



# City of Palo Alto

## City Council Staff Report

(ID # 9795)

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**Report Type: Consent Calendar**

**Meeting Date: 12/3/2018**

**Summary Title: Development Impact Fees Exemption for JADUs and ADU Garage Conversions**

**Title: Adoption of an Ordinance Amending Palo Alto Municipal Code (PAMC) Title 16, Chapters 16.58 (Development Impact Fees), 16.59 (Citywide Transportation Impact Fees), and 16.60 (Charleston Arastradero Corridor Pedestrian and Bicyclist Safety Impact Fee) to Add Development Impact Fee Exemptions for Junior Accessory Dwelling Units and Certain Accessory Dwelling Units Established by Garage Conversion**

**From: City Manager**

**Lead Department: Planning and Community Environment**

### **Recommendation**

Staff recommends that the City Council adopt an Ordinance (Attachment A) amending the Palo Alto Municipal Code to exempt junior accessory dwelling units and garage-conversion accessory dwelling units from development impact fees.

### **Background**

On October 1, 2018, the City Council reviewed and approved on first reading a draft ordinance amending various elements of Palo Alto Municipal Code (PAMC) Section 18.42.040, Accessory and Junior Accessory Dwelling Units ([staff report #9631](#)). As part of the [motion](#), Council directed the elimination of development related impact fees for Junior Accessory Dwelling Units (JADUs) and those Accessory Dwelling Units (ADUs) comprised solely of a converted detached garage. In order to implement Council direction, three Chapters of Title 16 (Building Regulations), require amendments, specifically Chapter 16.58 which established development impact fees for libraries, parks, community centers, public safety facilities, and general government facilities, Chapter 16.59 which established a citywide transportation impact fee, and Chapter 16.60 which established an impact fee to fund bicycle and pedestrian safety improvements in the Charleston Arastradero area. The attached draft Ordinance includes the revised code language.

## Discussion

For almost all new development in the City, payment of development impact fees by the developer is required. The relevant impact fees that apply to ADUs and JADUs are listed in Table 1 below. The purpose of charging and collecting impact fees is to fund and allow the City to make improvements to City facilities, services, and infrastructure, in order to address the impacts and growing demands of new development. For all accessory dwelling units that are outside the Charleston Arastradero impact fee area, which is the majority of units, the total impact fee per unit is \$9,669; with the Charleston Arastradero fee included, the total is \$10,749 per unit.

Table 1: Summary of Impact Fees for ADUs/JADUs<sup>1</sup>

Description	Amount (per unit)
Development Impact Fees ( <a href="#">PAMC 16.58</a> )	
Parks	\$4,082
Community Centers	\$1,062
Public Safety Facilities	\$ 858
General Government Facilities	\$1,080
Libraries	\$ 367
Citywide Transportation ( <a href="#">PAMC 16.59</a> )	\$2,220
Charleston Arastradero Traffic ( <a href="#">PAMC 16.60</a> )	\$1,080

### Proposed Development Impact Fee Waiver

Depending on the fee, the current code includes a list of eight to nine project types that are exempt from the respective fees (i.e. Development Impact Fees, Citywide Transportation, and Charleston Arastradero Traffic). With only a few exceptions, the list of exempt project types are the same for all three general fee categories. Some examples of exempt project types include:

- City buildings or structures.
- Public school buildings or structures.
- Affordable housing, either for sale or rental, which, by recordable means, is permanently obligated to be 100% affordable.
- Retail service, eating and drinking service, personal service, or automotive service when the total square footage (including new development) is 1,500 square feet or less.
- Day care centers used for childcare, nursery school or preschool education.
- Below market rate housing units above and beyond the minimum number required for projects subject to the city's below market rate (BMR) housing program.

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<sup>1</sup> These fee amounts are from the [FY 2019 Municipal Code Fee Schedule](#).

