

ITEM 5.4

CITY MANAGERS REPORT DECEMBER 9, 2019 CITY COUNCIL REGULAR MEETING

ITEM: PUBLIC HEARING (PUBLISHED NOTICE) TO CONSIDER AN ORDINANCE PROHIBITING PEDESTRIAN USE OF MOBILE ELECTRONIC DEVICES IN CROSSWALKS AND A RESOLUTION APPROVING RELATED BUDGET AMENDMENT

RECOMMENDATION: City Council to Consider the Following:

1. Hold a Public Hearing; and
2. Introduction and First Reading of an Ordinance Amending the Lathrop Municipal Code by Adding Chapter 8.48 to Title 8 to Prohibit Pedestrian Use of Mobile Electronic Devices in Crosswalks; and
3. Resolution Approving Budget Amendment for Purchase of Signs Prohibiting/Discouraging Pedestrian Use of Mobile Electronic Devices in Crosswalks.

SUMMARY

Although State law prohibits the use of mobile electronic devices while driving, no such law exists to prohibit pedestrian use of mobile electronic devices while using crosswalks. At its last meeting, City Council approved a referral by Councilmember Torres-O'Callaghan to consider this item. This staff report provides two options:

Option 1: City Council consider adoption of an Ordinance to prohibit pedestrian use of mobile electronic devices in crosswalks with enforcement provisions.

Option 2: City Council direct the City Manager to have staff install signage at crosswalks to warn pedestrians against use of mobile electronic devices in crosswalks.

BACKGROUND

At the City Council meeting of October 14, 2019 Council voted to approve a referral by Councilmember Torres-O'Callaghan to consider prohibiting pedestrian use of mobile electronic devices in crosswalks. As a result of City Council's approval, the City Attorney requested additional information from Councilmember Torres-O'Callaghan. Councilmember Torres-O'Callaghan provided two examples of Ordinances adopted by other jurisdictions (Montclair, CA and Honolulu, HI) to use as a starting point in drafting an Ordinance for consideration by the City of Lathrop.

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cost of the signs is approximately \$50 per sign resulting in the need of 160 signs for the 20 signalized crossings. The total cost of the signs is approximately \$8,000.

- **Unsignalized Crossings Near Schools:** A sign or decal could also be installed at all unsignalized crosswalks within 100 yards of any school within the City of Lathrop. The cost of each sign, hardware and post is approximately \$140 each resulting in the need of 154 units for the 24 unsignalized crossings within 100 yards of each school in the City. The total cost of the signs, hardware and posts is estimated at approximately \$21,560.

Option 2: Instead of adopting an Ordinance with enforcement provisions, City Council could choose to simply direct the City Manager to have staff install decals and/or signs at or near City crosswalks to discourage the use of mobile devices by pedestrians when using the City's crosswalks. This approach would avoid the enforcement concerns that are associated with issuing fines pursuant to an Ordinance. The proposed Resolution allows Council to authorize a budget amendment for the purchase of signs to prohibit/discourage pedestrian use of mobile electronic devices in crosswalks.

RECOMMENDATION: Staff recommends the City Council consider:

Option 1: The proposed Ordinance amending the Lathrop Municipal Code to add prohibition of pedestrian use of mobile electronic devices in crosswalks and a budget allocation for up to \$30,000 to cover the cost of signage.

Option 2: Direction to the City Manager to install signage to discourage the use of mobile devices by pedestrians when using crosswalks and a budget allocation for up to \$30,000 to cover the cost of signage.

FISCAL IMPACT:

Adoption of either option and the proposed Resolution would have a fiscal impact on the City's General Fund Streets Reserve Fund of approximately \$30,000 for signage. In order to have adequate funds for this project, staff request City Council approve a budget amendment transferring \$30,000 from the General Streets Repair Reserve Fund (1010) to the Local Streets Other Maintenance & Reserve Fund (2080) as follows:

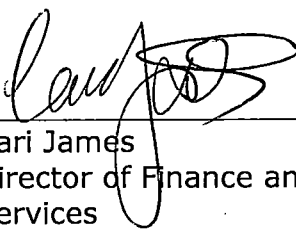
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APPROVALS:




Michael King
Director of Public Works

12-3-19
Date



Cari James
Director of Finance and Administrative
Services

12/4/19
Date



Salvador Navarrete
City Attorney

12-3-19
Date



for Stephen J. Salvatore
City Manager

12-4-19
Date

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP ADDING CHAPTER 8.48 ("PEDESTRIAN USE OF MOBILE ELECTRONIC DEVICES") TO TITLE 8 ("HEALTH AND SAFETY") TO THE LATHROP MUNICIPAL CODE

WHEREAS, Section VII of Article XI of the California Constitution provides that a City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, a number of national university and safety studies, including a 2012 study conducted by the Harborview Injury Prevention and Research Center, University of Washington, reveal that approximately one in three pedestrians use their mobile electronic devices or text messages while crossing busy streets; and

WHEREAS, according to the Safe Kids Worldwide advocacy group approximately half of students age 15 to 19 report they use a mobile device when walking to and from school; and

WHEREAS, a study by the journal, Injury Prevention, has determined that an increase in the use of headphones by pedestrians in environments with moving vehicles has led to a dramatic rise in the number of injuries, with teenagers, young adults and men the most at risk and that the wearing of headphones may have played a direct part in the injury accidents, as the users could not hear or were distracted from warning that they were in danger; and

WHEREAS, pedestrians now account for 15 percent of all vehicle-related fatalities;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LATHROP DOES ORDAIN AS FOLLOWS:

Section 1. Add Chapter 8.48 ("Pedestrian Use of Mobile Electronic Devices") to Title 8 ("Health and Safety") of the Lathrop Municipal Code as follows:

8.48.010 Definitions.

As used in this section, the following definitions shall apply. For purposes of this chapter, these definitions shall supersede any other definitions of the same terms elsewhere in this Code.

