

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES – RHODE ISLAND DEVELOPMENT IMPACT FEE ACT

Introduced By: Senators Gu, Euer, Kallman, Mack, Valverde, and Lauria

Date Introduced: March 07, 2023

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-22.4-3 and 45-22.4-5 of the General Laws in Chapter 45-22.4  
2 entitled "Rhode Island Development Impact Fee Act" are hereby amended to read as follows:

3 **45-22.4-3. Definitions.**

4 As used in this chapter, the following words have the meanings stated in this section:

- 5 (1) "Capital improvements" means improvements with a useful life of ten (10) years or  
6 more, which increases or improves the service capacity of a public facility;
- 7 (2) "Capital improvement program" means that component of a municipal budget that sets  
8 out the need for public facility capital improvements, the costs of the improvements, and proposed  
9 funding sources. A capital improvement program must cover at least a five (5) year period and  
10 should be reviewed at least every five (5) years;
- 11 (3) "Developer" means a person or legal entity undertaking development;
- 12 (4) "Governmental entity" means a unit of local government;
- 13 (5) "Impact fee" means the charge imposed upon new development by a governmental  
14 entity to fund all or a portion of the public facility's capital improvements affected by the new  
15 development from which it is collected;
- 16 (6) "Proportionate share" means that portion of the cost of system improvements which  
17 reasonably relates to the service demands and needs of the project; and
- 18 (7) "Public facilities" means:

- 1 (i) Water supply production, treatment, storage, and distribution facilities;
- 2 (ii) Wastewater and solid waste collection, treatment, and disposal facilities;
- 3 (iii) Roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and  
4 local components of state and federal highways;
- 5 (iv) Storm water collection, retention, detention, treatment, and disposal facilities, flood  
6 control facilities, bank and shore projections, and enhancement improvements;
- 7 (v) Parks, open space areas, and recreation facilities;
- 8 (vi) Police, emergency medical, rescue, and fire protection facilities;
- 9 (vii) Public schools and libraries; ~~and~~
- 10 (viii) [Affordable housing projects](#); and
- 11 [\(ix\)](#) Other public facilities consistent with a community's capital improvement program.

12 **45-22.4-5. Collection and expenditure of impact fees.**

13 (a) The collection and expenditure of impact fees must be reasonably related to the benefits  
14 accruing to the development paying the fees. The ordinance shall consider the following  
15 requirements:

16 (1) Upon collection, impact fees must be deposited in a special proprietary fund, which  
17 shall be invested with all interest accruing to the trust fund;

18 (2) Within eight (8) years of the date of collection, impact fees shall be expended or  
19 encumbered for the construction of public facilities' capital improvements of reasonable benefit to  
20 the development paying the fees and that are consistent with the capital improvement program;

21 (3) Where the expenditure or encumbrance of fees is not feasible within eight (8) years, the  
22 governmental entity may retain impact fees for a longer period of time if there are compelling  
23 reasons for the longer period. The governing body shall identify, in writing, the compelling reasons  
24 for retaining impact fees for a longer period of time over eight (8) years. In no case shall impact  
25 fees be retained longer than ten (10) years.

26 (b) All impact fees imposed pursuant to the authority granted in this chapter shall be  
27 assessed upon the issuance of a building permit or other appropriate permission to proceed with  
28 development and shall be collected only upon the issuance of the certificate of occupancy or other  
29 final action authorizing the intended use of a structure.

30 (c) A governmental entity may recoup costs of excess capacity in existing capital facilities,  
31 where the excess capacity has been provided in anticipation of the needs of new development, by  
32 requiring impact fees for that portion of the facilities constructed for future users. The need to  
33 recoup costs for excess capacity must have been documented by a preconstruction assessment that  
34 demonstrated the need for the excess capacity. Nothing contained in this chapter shall prevent a

1 municipality from continuing to assess an impact fee that recoups costs for excess capacity in an  
2 existing facility without the preconstruction assessment so long as the impact fee was enacted at  
3 least ninety (90) days prior to July 22, 2000, and is in compliance with this chapter in all other  
4 respects pursuant to § 45-22.4-7. The fees imposed to recoup the costs to provide the excess  
5 capacity must be based on the governmental entity's actual cost of acquiring, constructing, or  
6 upgrading the facility and must be no more than a proportionate share of the costs to provide the  
7 excess capacity. That portion of an impact fee deemed recoupment is exempted from provisions of  
8 subsection (a)(2) of this section.

9 (d) Governmental entities may accept the dedication of land or the construction of public  
10 facilities in lieu of payment of impact fees provided that:

11 (1) The need for the dedication or construction is clearly documented in the community's  
12 capital improvement program or comprehensive plan;

13 (2) The land proposed for dedication or the facilities to be constructed are determined to  
14 be appropriate for the proposed use by the local governmental entity;

15 (3) Formulas and/or procedures for determining the worth of proposed dedications or  
16 constructions are established.

17 (e) The collection of impact fees may, at the discretion of the appropriate governmental  
18 entity, be imposed on commercial properties to subsidize the creation of affordable housing projects  
19 within the municipality.

20 (f) Exemptions:

21 (1) Impact fees shall not be imposed for remodeling, rehabilitation, or other improvements  
22 to an existing structure, or rebuilding a damaged structure, unless there is an increase in the number  
23 of dwelling units or any other measurable unit for which an impact fee is collected. Impact fees  
24 may be imposed when property that is owned or controlled by federal or state government is  
25 converted to private ownership or control.

26 (2) Nothing in this chapter shall prevent a municipality from granting any exemption(s)  
27 that it deems appropriate.

28 (3) Impact fees shall not be imposed on any affordable housing projects.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TOWNS AND CITIES – RHODE ISLAND DEVELOPMENT IMPACT FEE  
ACT

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1           This act would allow impact fees to be imposed on commercial properties to subsidize the  
2 creation of affordable housing projects within the municipality, at the discretion of the appropriate  
3 governmental agency.

4           This act would take effect upon passage.

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