Following Council direction, the proposed ordinance would amend PAMC Sections 18.58.030, 16.59.040, and 16.60.040, which list the project exemptions for the respective development impact fees, to include this added language (see Attachment A for details):

- *Accessory dwelling units (ADU) established by the conversion of an existing detached garage, provided that the existing detached garage was legally constructed, or received building permits, as of January 1, 2017, and is converted to an ADU with no expansion of the existing building envelope.*
- *Junior accessory dwelling units (JADU).*

In addition to exempting JADUs and a subset of ADUs from impact fees as noted in this report, Council also directed staff and the Planning and Transportation Commission to study the financial implications of waiving impact fees for all ADU development.

## **Policy Implications**

The proposed ordinance is consistent with the Comprehensive Plan provisions and would advance related housing element programs. The Comprehensive Plan emphasizes the importance of the City's residential neighborhoods and the quality of life for residents. Policy L-2.3 of the Land Use and Community Design Element emphasizes the need to allow and encourage diversity of the City's housing stock and supports ADU development. Additionally, the Housing Element provides specific goals and programs to encourage ADU development. Goal H1 directs the preservation of the unique character of the city's residential neighborhoods and Programs H1.1.2 and H3.3.5 encourage modifying existing second unit development standards in order to facilitate the creation of additional ADUs while maintaining neighborhood character and increasing the City's affordable housing supply.

## **Resource Impact**

The proposed ordinance would eliminate the collection of impact fees, as discussed above. As mentioned earlier, the typical amount of development impact fees collected for a new accessory living unit is \$9,669. The elimination of impact fees for JADUs is not expected to have much, if any, fiscal impact, since the City has yet to receive a permit for this unit type. For the detached garage-conversion ADU, which is a common ADU type and represents about 35%<sup>2</sup> of the permits filed in 2018, the City received approximately 20 applications since the updated ADU regulations became effective in January 2017. Based on current fees, these 20 applications are equivalent to approximately \$193,380 in development impact fees. Council's direction to waive these fees indicates that supporting development of these types of housing units is a higher priority than collecting the related impact fees.

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<sup>2</sup> At the time of report preparation, the City received 45 ADU permits for 2018, of which, 16 (35%) are detached garage conversions and would qualify for the proposed impact fee waiver.

## **Timeline**

With Council approval of these revisions or further modifications on the first reading, the second reading would be scheduled as a consent calendar review for adoption. Following the second reading, the ordinance would become effective 31 days after adoption.

## **Environmental Review**

The proposed code amendments to exempt JADUs and certain garage-conversion ADUs from paying development impact fees is not considered a “project” under the California Environmental Quality Act (CEQA) and, therefore, no environmental analysis is required.

### **Attachments:**

**Attachment A: Ordinance Amending Chapters 16.58, 16.59, 16.60 to Exempt from Development Impact Fees Junior Accessory Dwelling Units and Certain Accessory Dwelling Units (PDF)**

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Ordinance No. \_\_\_\_\_

Ordinance of the Council of the City of Palo Alto Amending Chapters 16.58 (Development Impact Fees), 16.59 (Citywide Transportation Impact Fee) and 16.60 (Charleston-Arastradero Corridor Pedestrian and Bicyclist Safety Impact Fee) of Title 16 (Building Regulations) of the Palo Alto Municipal Code to Exempt from Development Impact Fees Junior Accessory Dwelling Units and Certain Accessory Dwelling Units Established Through Garage Conversion

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

- A. In 2017, the City Council adopted Ordinance No. 5412 establishing comprehensive regulations related to accessory dwelling units and junior accessory dwelling units in order to comply with State law and to reduce regulatory constraints affecting the production of such units.
- B. The City Council reaffirms the findings and declarations adopted by Ordinance No. 5412.
- C. This Ordinance is adopted to further reduce barriers to production of these units by exempting junior accessory dwelling units and certain accessory dwelling units from payment of the City's current development impact fees.

