

HOUSE BILL NO. HB0197

Limits on property development exaction and mitigation fees.

Sponsored by: Representative(s) Davis, Byron, Erickson, Larson, JT, Lawley, Locke, Tarver and Wylie and Senator(s) Crago, Dockstader, Jones and Kolb

A BILL

for

1 AN ACT relating to city, county, state and local powers;
2 clarifying how cities, towns and counties can impose
3 exaction or mitigation fees for development projects;
4 specifying limits for affordable or workforce housing
5 exaction and mitigation fees; establishing a process for
6 review and appeal of affordable or workforce housing
7 exaction and mitigation fees; specifying applicability; and
8 providing for an effective date.

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10 *Be It Enacted by the Legislature of the State of Wyoming:*

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12 **Section 1.** W.S. 16-13-101 through 16-13-103 are
13 created to read:

14

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CHAPTER 13

2

LAND USE REGULATIONS

3

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ARTICLE 1

5

LIMITS ON AFFORDABLE OR WORKFORCE HOUSING EXACTIONS OR

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MITIGATION FEES

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16-13-101. Definitions.

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(a) As used in this section:

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(i) "Affordable or workforce housing exaction or mitigation fee" means any fee imposed by a land use permitting authority to be used to provide or offset affordable or workforce housing costs as a condition of granting a land use permit;

(ii) "Commercial development" means constructing, renovating or building an addition to any structure intended primarily for commercial purposes;

(iii) "Exaction or mitigation nexus study" means a study conducted by a land use permitting authority which

1 establishes a rational connection between an activity
2 described in subparagraph (vi)(A) or (B) of this subsection
3 and the exaction or mitigation fee imposed to provide
4 affordable or workforce housing;

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6 (iv) "Individualized determination" means an
7 analysis conducted by a land use permitting authority
8 specific to the proposed residential or commercial
9 development that establishes that an affordable or
10 workforce housing exaction or mitigation fee imposed is
11 reasonably proportional, both in nature and extent, to the
12 proposed residential or commercial development impact;

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14 (v) "Land use permitting authority" means any
15 governing body of a city, town, county, special district or
16 other entity of state or local government that issues land
17 use permits;

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19 (vi) "Land use permit" means any permit that is
20 required by state law, local ordinance or rule to be
21 obtained before:

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23 (A) A structure can be built or renovated;

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2 (B) An addition can be built onto an
3 existing structure.

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5 (vii) "Residential development" means
6 constructing, renovating or building an addition to any
7 structure intended for human habitation.

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9 **16-13-102. Limits on imposition of affordable or**
10 **workforce housing exaction or mitigation fees on specified**
11 **proposed property development.**

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13 (a) Subject to W.S. 15-1-103(a)(li) and
14 18-2-101(a)(ix), a land use permitting authority may
15 require as a condition for the issuance of a land use
16 permit for residential or commercial development the
17 imposition of an affordable or workforce housing exaction
18 or mitigation fee if the fee is reasonably proportional,
19 both in nature and extent, to the costs of mitigating the
20 identified impact from the proposed residential or
21 commercial development as determined by an exaction and
22 mitigation nexus study. An affordable or workforce housing
23 exaction or mitigation fee imposed pursuant to this

1 paragraph shall be collected and accounted for in the same
2 manner as other public funds. The maximum fee charged
3 pursuant to this paragraph shall not include any costs
4 attributable to the first three thousand (3,000) square
5 feet of a single-family residential dwelling or the first
6 one thousand seven hundred fifty (1,750) square feet of a
7 multi-family residential dwelling.

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9 (b) No affordable or workforce housing exaction or
10 mitigation fee allowed under subsection (a) of this section
11 shall be more than the percentage determined by an exaction
12 or mitigation nexus study or four percent (4%), whichever
13 is less, of the total construction, renovation or addition
14 cost for all structures identified to serve primarily as
15 single-family residential dwellings, multi-family
16 residential dwellings or a commercial development.

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18 (c) A land use permitting authority shall not,
19 directly or indirectly, impose an affordable or workforce
20 housing exaction or mitigation fee on the subdivision of
21 land or on any structure built, renovated or on which an
22 addition is built to support agricultural activities.