Emergency Responders include, but not limited to, public safety officers of either municipal or county police department or fire department, emergency medical technicians, paramedics, private ambulance service responders, emergency management workers, and federal and state law enforcement and fire service officers on duty and responding to an emergency service request.

Mobile Electronic Devices means any handheld, head- or body-mounted, or portable electronic equipment capable of providing wireless and/or data communication between two or more persons or a device for providing amusement, including but not limited to a cellular phone, smart phone, text messaging device, paging device, personal digital assistant, laptop computer, video game, video/audio player, digital photographic device, or any other similar electronic device.

Pedestrian means a person who is afoot or who is using and of the following: (1) a means of conveyance propelled by human power other than a bicycle: or (2) an electronic personal mobility device.

Personal Audio Equipment means any device placed in, on or around a person's ear capable of providing an audible sound, including but not limited to headphones or ear buds.

Viewing means looking in the direction of the screen of a mobile electronic device.

8.48.020 Prohibition against Pedestrian Use of Mobile Electronic Devices.

- A. No pedestrian shall cross a street or highway while engaged in a phone call, viewing a mobile device or with both ears covered or obstructed by personal audio equipment.
- B. Upon presenting evidence, it is an affirmative defense to any citation for a violation of subsection (A) that the cited person was engaged in, or making a "911" emergency communication with a mobile electronic device.
- C. Emergency responders viewing a mobile electronic device, or whose ears are covered or obstructed by audio equipment, while in the performance and scope of his or her official duties are exempt from subsection (A).
- D. Persons, whose disability necessitates the use of a mobile electronic device or personal audio equipment to safely cross a street or highway, are exempt from subsection (A).

8.48.030 Violation.

- A. A violation of this chapter shall constitute an infraction. Conviction of an infraction under this chapter shall be punishable only by fine as follows: for the first conviction, the fine shall not exceed the amount of fifty dollars (\$50.00), for the second and any subsequent conviction within a twelve (12) month period, the fine shall not exceed the amount of one hundred dollars (\$100.00).

Section 2. Severability. If any section, subsequent subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be

unconstitutional or otherwise invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

Section 3. - Effective Date. This Ordinance shall take legal effect 30 days from and after the date of its passage.

Section 4. - Publication. Within fifteen days of the adoption of this Ordinance, the City Clerk shall cause a copy of this Ordinance, to be published in full accordance with Section 36933 of the Government Code.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP
APPROVING A BUDGET AMENDMENT FOR THE PURCHASE OF SIGNS
PROHIBITING/DISCUOURAGING PEDESTRIAN USE OF MOBILE ELECTRONIC
DEVICES WITHIN CROSSWALKS**

WHEREAS, at the City Council meeting of October 14, 2019 Council voted to approve a referral by Councilmember Torres-O'Callaghan to consider prohibiting pedestrian use of mobile electronic devices in crosswalks; and

WHEREAS, City Council was presented with two possible options: 1.) the adoption of an Ordinance to amend the Lathrop Municipal Code to prohibit pedestrian use of mobile electronic devices in crosswalks with enforcement provisions and signage or 2.) direct the City Manager to install signage to discourage pedestrian use of mobile electronic devices in crosswalks; and

WHEREAS, both options include provisions which describe the installation of signage at signalized and unsignalized crosswalks within the City; and

WHEREAS, the total projected expense to install signs at signalized crosswalks and unsignalized crosswalks within 100 yards of any school within the City is \$29,560; and

WHEREAS, staff request City Council approve a budget amendment transferring \$30,000 from the General Streets Repair Reserve Fund (1010) to the Local Streets Other Maintenance & Reserve Fund (2080) as follows:

<u>Decrease Reserve</u>	
1010-251-03-00	\$30,000
<u>Increase Transfer Out</u>	
1010-9900-990-9010	\$30,000
<u>Increase Transfer In</u>	
2080-9900-393-0000	\$30,000
<u>Increase Expenditures</u>	
2080-5010-430-2600	\$30,000

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lathrop does hereby approve signs to be installed at all signalized and unsignalized crosswalks to discourage/prohibit pedestrian use of mobile electronic devices within crosswalks; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council of the City of Lathrop does hereby approve a budget amendment transferring \$30,000 from the from the General Streets Repair Reserve Fund (1010) to the Local Streets Other Maintenance & Reserve Fund (2080) to fund the purchase of signage.

The foregoing resolution was passed and adopted this 9th day of December 2019, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:

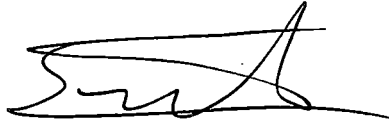
ABSTAIN:

Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk



Salvador Navarrete, City Attorney