SECTION 2. Section 16.58.030 (Exemptions) of **Chapter 16.58 (Development Impact Fees)** of Title 16 (Building Regulations) of the Palo Alto Municipal Code ("PAMC") is amended to read as follows:

**16.58.030 Exemptions**

The provisions of this chapter shall not apply to the following:

- (a) City buildings or structures;
- (b) Public school buildings or structures;
- (c) Residential housing, either for sale or rental, which, by recordable means, is permanently obligated to be 100% affordable;
- (d) Retail service, eating and drinking service, personal service, or automotive service when the total additional square footage is 1,500 square feet or less. This exemption shall apply only when the additional square footage of new development does not exceed 1,500 square feet. New development that is larger than 1,500 square feet shall pay a fee for all square footage, including the first 1,500 square feet;
- (e) Day care centers used for child care, nursery school or preschool education;

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- (f) Below market rate housing units above and beyond the minimum number required for projects subject to the City's Below Market Rate (BMR) Housing program. The additional units must be offered and constructed in a manner consistent with all requirements of the BMR program;
- (g) Accessory dwelling units (ADU) established by the conversion of an existing detached garage, provided that the existing detached garage was legally constructed, or received building permits, as of January 1, 2017, and is converted to an ADU with no expansion of the existing building envelope;
- (h) Junior accessory dwelling units (JADU);
- ~~(g)~~ Any residential subdivision for which land dedication or fees in lieu thereof are required pursuant to Chapter 21.50 of the Palo Alto Municipal Code. This exemption shall only apply to the park development fee described in Section 16.58.020(a).

**SECTION 3.** Section 16.59.040 (Exemptions) of **Chapter 16.59 (Citywide Transportation Impact Fee)** of Title 16 (Building Regulations) of the PAMC is amended to read as follows:

**16.59.040 Exemptions**

The provisions of this chapter shall not apply to:

- (a) City buildings or structures.
- (b) Public school buildings or structures.
- (c) Affordable housing, either for sale or rental, which, by recordable means, is permanently obligated to be 100% affordable.
- (d) Retail service, eating and drinking service, personal service, or automotive service when the total square footage (including new development) is 1,500 square feet or less.
- (e) Day care centers used for child care, nursery school or preschool education.
- (f) Below market rate housing units above and beyond the minimum number required for projects subject to the City's Below Market Rate (BMR) Housing program. The additional units must be offered and constructed in a manner consistent with all requirements of the BMR program.
- (g) Accessory dwelling units (ADU) established by the conversion of an existing detached garage, provided that the existing detached garage was legally constructed, or received building permits, as of January 1, 2017, and is converted to an ADU with no expansion of the existing building envelope.
- (h) Junior accessory dwelling units (JADU).

- (g) A change in tenancy that does not result in a change in use and which does not involve either (i) a demolition of an existing structure or (ii) an expansion of square footage of useful area.
- (h) New development which is exempt from the fee by virtue of the Constitutions of the United States and California or by virtue of other applicable state or federal law.

**SECTION 4.** Section 16.60.040 (Exemptions) of **Chapter 16.60 (Charleston-Arastradero Corridor Pedestrian and Bicyclist Safety Impact Fee)** of Title 16 (Building Regulations) of the PAMC is amended to read as follows:

**16.60.040 Exemptions**

The provisions of this chapter shall not apply to:

- (a) City buildings or structures.
- (b) Public school buildings or structures.
- (c) Affordable housing, either for sale or rental, which, by recordable means, is permanently obligated to be 100% affordable.
- (d) Retail service, eating and drinking service, personal service, or automotive service when the total square footage (including new development) is 1,500 square feet or less.
- (e) Day care centers used for child care, nursery school or preschool education.
- (f) Below market rate housing units above and beyond the minimum number required for projects subject to the City's Below Market Rate (BMR) Housing program. The additional units must be offered and constructed in a manner consistent with all requirements of the BMR program.
- (g) Accessory dwelling units (ADU) established by the conversion of an existing detached garage, provided that the existing detached garage was legally constructed, or received building permits, as of January 1, 2017, and is converted to an ADU with no expansion of the existing building envelope.
- (h) Junior accessory dwelling units (JADU).
- (i) New development which is exempt from the fee by virtue of the Constitutions of the United States and California or by virtue of other applicable state or federal law.

**SECTION 5.** If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any

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one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 6. The Council finds that this project is exempt from the provisions of the California Environmental Quality Act (“CEQA”), pursuant to Section 15061 of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment.

SECTION 7. This Ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Planning and Community  
Environment

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Director of Administrative Services