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1 **16-13-103. Process and appeal.**

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3 (a) Land use permitting authorities shall provide
4 written notice to the residential or commercial development
5 applicant of affordable or workforce housing exaction or
6 mitigation fees not later than thirty (30) days before
7 imposing the affordable or workforce housing exaction or
8 mitigation fees. Upon receipt of an affordable or workforce
9 housing exaction or mitigation fee notice, the applicant
10 may request the land use permitting authority prepare an
11 individualized determination, at the expense of the land
12 use permitting authority, providing an explanation of the
13 affordable or workforce housing exaction or mitigation fee
14 amount imposed, including the methodology, supporting data
15 and information used to determine the impact anticipated to
16 be caused by the proposed residential or commercial
17 development and the method of calculating the affordable or
18 workforce housing exaction or mitigation fee amount based
19 on that identified impact.

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21 (b) The land use permitting authority shall provide
22 the completed individualized determination not later than
23 sixty (60) days after receipt of the request. Unless an

1 administrative appeal is filed, this individualized
2 determination shall be the final decision of the land use
3 permitting authority. If the individualized determination
4 is not completed and delivered to the residential or
5 commercial development applicant within sixty (60) days
6 after receipt of the request, the affordable or workforce
7 exaction or mitigation fee shall be waived.

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9 (c) If the residential or commercial development
10 applicant objects to the methodology, supporting
11 information or conclusions set forth in the individualized
12 determination, the applicant may request a hearing before
13 the land use permitting authority. The request may be filed
14 immediately or may be delayed and included with other
15 matters arising in the applicant's permit review process
16 related to the residential or commercial development
17 application. Upon receiving a request for a hearing, the
18 land use permitting authority shall hold a public hearing
19 to determine the facts relating to the dispute over the
20 affordable or workforce housing exaction or mitigation fee
21 and shall render a final decision on the affordable or
22 workforce housing exaction or mitigation fee not later than
23 sixty (60) days after receiving the request for a hearing.

1 In any hearing, the burden of proof is on the land use
2 permitting authority to demonstrate that the affordable or
3 workforce housing exaction or mitigation fee is reasonably
4 proportional, both in nature and extent, to the cost of
5 mitigating an identified impact of the propose residential
6 or commercial development.

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8 (d) A residential or commercial development applicant
9 may elect to proceed under protest and pay a required
10 affordable or workforce housing exaction or mitigation fee
11 while the exaction or mitigation fee is challenged or
12 appealed. Any payment under protest of an affordable or
13 workforce housing exaction or mitigation fee shall not be
14 construed as a waiver of any objections or appeals or
15 rights to judicial review of the exaction or mitigation
16 fee. The land use permitting authority shall not require
17 the residential or commercial development applicant to pay
18 the affordable or workforce housing exaction or mitigation
19 fee as a prerequisite to challenging or appealing the
20 validity of the exaction or mitigation fee.

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22 (e) A residential or commercial development applicant
23 may bring an action in a court of competent jurisdiction to

1 challenge the validity or constitutionality of an
2 affordable or workforce housing exaction or mitigation fee
3 following the public hearing held pursuant to subsection
4 (c) of this section. The court shall review the affordable
5 or workforce housing exaction or mitigation fee de novo
6 with the burden of proof on the land use permitting
7 authority to determine that the exaction or mitigation fee
8 is reasonably proportional, both in nature and extent, to
9 the costs of mitigating an identified impact from the
10 residential or commercial development.

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12 **Section 2.** W.S. 15-1-103(a) by creating a new
13 paragraph (li) and 18-2-101(a) by creating a new paragraph
14 (ix) are amended to read:

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16 **15-1-103. General powers of governing bodies.**

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18 (a) The governing bodies of all cities and towns may:

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20 (li) Impose exaction or mitigation fees on
21 residential or commercial development, including, subject
22 to W.S. 16-3-102, an exaction or mitigation fee for
23 affordable or workforce housing, if:

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10 **18-2-101. General powers.**

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12 (a) Each organized county in the state is a body
13 corporate and politic. The powers of the county shall be
14 exercised by a board of county commissioners which may:

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(A) An essential nexus exists between a
legitimate governmental interest and each exaction or
mitigation fee; and

(B) Each exaction or mitigation fee is
reasonably proportional, both in nature and extent, to the
impact of the proposed development.

(ix) Impose exaction or mitigation fees on
residential or commercial development, including, subject
to W.S. 16-3-102, an exaction or mitigation fee for
affordable or workforce housing, if:

(A) An essential nexus exists between a
legitimate governmental interest and each exaction or
mitigation fee; and

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(B) Each exaction or mitigation fee is reasonably proportional, both in nature and extent, to the impact of the proposed development.

Section 3. This act shall apply to all applications for permits submitted for residential or commercial development submitted on or after July 1, 2025.

Section 4. This act is effective July 1, 2025.

(END)