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Staff Report for Resolution and Ordinance Establishing a Wastewater Fee Structure to Comply with New Accessory Dwelling Unit State Law and Zoning Code Changes

**SUMMARY AND RECOMMENDATIONS**

To comply with requirements imposed by new California Accessory Dwelling Unit (ADU) laws, the Water Pollution Control Plant needs to establish new definitions and fee structures to ensure equitable assessment of wastewater fees and charges. Staff recommends that the City Council:

- Approve a Resolution to amend San Leandro Administrative Code, Title 12, Chapter 5, Uniform Wastewater Discharge Regulations; and
- Adopt an Ordinance to amend San Leandro Municipal Code, Title 3, Chapter 14, Uniform Wastewater Discharge Regulations, Article 2, Definitions.

**BACKGROUND**

The California Legislature recently amended State law to declare that ADUs in single family and multifamily zones are essential to address the State housing shortage. Consequently, the Legislature passed two new laws that took effect January 1, 2017 to lower barriers to development of ADUs. Those barriers include existing sewer fees and charges.

It is Water Pollution Control Enterprise Fund policy to develop user charges that ensure equity among ratepayers. In December 2007, the City entered into an agreement with Municipal Financial Services for the development and evaluation of wastewater rates and capacity charges. The evaluation's objectives were to calculate wastewater rates and capacity charges to adequately fund sewer utility operations, maintenance, capital replacement expenditures, debt service obligations, keeping rates as competitive as possible, and maintaining a prudent level of reserves. In addition, the City wanted to modify the complex methodology of the previous rates. The Wastewater Rates Study and Wastewater Capacity Charges Study were completed in April 2010. They provide the methodology

whereby the Water Pollution Control Plant ensures equitable allocation of wastewater fees and charges among system users.

### **Analysis**

Capacity charges, previously referred to as connection fees, were developed using the wastewater system replacement value, the design capacity of the wastewater system and a basis for allocation of costs among the functional costs categories of flow, BOD (Biochemical Oxygen Demand) and SS (Suspended Solids). Functional cost categories enables proportionate allocation of costs to facilities based on additional impact to sewer facilities, whether there is a new pipe connection or not. Among residential users, there were two capacity charge categories developed by the study: the Single Family Residential rate and the Multiple Family Residential rate, which applies to properties with three or more independent living units located on the same parcel. Current multi-family capacity charges are flat, per unit fees, regardless of the square footage of the unit or number of people housed in each unit. Single-family charges are also a flat fee, and do not take into account the number of bedrooms or bathrooms in the unit. This is consistent with the practice of many other California sanitary authorities.

The new State law stipulates that an Accessory Dwelling Unit (ADU) located within the building envelope of an existing structure should pay no capacity charge, regardless of impact on the sewer system. However, for both attached and detached ADUs, and to ensure fair and equitable allocation of fees and charges, the City plans to apply the multi-family rate to ADUs. This would comply with State law that provides ADU charges should be less than single family residential for capacity charges and sewer service fees.

To implement these charges, the City Council should amend San Leandro Administrative Code, Title 12, Chapter 5, Uniform Wastewater Discharge Regulations, to assess fees on ADUs, which are essentially a new category of residential unit. San Leandro Municipal Code Title 3, Chapter 14 "definitions" should be updated as well as the City Fee Schedule. Staff plans to propose corresponding amendments to the City Fee Schedule as part of the budget review process. If approved, the new fees will take effect July 1, 2017.

### **Applicable General Plan Policies**

Policy CSF-6.1 **Development Impacts**. Permit new development only when infrastructure and utilities can be provided to that development without diminishing the quality of service provided to the rest of the City.

Policy CSF-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.

*Action CSF-6.2.A: Infrastructure Impact Fee and Rate Updates* Regularly update fees and rates for sewer, solid waste, and other public services to ensure that revenues are sufficient to cover operating and maintenance costs.

### **Environmental Review**

Environmental Review is not required because changes to these fees will not have an effect on the environment.

### **Fiscal Impacts**

These new fees and charges assessed will benefit the Water Pollution Control Plant Enterprise Fund.

### **Budget Authority**

No funds will be required. Staff plans to propose amendments to the Fee Schedule for these additional charges as part of the budget review process. If approved, the new fees will take effect July 1, 2017.

### **ATTACHMENT(S)**

#### **Attachment(s) to Related Legislative File**

- San Leandro Administrative Code, Title 12, Chapter 5, Uniform Wastewater Discharge Regulations, amended copy

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