



AGENCY:	City Council/MID #1
MEETING DATE:	March 27, 2017
DEPARTMENT:	Administration
PRESENTED BY:	L. Ruffing

AGENDA ITEM SUMMARY

TITLE:

RECEIVE RECOMMENDATION FROM FINANCE & ADMINISTRATION COMMITTEE AND CONSIDER ADOPTION OF JOINT CITY COUNCIL AND MUNICIPAL IMPROVEMENT DISTRICT BOARD RESOLUTION ESTABLISHING POLICY FOR WATER AND SEWER CONNECTION AND CAPACITY FEES FOR ACCESSORY DWELLING UNITS

ISSUE:

On January 1, 2017, new State legislation relating to Accessory Dwelling Units (ADUs) became effective. The legislation is intended to make it easier for residential property owners to develop ADUs as a way to help address the shortage of affordable rental housing throughout California. In early February, the Council's Finance & Administration Committee considered possible modifications to the City's sewer and water capacity and connection fees to comply with State laws. The Committee's recommendation to the City Council/District Board is that the Council adopt a fee structure and policy for ADUs which complies with the new legislation and is even more generous, in an effort to help Fort Bragg property owners develop new ADUs and bring existing non-permitted ADUs into compliance with applicable codes.

RECOMMENDED ACTION:

Receive Recommendation from Finance & Administration Committee and Adopt Joint City Council/Municipal Improvement District Board Resolution Establishing Policy for Water and Sewer Connection and Capacity Fees for Accessory Dwelling Units.

ALTERNATIVE ACTION(S):

1. Provide direction to staff regarding modifications to resolution.

ANALYSIS:

On August 30, 2016, the California State Legislature passed SB 1069 which became effective January 1, 2017. The legislation renames second residential units as Accessory Dwelling Units (ADUs) and limits the types of restrictions cities and other local agencies may impose on them.

An ADU is a dwelling unit that is located on a residentially-zoned parcel in addition to one existing single-family dwelling. An ADU is defined in the City's Land Use and Development Code as follows:

"Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

According to SB 1069, an ADU is not intended for sale separate from the primary residence; and it may be rented. It can be:

- 1) established within an existing primary dwelling unit or accessory structure;
- 2) attached to a primary dwelling unit;

- 3) one of the units of a duplex; or
- 4) a detached unit.

An ADU may be an efficiency unit (Section 17958.1 of Health and Safety Code) or a manufactured home (Section 18007 of the Health and Safety Code). An ADU must have independent exterior access from the existing residence.

Per the new legislation, an ADU is now exempted from the calculation of the maximum allowable density for the lot on which it is located, and it shall be deemed to be a residential use that is consistent with the existing general plan and zoning designation for the lot. It should be noted that there can only be one ADU on a parcel. If subsequent units are permitted in accordance with zoning limitations, those units would be addressed through the normal fee structure.

SB 1069 restricts a local agency's ability to impose certain fee requirements on ADUs. With regard to water and sewer connections—

- A local agency may not require a separate utility connection between an ADU and a water or sewer main in the street if the ADU is located within an existing residential unit or accessory structure. However, a property owner may choose to install a separate utility connection, in which case a connection fee would be charged.
- For ADUs that involve an addition to an existing structure or a new structure (i.e., not located within an existing structure), the local agency may require a separate utility connection and may charge a connection fee.
- With regard to water and sewer capacity fees, a local agency may not charge a capacity fee for an ADU that is located within an existing dwelling or accessory structure.
- Water and sewer capacity fees may be charged for an ADU that involves an addition to an existing structure or a new structure. In this case, the fee must be proportional to the impact of the ADU.

SB 1069 requires that capacity fees for ADUs proportionally account for the lesser impact of an ADU on services based on the size of the ADU or the number of plumbing fixtures. The logic is that, for example, a 700 square foot ADU with one bathroom should be charged proportionately less than a 2,000 square foot home with three bathrooms. The intent of the legislation is that fees for ADUs should be significantly less and should account for the lesser impact that ADUs have on the City's water and sewer infrastructure.

