restricted housing was required to have “significant facilities and services especially designed to meet the physical or social needs of older persons.”<sup>2</sup> As a result, seniors housing typically had an institutional character. HOPA removed this requirement and enabled developers to market age-restricted residences to independent seniors as young as age 55.

In light of this market shift, staff engaged FCS GROUP to review the relevant data and determine an appropriate level of exemption from park impact fees for seniors housing.

## ALTERNATIVES

In this section, we define a range of possibilities for addressing the concerns described above.

A policy for imposing impact fees on seniors housing has two dimensions: (1) age restriction and (2) degree of exemption.

City code currently recognizes only those developments “occupied by persons 62 years or older” as eligible for exemption. Housing occupied by persons between the ages of 55 and 61 are ineligible for exemption even though such housing may meet federal requirements for age restriction. The City could choose to recognize up to three categories of age restriction:

- Occupied by persons 62 or older
- Occupied by persons 55 or older (but not exclusively by persons 62 or older)
- Not age-restricted

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<sup>1</sup> OMC Section 15.04.060.A.6.

<sup>2</sup> Fair Housing Act, 42 U.S.C. 3601-3631, before amendment.

Those developments that are eligible under City code receive full exemption. Those that are not eligible receive no exemption. The City could choose to include a discount or partial exemption as part of its policy for seniors housing.

The matrix below shows the range of alternatives, and the checked boxes indicate current City policy:

	<b>62 or Older</b>	<b>55 or Older</b>	<b>Not Age-Restricted</b>
<b>Full Exemption</b>	✓		
<b>Partial Exemption</b>			
<b>No Exemption</b>		✓	✓

## ANALYSIS

In this section, we analyze the two policy dimensions of age restriction and degree of exemption with the goal of identifying a data-driven approach.

### Age Restriction

Impact fees are one-time fees paid by developers, not ongoing rates paid by residents. Therefore, the financial capacity of seniors should play no role in the development of appropriate age restrictions for full or partial exemption to a parks impact fee.

Instead, the purpose of an age restriction is to identify those residential land uses that have a distinct pattern of (and presumably lower) demand for park facilities than residences occupied by the general population. Since HOPA, seniors housing has been largely designed for and marketed to persons 55 and older. Therefore, to the extent that an age restriction is appropriate, age 55 represents the most relevant lower boundary in the current market.

However, age alone cannot fully explain the differential demand on park facilities that seniors housing imposes. The relative independence of the residents will also affect their demand for park facilities. Since the current code specifically identifies nursing homes as fully exempt from park impact fees, we infer that the legislative intent was to exempt those residential land uses where residents have limited ability to leave their residence. In today's market, such residential land uses include not only nursing homes, but also assisted living facilities and memory care facilities.

Because the age of residents alone is inadequate to describe seniors housing and its differential demand for park facilities, we propose two new categories: (1) independent living facilities and (2) other seniors housing. Independent living facilities are those residential developments that are occupied by persons 55 and older but do not provide routine assistance with the activities of daily living (ADLs).<sup>1</sup> Other seniors housing includes those residential developments that are occupied by persons 55 and older and do provide routine assistance with ADLs. Examples of other seniors housing include assisted living facilities, memory care facilities, and nursing homes.

Some seniors housing developments, such as continuing care retirement communities, include a mix of independent living, assisted living, memory care, and nursing care. However, the allocation of residences among these types would be known at the time of development.

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<sup>1</sup> ADLs are defined in Washington Administrative Code (WAC) 388-106-0010.

## Degree of Exemption

At present, only a full exemption is available for all developments to be occupied by persons 62 or older—regardless of housing type.

We propose that this full exemption is appropriate for developments that we described above as “other seniors housing.” These are developments where seniors are receiving assistance with ADLs and are likely not placing any demands on the City park system.

We further propose that a full exemption is inappropriate for independent living facilities (as defined above). In such facilities, residents are typically active but not employed. We propose that any reduction in park impact fees must be based on (and proportionate to) evidence that residents of independent living facilities have a lower demand for park facilities than residents in the general population.

Limited data are available to substantiate seniors’ differential demand for park facilities. In fact, we are aware of only one survey in the western United States that rigorously quantifies the age of park users. This survey was conducted in Portland, Oregon, and its results were published in 2012.<sup>1</sup> The table below presents the age data provided by the survey and compares that with the census data on the population of Portland:

Portland Data, Detail	Sample of Park Users			Population		
	Count	Proportion	Cumulative Proportion	Count	Proportion	Cumulative Proportion
<b>Ages 15-19</b>	41	1.8%	1.8%	28,777	5.7%	5.7%
<b>Ages 20-24</b>	148	6.5%	8.3%	38,150	7.6%	13.3%
<b>Ages 25-34</b>	697	30.7%	39.0%	118,124	23.4%	36.7%
<b>Ages 35-44</b>	628	27.6%	66.6%	101,815	20.2%	56.9%
<b>Ages 45-54</b>	417	18.4%	85.0%	77,151	15.3%	72.2%
<b>Ages 55-64</b>	264	11.6%	96.6%	74,403	14.8%	87.0%
<b>Ages 65-74</b>	59	2.6%	99.2%	36,777	7.3%	94.3%
<b>Ages 75-84</b>	9	0.4%	99.6%	17,884	3.5%	97.9%
<b>Ages 85 and over</b>	9	0.4%	100.0%	10,783	2.1%	100.0%
<b>Total</b>	2,272	100.0%		503,864	100.0%	

**Source:** Portland Parks & Recreation, *Forest Park Recreation Survey* (February, 2012), Appendix A; U. S. Census Bureau, 2012 American Community Survey 1-Year Estimates, Table DP05.

When we consolidate these age groups into those below age 55 and those 55 and over, we find that seniors use parks with only 54 percent of the frequency of the total population, as shown in the table below:

Portland Data, Summary	Park Users	Population	Factor
<b>Ages 15-54</b>	85.0%	72.2%	1.18
<b>Ages 55 and over</b>	15.0%	27.8%	0.54
<b>Total</b>	100.0%	100.0%	1.00

**Source:** Portland Parks & Recreation, *Forest Park Recreation Survey* (February, 2012), Appendix A; U. S. Census Bureau, 2012 American Community Survey 1-Year Estimates, Table DP05.

<sup>1</sup> Portland Parks & Recreation, *Forest Park Recreation Survey* (February, 2012), Appendix A.

Another survey conducted in Los Angeles, California, did not quantify age groups, but instead used the following categories:

- Children
- Teens
- Adults
- Seniors

This survey's lack of quantitative rigor notwithstanding, it found that "children and teens use parks more than adults and seniors."<sup>1</sup>

## FINDINGS

Based on these data, independent living facilities could be charged a park impact fee of up to 54 percent of the park impact fee that would be charged to a similar facility without age restriction. In other words, the data support a discount of 46 percent for independent living facilities. We further find that a full exemption is still appropriate for residential developments whose residents are persons 55 or older who routinely receive assistance with ADLs. Such residential developments are the "other seniors housing" described above. These findings are summarized in a revised version of the matrix presented earlier:

	Other Seniors Housing	Ind. Living Facilities	Not Age-Restricted
Full Exemption	✓		
Partial Exemption		✓	
No Exemption			✓

In addition, the City may wish to consider surveying its park users to determine how the age distribution of park users in Olympia differs from the age distribution of the City's population. Such a survey—and the analysis of its results—may enable the City to determine a discount for independent living facilities based on local data.

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<sup>1</sup> Deborah Cohen *et. al.*, *Park Use and Physical Activity in a Sample of Public Parks in the City of Los Angeles*, RAND Corporation (2006), page 22.