

**ORDINANCE NO. 853-C.S.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA AMENDING CHAPTER 11 OF TITLE 6 (SEWER CONNECTION CHARGES) AND CHAPTER 15 OF TITLE 8 (TRAFFIC IMPACT MITIGATION IMPROVEMENT FUND FOR HIGHWAY ONE IMPROVEMENTS), AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

**WHEREAS**, the California Legislature enacted Senate Bill 13 (Wieckowski) ("SB 13"), Assembly Bill 68 (Ting) ("AB 68") and Assembly Bill 881 (Bloom) ("AB 881") in that order, effective January 1, 2020, amending Sections 65852.2 and 65852.22 of the Government Code and adding Section 17980.12 to the Health and Safety Code pertaining to local regulation of accessory dwelling unit (ADU) and junior accessory dwelling unit (JADU) construction; and

**WHEREAS**, Section 65852.2 and 65852.22 of the Government Code govern certain areas of the law relating to ADU and JADU construction, respectively; and

**WHEREAS**, Article 4.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code ("Article 4.5") regulates ADU construction in the City of Pacifica; and

**WHEREAS**, no current ordinance permits or regulates JADU construction in the City of Pacifica; and

**WHEREAS**, Article 4.5 is not consistent with Sections 65852.2 and 65852.22 of the Government Code, and the Planning Commission recommends that the City Council of the City of Pacifica should amend Article 4.5 with an ordinance that complies with Sections 65852.2 and 65852.22 of the Government Code in order to retain local control over ADU and JADU construction; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on the proposed changes to Article 4.5 and other zoning amendments on December 16, 2019, and adopted Resolution No. 2019-037 initiating and recommending City Council approval of Text Amendment TA-117-19 (File No. 2019-031) on December 16, 2019; and

**WHEREAS**, miscellaneous Pacifica Municipal Code provisions described in this Ordinance must be amended in order to ensure consistency with Section 65852.2 of the Government Code, and the City Council desires to enact such amendments.

**WHEREAS**, the City Council of the City of Pacifica held a duly noticed public hearing on the proposed changes to Article 4.5 and other zoning amendments on January 13, 2020, and introduced Ordinance No. 853-C.S. on the same date.

**NOW, THEREFORE**, the City Council of the City of Pacifica does ordain as follows:

**Section 1. Recitals.** The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

**Section 2. Amendment.** Section 6-11.102(a) and (c) and Section 6-11.104(b) of Article 1 of Chapter 11 of Title 6 of the Pacifica Municipal Code (Sewer Connection Charges) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

"Sec. 6-11.102. - Sewer connection charges.

The following charges are hereby established for the connection of the plumbing of any building or structure to the sanitary sewer system of the City:

- (a) Residential schedule in the original City limits:
  - (1) Six Hundred and no/100ths (\$600.00) Dollars for each single-family, townhouse, and condominium dwelling unit; and
  - (2) Four Hundred Sixty and no/100ths (\$460.00) Dollars for each multiple-family dwelling unit; ~~and~~
  - ~~(3) Three hundred and no/100ths (\$300.00) Dollars for each second residential unit;~~
- (b) Commercial schedule in the original City limits:
  - (1) Six Hundred and no/100ths (\$600.00) Dollars per unit for commercial units not discharging industrial waste; and
  - (2) A charge based on the biochemical oxygen demand removal requirements, gallonage of flow, or a combination thereof, for commercial and industrial units discharging industrial waste;
- (c) Areas annexed:
  - (1) For areas annexed between November 23, 1957 and December 31, 1960, subject to the City's then existing bonded indebtedness for sewer purposes:
    - (i) Eight Hundred Thirty and no/100ths (\$830.00) Dollars for each single-family, townhouse, and condominium dwelling unit;
    - (ii) Six Hundred Thirty and no/100ths (\$630.00) Dollars for each multiple dwelling unit;
    - ~~(iii) Four Hundred Fifteen and no/100ths (\$415.00) Dollars for each second residential unit; and~~
    - ~~(iviii) A charge as set forth in subsection (b) of this section for commercial and industrial units; and~~
  - (2) For areas annexed after December 31, 1960, subject to the City's then existing bonded indebtedness for sewer purposes:
    - (i) One Thousand Two Hundred Sixty and no/100ths (\$1,260.00) Dollars for each single-family, townhouse, and condominium dwelling unit; and
    - (ii) Eight Hundred Eighty and no/100ths (\$880.00) Dollars for each multiple dwelling unit; ~~and~~
    - ~~(iii) Six Hundred Thirty and no/100ths (\$630.00) Dollars for each second residential unit; and~~
    - ~~(iviii) A charge as set forth in subsection (b) of this section for commercial and industrial units~~

Sec. 6-11.104. - Inflow/infiltration charges to provide funds for eliminating an equivalent volume of inflow and infiltration as the wastewater flow contributed to the collection system.

In addition to the charges set forth in Sections 6-11.102 and 6-11.103 of this article, the following charges are hereby established for the connection of the plumbing system of any building or structure to the sanitary system of the City for the purpose of providing funds for eliminating an equivalent volume of inflow and infiltration as the wastewater flow contributed to the collection system:

- (a) Three Hundred Thirty and no/100ths (\$330.00) Dollars for each residential, multiple, and/or commercial unit, but not less than Seven Hundred and no/100ths (\$700.00) Dollars per acre of residential, multiple, and/or commercial property;
- ~~(b) One Hundred Sixty Five and no/100ths (\$165.00) Dollars for each second residential unit;~~
- ~~(c)~~ A charge based on the estimated rate of flow expressed in terms of equivalent units for commercial, manufacturing, and industrial connections; and
- ~~(d)~~ A charge for the Commercial Recreation District (C-R), as set forth in Section 9-1.1501 of Article 15 of Chapter 4 of Title 9 of this Code, for the connection of the plumbing of any building or structure to the sanitary sewer system of the City equivalent to one-half (½) the fees set forth in subsections (a) and ~~(b)~~ of this section.

To provide for construction cost increases due to inflation, on July 1 of each year, beginning September 1, 1984, the fee shall be increased on the basis of the Construction Cost Index (CCI) in the San Francisco Bay Area, published in the issue of the Engineering News Record (ENR) by McGraw-Hill Publication Company."

**Section 3. Amendment.** Section 8-15.03 and Section 8-15.04(a)(2) and (b)(2) of Chapter 15 of Title 8 of the Pacifica Municipal Code (Traffic Impact Mitigation Improvement Fund for Highway One Improvements) is hereby amended as follows (deletions in ~~strike through~~, additions in underline):

"Sec. 8-15.03. - Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

- (a) Accessory dwelling unit. "Accessory dwelling unit" or "ADU" shall have the meaning as defined in Section 9-4.452(a) of the Pacifica Municipal Code.
- ~~(a)~~ Construction. "Construction" shall mean the original construction of a new commercial unit, new residential unit, or new retail unit.
- ~~(b)~~ Dwelling Unit. "Dwelling unit" shall mean one or more habitable rooms which are occupied or which are intended to be occupied by one or more persons with facilities for living, sleeping, cooking, and eating, including single-family detached homes, single-family attached homes, accessory dwelling units, junior accessory dwelling units, townhomes, condominiums, apartments, and mobile home spaces.
- ~~(d)~~ Gross floor area. "Gross floor area" shall mean the total area obtained by measurements to the outside wall for each floor of a building.

- (de) *Highway One improvements.* "Highway One improvements" shall mean those improvements described in subsection (e) of Section 8-15.02 of this chapter.
- (f) *Junior accessory dwelling unit.* "Junior accessory dwelling unit" or "JADU" shall have the meaning as defined in Section 9-4.452(h) of the Pacifica Municipal Code.
- (eg) *New commercial unit.* "New commercial unit" shall mean and include the construction of any gross floor area used for retail sales or commercial purposes which is in addition to any existing floor area within a structure or is a new area, including hotels, motels, and offices. A unit shall be 1,000 square feet of gross floor area.
- (fh) *New office construction.* "New office construction" shall mean the original construction of gross floor area used for administrative, professional, or other nonresidential or retail uses.
- (gj) *New primary residential unit.* "New primary residential unit" shall mean the original first lawfully constructed dwelling unit that exists on site construction of a dwelling unit.
- (hj) *New retail unit.* "New retail unit" shall mean the original construction of one or more retail improvements or the addition of gross floor space to existing nonresidential improvements to be used for retail sales.
- (ik) *Primary impacting area.* "Primary impacting area" shall mean that area within the City lying southerly of the southerly line of Sharp Park (City and County of San Francisco) and its extension easterly and westerly, as shown on "Exhibit A" following this chapter.
- (jl) *Secondary impacting area.* "Secondary impacting area" shall mean that area within the City lying northerly of the southerly line of Sharp Park (City and County of San Francisco) and its extension easterly and westerly shown on "Exhibit A" following this chapter.

Sec. 8-15.04. – Traffic impact mitigation fees for new developments.