The Finance & Administration Committee considered the two primary policy issues raised by the new legislation and made the following recommendations to the City Council/District Board:

1. **Under what circumstances should the City require a separate utility connection for an ADU that is an addition to an existing structure or a new structure?** The City's policy has long been to require separate utility connections for ADUs. This policy was established in acknowledgement that ADUs are typically rented as separate dwelling units. For utility billing purposes, it is preferable for each unit to receive a separate bill. That way each party is responsible for paying his/her own bill thus avoiding the conflict that arises when one party doesn't pay its bill resulting in the water being shut off for both units. Under the new legislation, the City cannot require a separate utility connection for ADUs that are entirely within existing structures, but could continue to require separate utility connections for ADUs that are in new structures or which require additions to existing structures. ***The Committee's recommendation is that separate utility connections should not be required for any ADUs—the decision should be left up to the property owner. If a new connection is desired, then a connection fee would be required.***

2. **Should the City charge a capacity fee for an ADU that involves an addition to an existing structure or a new structure?** Capacity fees are charged for new users to “buy into” the existing utility infrastructure that has been funded by past rate-payers. The argument for charging a capacity fee is financial – capacity fees are an important source of revenue for improvements to the City’s water and wastewater infrastructure. The argument against charging a capacity fee is that the goal is to encourage ADUs as a way of increasing low-cost rental housing and increased fees make projects less feasible and/or result in the need for higher rents. ***The Committee’s recommendation is that capacity fees should not be charged for any ADUs in an effort to encourage the development of ADUs as a source of additional affordable, rental housing in Fort Bragg.***

It should be noted that if the Council/District Board chooses to charge capacity fees, they could only be charged for ADUs that involve an addition to an existing structure or construction of a new structure and the fee charged would need to be proportional to the impact of the unit. If Council/District Board chooses to impose a fee, staff recommends that it be based on the following equation: ADU Capacity Fee = Single Family Residential Capacity Fee x (ADU square footage/1,200 square feet).

FISCAL IMPACT:

The fiscal impact of the new fee policy for ADUs would depend on how many units are developed. There would be no impact related to the change in the City’s ADU connection fee policy. Connection fees are established to offset City costs associated with actually installing the utility connections. To the extent that property owners avail themselves of the opportunity to use existing utility connections to serve ADUs – the City would not incur additional costs and there would be no net fiscal impact. The waiver of capacity fees for all ADUs, including those in new structures and additions to existing structure, will result in the City collecting less capacity fee revenue. It is important to keep in mind that the intent of waiving these fees is for the public purpose of incentivizing development of ADUs to increase the availability of affordable, rental housing in Fort Bragg. The Committee suggested that staff track the number of ADU applications and report back to the Council/District Board when the 2018 fee schedule is considered.

IMPLEMENTATION/TIMEFRAMES:

If the Council/District Board adopts the attached Resolution consistent with the Finance & Administration Committee’s recommendation, the new policy and fee schedule would go into effect immediately. If the Council/District Board provides alternative direction, a revised policy and fee schedule would be brought forward for consideration at a Council meeting in April.

ATTACHMENTS:

1. Resolution Establishing Council/District Board Policy and Modifying 2017 Fee Schedule for Water and Sewer Capacity Charges and Connection Fees for Accessory Dwelling Units
2. 2017 Fee Schedule – “Water Capacity Charge & Connection Fees”
3. 2017 Fee Schedule – “Sewer Capacity Charge & Connection Fees”
4. Notice of Meeting

NOTIFICATION:

1. None

City Clerk's Office Use Only

Agency Action ☐ Approved ☐ Denied ☐ Approved as Amended

Resolution No.: _____ Ordinance No.: _____

Moved by: _____ Seconded by: _____

Vote: _____

☐ Deferred/Continued to meeting of: _____

☐ Referred to: _____