

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING SECTION 15.04.060 OF THE OLYMPIA MUNICIPAL CODE REGARDING AN EXEMPTION FROM IMPACT FEES FOR LOW-INCOME HOUSING PROJECTS.

WHEREAS, in 2012 the Washington State Legislature authorized municipalities to exempt qualified low-income housing from impact fees (RCW 82.02.060); and

WHEREAS, the Legislature authorized municipalities to grant an exemption of eighty percent (80%) of the impact fees with no requirement to pay the exempted portion of the fees from public funds; and

WHEREAS, the City Council considers and annually adopts a Consolidated Action Plan required by the U.S. Department of Housing and Urban Development (HUD) for the allocation of HUD funds that benefit low-income persons and low-income housing; and

WHEREAS, low-income housing projects which receive financial assistance from the City are subject to income, rent and price restrictions enforced through recorded covenants, ensuring affordability but also limiting funds available for development costs; and

WHEREAS, exemption of impact fees will enable low-income housing projects to become economically viable and produce more low-income housing units; and

WHEREAS, exemption from impact fees is categorically exempt from review under the State Environmental Policy Act;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 15.04.060. Olympia Municipal Code Section 15.04.060 is hereby amended to read as follows:

15.04.060 Exemptions

A. The following shall be exempt from the payment of impact fees as follows:

1. Alteration of an existing nonresidential structure that does not expand the usable space or add any residential units shall be exempt from paying all impact fees;
2. Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools, and signs shall be exempt from paying all impact fees;
3. Demolition or moving of a structure shall be exempt from paying all impact fees;
4. Expansion of an existing structure that results in the addition of one hundred twenty (120) square feet or less of gross floor area shall be exempt from paying all impact fees;

5. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within seventy-two (72) months of the demolition or destruction of the prior structure shall be exempt from paying all impact fees. Replacement of a structure with a new structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than one hundred twenty (120) square feet. Such replacements shall be exempt from the payment of park, transportation impact fees, and school impact fees; provided that, park, transportation, and school impact fees will be charged for any additional residential units that are created in the replacement and, transportation impact fees shall be charged for any additional gross floor area greater than one hundred twenty (120) square feet added in the replacement;
 6. Any form of housing intended for and solely occupied by persons sixty-two (62) years or older, including nursing homes and retirement centers, shall be exempt from the payment of 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;
 7. The creation of an accessory dwelling unit shall be exempt from the payment of school impact fees and the creation of an accessory dwelling unit within an existing single family structure shall be exempt from the payment of park impact fees;
 8. A single room occupancy dwelling shall be exempt from the payment of school impact fees;
 9. A change in use where the increase in trip generation is less than the threshold stated in Section 15.04.040(C), Assessment of Impact Fees shall be exempt from paying transportation impact fees; or
 10. Any form of low-income housing occupied by households whose income when adjusted for size, is at or below ~~80~~ eighty percent (80%) of the area median income, as annually adjusted by the U.S. Department of Housing and Urban Development shall be exempt from paying school impact fees provided that a covenant approved by the school district to assure continued use for low income housing is executed, and that the covenant is an obligation that runs with the land upon which the housing is located and is recorded against the title of the property.
 11. Developments limited to residents who routinely receive assistance with activities of daily living such as, but not limited to, bathing, dressing, eating, personal hygiene, transferring, toileting, and mobility shall be exempt from paying park and school impact fees.
- B. With respect to impact fees for parks and transportation, the Director shall be authorized to determine whether a particular development activity falls within an exemption identified in this Section, in any other

Section, or under other applicable law. Determinations of the Director shall be in writing and shall be subject to the appeals procedures set forth in OMC Chapter 18.75.

C. With respect to school impact fees, requests for an exemption shall be directed to District No. 111. District No. 111 shall determine whether a particular development activity falls within an exemption identified in this Section, in any other Section, or under other applicable law. District No. 111 shall forward its determination to the Director in writing, and the Director may adopt the determination of District No. 111 and may exempt or decline to exempt a particular development activity, or the Director may make an alternative determination and set forth the rationale for the alternative determination. Determinations of the Director shall be in writing and shall be subject to the appeals procedures set forth in OMC Chapter 18.75.

D. Upon application by the owner, a partial exemption of not more than eighty percent (80%) of park, transportation and school impact fees, with no explicit requirement to pay the exempted portion of the fee from public funds, may be granted to a low-income housing development, as defined below:

1. The Director, after consultation with the Directors of Parks and Public Works Transportation, may grant an exemption to a low-income housing project listed in an annual consolidated action plan approved by the City Council.

2. The City Council may grant an exemption to a low-income housing project not included in an annual consolidated action plan.

3. The decision to grant, partially grant or deny an exemption shall be based on the public benefit of the specific project, the extent to which the applicant has sought other funding sources, the financial hardship to the project of paying the impact fees, the impacts of the project on public facilities and services, and the consistency of the project with adopted City plans and policies relating to low-income housing.

4. An exemption granted under this subsection must be conditioned upon requiring the developer to record a covenant approved by the Director that prohibits using the property for any purpose other than for low-income housing as described in OMC Subsection 15.04.060.A.10. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and require that, if the property is converted to a use other than for low-income housing as defined in the covenant, the property owner must pay the applicable impact fees in effect at the time of any conversion. Covenants required by this subsection must be recorded with the Thurston County Auditor.

5. "Low-income housing" means housing with a monthly housing expense that is no greater than thirty percent (30%) of eighty percent (80%) of the median family income adjusted for family size for Olympia, as reported by the United States Department of Housing and Urban Development.

Section 2. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This Ordinance shall take effect January 1, 2019, after its passage by the Olympia City Council and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: