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**Title:** Staff Report to Update the City Council Rules Committee on the Request to Consider a Fee Holiday for Accessory Dwelling Units (ADU) and on Recent Legislation Impacting ADUs effective January 1, 2020; Recommend the City Lower Development Impact Fee Revenue Projections for FY2020-21 to Account for Legislative Impacts

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**Attachments:** 1. Table 1 - COSL ADU Data by Calendar Year, 2. Tables 2 & 3 - ADU Fee Comparisons

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Staff Report to Update the City Council Rules Committee on the Request to Consider a Fee Holiday for Accessory Dwelling Units (ADU) and on Recent Legislation Impacting ADUs effective January 1, 2020; Recommend the City Lower Development Impact Fee Revenue Projections for FY2020-21 to Account for Legislative Impacts

**SUMMARY AND RECOMMENDATIONS**

On January 1, 2020, six new laws take effect in California that, among other things, will restrict how local governments regulate and assess fees for building Accessory Dwelling Units (ADUs). Staff conducted a regional ADU fee comparison and determined San Leandro’s fees remain at or below median, ensuring the City continues to encourage the building of ADUs to increase local housing supply.

**Recommendations:**

1. Maintain minimal ADU fees allowed under the new law to encourage development while also recouping some of the City’s direct costs;
2. Lower the City’s projected development impact fee revenues for FY2020-21 as outlined in the Fiscal Impacts section below.

**BACKGROUND**

San Leandro’s Zoning Code defines an “Accessory Dwelling Unit” (often referred to as “in-law units” or ADUs) as “any attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons.” ADUs provide an important housing resource in California where housing supply is in short supply, and the California Legislature has repeatedly

amended state law to restrict local regulatory control in order to encourage development of ADUs.

On April 3<sup>rd</sup>, 2017, Council approved an amendment to the Zoning Code that reduced both development impact fees and utility connection fees for ADUs. In accordance with State law, it also eliminated the parking requirements and established a permit approval timeline (to 120 days) for all ADUs.

On May 6, 2019, Council approved lowering Accessory Dwelling Units (ADUs) Park Acquisition and Improvement fees by \$1,134 (or 13%).

On May 20, 2019, Council directed staff to explore an Accessory Dwelling Unit (ADU) “tax holiday” to help address the City’s housing supply levels and report to the Rules Committee once completed. While initiating research for that request, staff also began tracking proposed legislation at the State level that would potentially impact the fee burden on ADUs.

In early October 2019, Governor Newsom signed six bills intended to encourage more local development of ADUs to respond in part to the housing shortage in California. The legislation restricts how local governments regulate and assess fees for building ADUs. Senate Bill 13 prohibits local governments from charging “development impact fees” (DIF) on any ADU that is 750 square feet or smaller. Cities charge these fees to help maintain key service levels and mitigate the impacts created by new development on parks, capital facilities, and streets. For Fiscal Year 2019-20, the City’s adopted budget for DIFs is \$1.4 million, a portion of which will be impacted by these new laws.

In addition, Planning staff intends to bring a comprehensive Zoning Code Update in January/February of 2020. Those changes include streamlining the ADU permitting process by eliminating the requirement for a Planning permit in advance of a building permit. The result will be an additional \$2,643 Planning fee reduction for all ADU applicants once the updates are codified.

## **Analysis**

Staff analyzed all available data, which dates back to May 2017. The analysis found that of 74 total ADU projects, 91% of all ADUs built in the City fell below the new legislative threshold of 750 square feet. See Table #1 attached to this staff report.

The City charges DIFs as a part of any ADU project, which currently average \$8,744 per ADU. The City will no longer be able to charge those DIFs for ADUs that are 750 square feet or smaller after January 1, 2020. The impact of this legislation would reduce current fees on a 550 square foot detached ADU from \$12,570 to \$3,826, excluding any “mandated fees.” “Mandated fees” here would mean any additional charges the City applies to each project on behalf of another entity or Enterprise Fund, like school district fees (totaling \$2,085) or sewer connection service fees (totaling \$3,806). Both charges are mandated by law and cannot be waived or reduced. Table 2 shows ADU fees as charged today, while Table 3 illustrates those same fees next year with all the changes coming. Both are attached to this staff report for reference.

The City’s total DIF revenues for Fiscal Year 2019-2020 were budgeted at \$1.4 million. Staff analyzed the impacts to DIF collected after January 1, 2020 and estimates they will drop by \$179,042 -reducing Development Fees for Street Improvements (or “DFSI”, Fund 120) by \$14,436; and reducing Park-in-Lieu fees (Fund 122) by \$164,606. Assuming the new legislative policy does incentivize ADU development, the City may see increases to both permit and processing fees in

subsequent fiscal years. Collections from these fees is used to cover the City's costs in reviewing applications and issuing permits, and not to mitigate the impacts of development on City services. There was no reliable data available regionally to estimate the increase to ADU development after January 1, 2020. One city surveyed, however, told staff that ADU permits increased considerably after that agency elected to eliminate ADU DIFs entirely two years ago.

### **Previous Actions**

- Resolution 2019-074, Administrative Code Amending ADU Fee Updates
- Resolution 2017-040, Admin. Code Amending ADU Wastewater Regulations
- Ordinance 2017-005, Establishing a Wastewater Fee Category for ADUs
- Ordinance 2017-003, Conforming Amendments to Zoning Code for ADUs

### **General Plan Policies**

- **General Plan Policy CDF-6.2. Fair Share Costs.** Require future development to pay its fair share of the cost of improving the water, sewer, storm drainage, and other infrastructure systems needed to serve that development. Development impact fees, development agreements, and other appropriate forms of mitigation should be used to cover the costs of upgrading or expanding public infrastructure.”

### **Legal Analysis**

The City Attorney's Office reviewed this staff report for consistency with the new state laws.

### **Fiscal Impacts**

DFSI, Fund 120: conservative revenue estimates show a reduction by \$14,436 annually and recommend FY2020-21 revenues in account 120-3315 be adjusted to \$385,564 to account for new legislative impacts.

Park-in-Lieu Fees, Fund 122: conservative revenue estimates show a reduction by \$164,606 annually and recommend FY2020-21 revenues in account 122-3809 be adjusted to \$835,394 to account for new legislative impacts.

Staff anticipate an increase in revenues collected through related building permit fees due to incentivized ADU development that would partially or completely off-set the reductions listed above; however, the exact increases and revenue off-sets are unknown at this time.

### **ATTACHMENT(S)**

#### **Attachment(s) to Staff Report**

- Attachment 1: Table 1 - COSL ADU Data by Calendar Year
- Attachment 2: Table 2 - 2019 ADU Building Permit Fee Table
- Attachment 3: Table 3 - 2020 ADU Building Permit Fee Table

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