



CITY COUNCIL AGENDA STATEMENT



November 12, 2019

File ID: ~~19-0481~~
19-0532

TITLE

- A. ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHULA VISTA MUNICIPAL CODE SECTIONS 19.58.022 (ACCESSORY DWELLING UNITS) AND 19.58.023 (JUNIOR ACCESSORY DWELLING UNITS) TO REMOVE THE OWNER OCCUPANCY REQUIREMENT (SECOND READING AND ADOPTION)

- B. ORDINANCE OF THE CITY OF CHULA VISTA IMPLEMENTING THE DEVELOPMENT IMPACT FEE RELATED PROVISIONS OF SENATE BILL 13 (ACCESSORY DWELLING UNITS) (SECOND READING AND ADOPTION)

RECOMMENDED ACTION

Council adopt the ordinances.

SUMMARY

The State of California has enacted several laws designed to reduce barriers to the development of affordable housing, specifically, Accessory Dwelling Units (ADUs). On October 1, 2019, staff made a report to the City Council regarding ADUs, and recommended adoption of an ordinance eliminating the owner-occupancy requirement for ADUs and Junior Accessory Dwelling Units (JADUs). Council requested that such action be deferred to the meeting of October 22, 2019, to allow additional time for legislative action at the state level.

ENVIRONMENTAL REVIEW

The proposed activity has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Notwithstanding the foregoing, it has also been determined that the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

At the March 12, 2019 City Council meeting, the Council approved a referral directing staff to examine building fees for ADUs. In response to this referral, a report on ADUs was made to the City Council on October 1, 2019. At that time, staff recommended eliminating the owner-occupancy requirement for ADUs and JADUs. As of the October 1 meeting, Senate Bill 13 (SB 13) had been approved by both the Assembly and the Senate and was awaiting final action by the Governor. At the October 1 Council Meeting, the Council directed staff to continue action on the owner-occupancy requirement to the Council meeting of October 22, 2019 to allow sufficient time for final action by the state on SB 13. The Governor signed SB 13 on October 9, 2019.

Senate Bill 13 includes the following key provisions (not an exhaustive list):

- Allows ADUs/JADUs to be either attached to, or located within, an attached garage, storage area, or other structure;
- Prohibits replacement parking requirements when a garage, carport, or covered parking structure is demolished to construct an ADU or converted into an ADU;
- Amends the existing prohibition on parking standards for ADUs located within ½ mile of public transit to apply to units located within ½ mile walking distance of public transit;
- Prohibits local agencies from establishing a minimum square footage requirement for ADUs/JADUs that prohibits an efficiency unit;
- Prohibits local agencies from establishing a maximum square footage requirement of less than 850 square feet, or 1,000 square feet if the ADU/JADU contains more than one bedroom;
- Prohibits local agencies from establishing any other minimum or maximum size requirements that would prohibit at least an 800 square foot ADU/JADU, that is at least 16 feet in height with 4-foot side and rear yard setbacks.
- Prohibits local agencies from requiring fire sprinklers if they are not required for the primary residence;
- Prohibits local agencies from imposing owner occupancy requirements until January 1, 2025;
- Reduces the time for local agencies to consider and approve an application for an ADU/JADU, ministerially and without discretionary review, from 120 days to 60 days from receiving a completed application;
- Removes the existing requirement to determine development impact fees in accordance with the Mitigation Fee Act;
- Prohibits local agencies from imposing any development impact fees on ADUs less than 750 square feet in size;
- Limits the development impact fees that can be charged on ADU's 750 square feet or larger to be proportional to the fees that would otherwise be charged for a new single-family dwelling on the same lot, on a square footage basis;
- Revises the basis for calculating connection fees and capacity charges for ADUs;
- Authorizes the Department of Housing and Community Development to submit written findings to each local agency as to compliance of the local ordinance with State law, possibly culminating in referrals to the Attorney General of local agencies in violation of State law;
- Allows local agencies to count ADUs in identifying adequate sites for housing in General Plan Housing Elements;

- Authorizes owners of ADUs built before January 1, 2020 (or built on or after January 1, 2020, under specified circumstances) that receive a notice to correct violations or abate a nuisance to request that enforcement action be delayed for five (5) years, if correcting the violation is not necessary to protect health and safety, as determined by the enforcement agency.

