

## Excerpt from “Impact Fees – Local Government Do’s and Don’ts”

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### Impact Fee Reductions or Waivers

While there are benefits to local governments’ coffers, impact fees do add to the cost of new development. Impact fees are usually paid by developers and builders, but those additional costs are ultimately passed onto the “consumers” of the newly developed property (in the form of a higher purchase price or rental rate). For communities wanting to encourage designated types of new development, the question about whether to reduce or waive impact fees comes up.

The most direct way to reduce or waive impact fees is to provide information showing that the impacts caused by a desired type of development will not place a significant burden on the existing public facilities covered by your impact fee program. For example, if local school enrollment statistics can show that the average Accessory Dwelling Unit (ADU) household has fewer school-aged children than the average single-family household, then a lower impact fee amount can be imposed for a new ADU.

However, state law does allow for another option to provide exemptions, waivers, or reductions for the following developments:

- Low-income housing as defined in [RCW 82.02.060\(2\)](#);
- Early learning facilities (as defined in [RCW 43.31.565](#)) with exempted fees being paid following [RCW 82.02.060\(2\)](#), fee amounts restricted by [RCW 82.02.060\(3\)](#), or partial exemptions based on standards outlined in [RCW 82.02.060\(4\)](#);
- Development activities with “broad public purposes” ([RCW 82.02.060](#)); and
- Construction or expansion of a building that is not defined as a “development activity,” such as buildings constructed by a regional transit authority (defined in [RCW 81.112](#)) or those constructed as emergency homeless or domestic violence shelters as defined in [RCW 70.123.020](#) and [RCW 82.02.090\(1\)\(b\)](#).

Please note that while reductions or waivers of impact fees for low-income housing, early learning facilities, and developments with a “broad public purpose” are permitted, impact fees for such development activity must still be paid for from public funds other than impact fee accounts, per [RCW 82.02.060\(2\)](#).

State law ([RCW 82.02.060\(4\)](#)) does allow local governments to grant a partial exemption without requiring those exempted impact fees be paid by another public source under certain circumstances, such as for early learning facilities or when a developer builds a certain percentage of affordable units and records a covenant that the property will be permanently used for low-income housing. A full waiver for low-income housing will require that only 20% of the total impact fee amount would need to

be paid from public funds, while a full exemption without a payback requirement may be granted for early learning facilities if certain conditions are met.

Since use of impact fees is a voluntary option, a local government can always make the decision to not enact an impact fee program, but this may mean that development permit approval is delayed until the local government can otherwise fund the needed improvements to support such new development.

Staff note:

\*[RCW 82.02.060](#) includes: "An exemption for low-income housing granted under subsection (2) of this section or this subsection (4) must be conditioned upon requiring the developer to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion."