

**CITY MANAGER'S REPORT  
AUGUST 12, 2019, CITY COUNCIL REGULAR MEETING**

**ITEM: APPROVE POLICY TO GUIDE STAFF INTERPRETATION OF DEVELOPMENT IMPACT FEES AND THE MUNICIPAL CODE AS THEY RELATE TO ACCESSORY DWELLING UNITS TO CONFORM TO STATE LAW**

**RECOMMENDATION: Adopt Resolution Approving a Policy to Guide Staff Interpretation of Development Impact Fees and the Municipal Code as They Relate to Accessory Dwelling Units to Conform to State Law**

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**SUMMARY:**

Accessory Dwelling Units (ADUs) are defined as attached or detached secondary dwelling units with complete independent living facilities for one or more persons. The California Department of Housing and Community Development (HCD) has established laws through the state legislature to reduce the burden on ADU development. The subsequent state laws require some interpretation and standardization by the local agency to ensure consistency among projects.

Pursuant to the California Government Code Division 1 Chapter 5, Chapter 7 and Section 65852.2, ADUs that conform to the definition and requirements set forth by the Government Code shall not be considered by a local agency to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the ADU was constructed with a new single-family home.

It is the interpretation by City staff of this Government Code that Capital Facility Fees (CFFs) related to sewer and water connections shall not apply to ADUs. Further, the requirements for right-of-way and public utility easement dedication, frontage improvements, and utility connection requirements set forth by the City of Lathrop Municipal Code Sections 12.12.070, 12.12.040, and 13.16.040 are not applicable to ADUs.

All CFFs not related to sewer and water connections are applicable to ADUs as long as such fees are allowed to be applied by State Law. In an effort to be consistent with neighboring Cities, all applicable CFFs will be applied at the Multi-Family dwelling rate. The Multi-Family dwelling rate provides a discount as compared to the Single Family dwelling rate to promote development of ADUs within Lathrop.

Staff recommends that City Council approve this policy to guide staff interpretation of development impact fees and the Municipal Code as they relate to accessory dwelling units to conform to state law.

**AUGUST 12, 2019, CITY COUNCIL REGULAR MEETING****APPROVE POLICY TO GUIDE STAFF INTERPRETATION OF DEVELOPMENT IMPACT FEES AND THE MUNICIPAL CODE AS THEY RELATE TO ACCESSORY DWELLING UNITS TO CONFORM TO STATE LAW****BACKGROUND:**

Accessory Dwelling Units (ADUs) are defined as attached or detached secondary dwelling units with complete independent living facilities for one or more person. ADUs address the needs of individuals or small families seeking living quarters in high opportunity areas with limited space. The California Department of Housing and Community Development (HCD) has established laws through the state legislature to promote development of ADUs in an effort to supplement the shortage of available housing.

Pursuant to the California Government Code Division 1 Chapter 5, Chapter 7 and Section 65852.2, dwelling units that meet the HCD definition of an ADU, shall not be considered by a local agency to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the ADU was construction with a new single-family home.

The foregoing statements are interpretations and clarifications by City Staff of the applicability of CFFs and Lathrop Municipal Code to ADUs that meet the definition and requirements set forth by the California Government Code. The foregoing statements are not applicable to ADUs constructed at the same time as the primary dwelling unit:

**1. Water Connection Fees**

Connection to the City water system independent of the existing dwelling unit on the parcel is not required. The ADU shall be connected to the water service for the existing dwelling unit. If independent connection to the City water system is requested, CFFs and capacity fees related to additional use are not applicable. Connections to the City system will be approved through a City Encroachment Permit and the applicant will be responsible for all cost including but not limited to engineering, construction and permitting.

**2. Sewer Connection Fees**

Connection to the City sewer system independent of the existing dwelling unit on the parcel is not required. The ADU shall be connected to the sewer service for the existing dwelling unit. If connection to the City sewer system is requested, CFFs and capacity fees related to additional use are not applicable. Connections to the City system will be approved through a City Encroachment Permit and the applicant will be responsible for all cost including but not limited to engineering, construction and permitting.

Use or expansion of an existing septic system shall be approved by the San Joaquin County Health Department. The City will allow use or expansion of an existing septic system if it is approved by the County.

**AUGUST 12, 2019, CITY COUNCIL REGULAR MEETING**

**APPROVE POLICY TO GUIDE STAFF INTERPRETATION OF DEVELOPMENT IMPACT FEES AND THE MUNICIPAL CODE AS THEY RELATE TO ACCESSORY DWELLING UNITS TO CONFORM TO STATE LAW**

**3. Other Development Impact Fees and Requirements**

CFFs not related to sewer and water connection or capacity including but not limited to Culture and Leisure, Municipal Services, transportation, levee impact and reimbursements apply to ADUs at the Multi-Family Dwelling rate.

Requirements for right-of-way and public utility easement dedications, street frontage improvements, and utility connection requirements set forth by the City of Lathrop Municipal Code Sections 12.12.070, 12.12.040, and 13.16.040 are not applicable to ADUs.

These interpretations and clarifications shall be in effect as long as required by California law.

**REASON FOR RECOMMENDATION:**

Council is requested to approve this policy to guide staff interpretation of development impact fees and the Municipal Code as they relate to accessory dwelling units to conform to state law. A policy is needed at this time due to the ambiguity of the state law related to ADUs and the growing number of applications for ADUs in the City of Lathrop.

**FISCAL IMPACT:**

None.

**ATTACHMENTS:**

- A. Resolution Approving a Policy to Guide Staff Interpretation of Development Impact Fees and the Municipal Code as They Relate to Accessory Dwelling Units to Conform to State Law

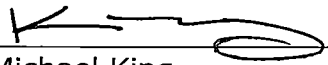
AUGUST 12, 2019, CITY COUNCIL REGULAR MEETING

APPROVE POLICY TO GUIDE STAFF INTERPRETATION OF DEVELOPMENT  
IMPACT FEES AND THE MUNICIPAL CODE AS THEY RELATE TO ACCESSORY  
DWELLING UNITS TO CONFORM TO STATE LAW

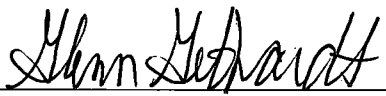
APPROVALS:

  
\_\_\_\_\_  
Brad Taylor  
Associate Engineer

8/7/19  
Date

  
\_\_\_\_\_  
Michael King  
Assistant Director of Public Works


8-7-19  
Date

  
\_\_\_\_\_  
Glenn Gebhardt  
City Engineer

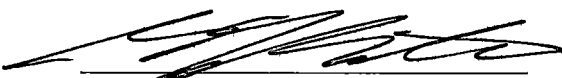
8/7/19  
Date

  
\_\_\_\_\_  
Cari James  
Finance & Administrative  
Services Director

8/8/19  
Date

  
\_\_\_\_\_  
Salvador Navarrete  
City Attorney

8.7.19  
Date

  
\_\_\_\_\_  
Stephen J. Salvatore  
City Manager

8.8.19  
Date

## RESOLUTION NO. 19 -

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP APPROVING A POLICY TO GUIDE STAFF INTERPRETATION OF DEVELOPMENT IMPACT FEES AND THE MUNICIPAL CODE AS THEY RELATE TO ACCESSORY DWELLING UNITS TO CONFORM TO STATE LAW**

**WHEREAS**, Accessory Dwelling Units (ADUs) are defined as attached or detached secondary dwelling units with complete independent living facilities for one or more persons; and

**WHEREAS**, the California Department of Housing and Community Development (HCD) has established laws through the state legislature to reduce the burden on ADU development; and

**WHEREAS**, pursuant to California Government Code Division 1 Chapter 5, Chapter 7 and Section 65852.2, ADUs meeting the definition and requirements set forth by the Government Code shall not be considered by a local agency to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the ADU was construction with a new single-family home; and

**WHEREAS**, City staff wishes to provide clarification on the state laws to maintain consistency between projects and the foregoing clarifications shall be in effect as long as allowed by California law. The foregoing statements are not applicable to ADUs constructed at the same time as the primary dwelling unit:

#### **1. Water Connection Fees**

Connection to the City water system independent of the existing dwelling unit on the parcel is not required. The ADU shall be connected to the water service for the existing dwelling unit. If independent connection to the City water system is requested, CFFs and capacity fees related to additional use are not applicable. Connections to the City system will be approved through a City Encroachment Permit and the applicant will be responsible for all cost including but not limited to engineering, construction and permitting.

#### **2. Sewer Connection Fees**

Connection to the City sewer system independent of the existing dwelling unit on the parcel is not required. The ADU shall be connected to the sewer service for the existing dwelling unit. If connection to the City sewer system is requested, CFFs and capacity fees related to additional use are not applicable. Connections to the City system will be approved through a City Encroachment Permit and the applicant will be responsible for all cost including but not limited to engineering, construction and permitting.

Use or expansion of an existing septic system shall be approved by the San Joaquin County Health Department. The City will allow use or expansion of an existing septic system if it is approved by the County.

### **3. Other Development Impact Fees and Requirements**

CFFs not related to sewer and water connection or capacity including but not limited to Culture and Leisure, Municipal Services, transportation, levee impact and reimbursements apply to ADUs at the Multi-Family Dwelling rate.

Requirements for right-of-way and public utility easement dedications, street frontage improvements, and utility connection requirements set forth by the City of Lathrop Municipal Code Sections 12.12.070, 12.12.040, and 13.16.040 are not applicable to ADUs.

**NOW THEREFORE, BE IT RESOLVED**, the City Council of the City of Lathrop does hereby approve the application of Capital Facility Fees and Municipal Code to accessory dwelling units as described herein as long as required by California law.

The foregoing resolution was passed and adopted this 12th day of August 2019, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:

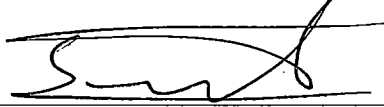
ABSTAIN:

\_\_\_\_\_  
Sonny Dhaliwal, Mayor

**ATTEST:**

\_\_\_\_\_  
Teresa Vargas, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Salvador Navarrete, City Attorney

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