\* \* \* \* \*

(a) <i>Primary Impacting Area.</i>	
(1) Per new <u>primary</u> residential unit (average of 1,000 square feet) .....	\$2,100.00
(2) Per new <del>second residential unit .....</del> <u>junior accessory dwelling unit or accessory dwelling unit less than seven hundred fifty (750) square feet ....</u>	<del>No fee</del> \$1,050.00
(3) <u>For a new accessory dwelling unit seven hundred fifty (750) square feet or greater, the fee shall be as determined by the formula provided below. However, in no event shall the fee exceed the fee applicable to a new primary residential unit.</u>	See formula detailed in Section 8-15.04(a)(3)
$F = \left( \frac{A}{P} \right) f$	

<p><u>Where F shall be the fee for the new ADU;</u></p> <p><u>Where A shall be the area (square feet) of the new ADU;</u></p> <p><u>Where P shall be the area (square feet) of the primary residential unit (if used for a multi-family dwelling unit, P shall be the area (square feet) of the largest unit of the multi-family dwelling unit); and</u></p> <p><u>Where f shall be the fee as detailed in Section 8-15.04(a)(1).</u></p>	
(34) Per new commercial unit (per 1,000 square feet of gross floor area) .....	\$ 840.00
(b) <i>Secondary Impacting Area.</i>	
(1) Per new <u>primary</u> residential unit (average of 1,000 square feet) .....	\$ 700.00
(2) Per new <del>second residential unit</del> ..... <u>junior accessory dwelling unit or accessory dwelling unit less than seven hundred fifty (750) square feet</u> .....	<del>\$ 350.00</del> <u>No fee</u>
<p>(3) <u>For a new accessory dwelling unit seven hundred fifty (750) square feet or greater, the fee shall be as determined by the formula provided below. However, in no event shall the fee exceed the fee applicable to a new primary residential unit.</u></p> $F = \left(\frac{A}{P}\right)f$ <p><u>Where F shall be the fee for the new ADU;</u></p> <p><u>Where A shall be the area (square feet) of the new ADU;</u></p> <p><u>Where P shall be the area (square feet) of the primary residential unit (if used for a multi-family dwelling unit, P shall be the area (square feet) of the largest unit of the multi-family dwelling unit); and</u></p> <p><u>Where f shall be the fee as detailed in Section 8-15.04(b)(1).</u></p>	<p>See formula detailed in Section 8-15.04(b)(3)</p>
(34) Per new commercial unit (per 1,000 square feet of gross floor area) .....	\$ 275.00"

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**Section 4. Compliance with CEQA.** The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to the statute (Public Resources Code Section 21000, et seq.) and the CEQA

Guidelines (14 Cal. Code Regs. 15000 et seq.), including without limitation under section 15282(h) of the CEQA Guidelines pertaining to “[t]he adoption of an ordinance regarding second units in a single-family or multi-family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code,” and under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment. Furthermore, development of certain accessory dwelling units and junior accessory dwelling units that would result from this Ordinance would be further exempt from CEQA under Class 1,2, and/or 3 categorical exemptions as detailed in CEQA Guideline Sections 15301 through 15303 because the development of an accessory dwelling unit or junior accessory dwelling unit would occur within existing facilities, would include the replacement or reconstruction of an existing facility, or would be associated with new construction of a single-family dwelling. The City Clerk shall file a Notice of Exemption with the San Mateo County Clerk.

**Section 5. Severability.** If any section, subsection, sentence, clause or phase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City 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 one or more sections, subsections, sentence, clauses or phrases be declared unconstitutional.

**Section 6. Publication.** The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with State law.

**Section 7. Transmittal.** The City Clerk is hereby ordered to transmit a copy of this Ordinance to the Department of Housing and Community Development within 60 days after adoption.

**Section 8. Effective Date.** This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law. For areas within the Coastal Zone, this Ordinance shall not become effective until approved or deemed approved by the California Coastal Commission pursuant to Section 30514 of the Public Resources Code.

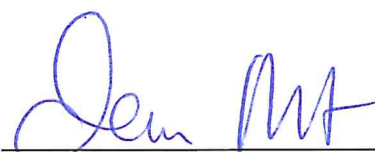
**PASSED AND ADOPTED** this 27<sup>th</sup> day of January, 2020, by the following vote:

AYES, Councilmembers: Martin, Beckmeyer, Vaterlaus, Bier, O’Neill.

NOES, Councilmembers: None.

ABSTAIN, Councilmembers: None.


ABSENT, Councilmembers: None.

  
\_\_\_\_\_  
Deirdre Martin, Mayor

ATTEST:

  
\_\_\_\_\_  
Sarah Coffey, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michelle Kenyon, City Attorney