Recommended Actions

Owner Occupancy

At this time, staff recommends adopting Ordinance A, modifying Chula Vista Municipal Code (CVMC) Sections 19.58.022 (ADUs) and 19.58.023 (JADUs) by removing the owner-occupancy requirement. Staff will proceed with releasing all owner-occupancy deed restrictions that have been required by the City as part of the ADU/JADU development process to date, at no cost to the property owners.

Development Impact Fees

With the adoption of SB 13, the City is no longer required under the Mitigation Fee Act to assess impact fees on all ADUs/JADUs. For those units smaller than 750 square feet (SF), no impact fees will be assessed. This includes all JADUs, as these units are limited to 500 square feet pursuant to CVMC 19.58.023(A). For ADUs 750 SF or larger, the maximum impact fees to be charged will be calculated on a square footage basis, proportional to the impact fees that would be charged for the primary structure on the lot. The effect of this limit will vary depending on the size of the primary structure and the size of the ADU, as illustrated in the table below.

Table 5 – Effect of Impact Fee Cap

	West of I-805	East of I-805
Single-Family DU Fees	\$ 33,410	\$ 51,323
Single-Family DU SF	2,500	2,500
Fee per SF (Cap)	\$ 13.36	\$ 20.53
<i>Scenario 1 - 1,000 SF ADU</i>		
ADU SF	1,000	1,000
ADU Impact Fee Cap	\$ 13,364	\$ 20,529
City Calculated ADU Fees	\$ 12,736	\$ 18,875
Fees Due	\$ 12,736	\$ 18,875
<i>Scenario 2 - 800 SF ADU</i>		
ADU SF	800	800
ADU Impact Fee Cap	\$ 10,691	\$ 16,423
City Calculated ADU Fees	\$ 12,736	\$ 18,875
Fees Due	\$ 10,691	\$ 16,423

At its October 22, 2019 meeting, the City Council placed an ordinance on first reading implementing SB 13 in the context of the City’s Public Facilities Development Impact Fee (PFDIF) program (Chapter 3.50 of the CVMC). In order to fully implement the new impact fee exemptions and calculations for ADUs and JADUs, staff recommends adopting Ordinance B, an omnibus ordinance amending all remaining City development impact fee ordinances and Resolution C, amending the Council Policy establishing the Traffic Signal Fee and the City’s Master Fee Schedule.

Next Steps

Staff administratively halted all new impact fee assessments as of the enactment of SB 13. Contact is being made to advise applicants of the change in law and how it will impact their individual projects. For those projects that are currently in payment plan status, or have paid in full, staff is requesting Council direction as to what impact fees, if any, should be refunded.

In the coming months, staff will bring an ordinance implementing the remaining provisions of SB 13 to the Planning Commission and the City Council for consideration.

Second Reading

The proposed ordinances were considered by the City Council on November 5, 2019. At the November 5 meeting, the Council modified Ordinance A. As proposed by staff, Ordinance A would have amended CVMC Sections 19.58.022 and 19.58.023, removing the owner occupancy requirement for all ADUs and JADUs, respectively. The amended ordinance placed on first reading by the Council retains the existing owner occupancy language in CVMC Sections 19.58.022 and 19.58.023, but provides that such requirements shall be held in abeyance until January 1, 2025. This sunset provision is consistent with the owner-occupancy requirement prohibition in SB 13, which expires January 1, 2025. No modifications were made the Ordinance B, implementing development impact fee related provisions of SB 13.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, *et seq.*).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

Approving an ordinance removing the owner-occupancy requirement for ADUs and JADUs has limited fiscal impacts. The General Fund will incur the cost of releasing all associated deed restrictions recorded to date. No fund appropriations for this purpose are requested.

Implementing SB 13's impact fee exemptions and reductions for ADUs and JADUs will result in reduced development impact fee revenues. No impacts to capital project timing or the ability to pay debt service by any impact fee program are anticipated to result from this action.

ONGOING FISCAL IMPACT

Implementing SB 13's impact fee exemptions and reductions for ADUs and JADUs will result in reduced development impact fee revenues. No impacts to capital project timing or the ability to pay debt service by any impact fee program are anticipated to result from this action.

ATTACHMENTS

None.

Staff Contact: Tiffany Allen, Development Services Department