

CITY COUNCIL AGENDA: DECEMBER 16, 2014

PUBLIC HEARING

SUBJECT: FEES RELATED TO ANNEXATIONS AND EXTRATERRITORIAL SERVICE AGREEMENTS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

HISTORY: At the meeting of October 21, 2014, the City Council approved a comprehensive amendment to the Annexation & Municipal Services Policy, Resolutions 74-2014 and 75-2014 (Attachments 1 & 2), that provide direction to staff on the objectives and procedures related to processing applications for annexation and/or extension of municipal services beyond the city limit. With the approval of these resolutions, the Council directed staff to review fees associated with processing Annexations and Extraterritorial Service Agreements, provide an appropriate fee for the escrow fund for future annexations, and bring back a report with recommendations to the City Council.

COMMENT: Staff has reviewed the time and effort required of the various applications, and has investigated the appropriateness of an "escrow account" to help offset the eventual cost of an annexation in specific circumstances. Currently, the only City fee in place for annexation is \$3,670 for the application, although general development application fees are also applied. As a result, the current approximate cost of an annexation application totals \$4,420, not including environmental compliance. This does not include Local Agency Formation Commission (LAFCo) fees or Board of Equalization fees, which together can typically exceed \$5,000, unless the project is an island.

No fee currently exists for an extraterritorial service connection, except the physical connection of the site to the system. LAFCo has a fee of \$121 plus actual costs in excess of that amount for Extraterritorial Service Agreements (ESA) processed by the Executive Officer; if an ESA must be considered by the Commission, the fee is \$334, plus actual costs in excess of that amount. Currently, City staff spends approximately three hours per ESA application reviewing the materials and preparing for submittal to LAFCo. It seems reasonable to establish an appropriate fee for this effort.

To support the revised policy's position in favor of annexation, staff has looked into a tiered fee schedule for annexation applications. A "major" annexation could be defined as an annexation of parcels where the applicant controls less than 75% of the properties; this would require additional noticing and public meetings for those other properties within the proposed annexation. A "minor" annexation could be defined as an annexation where the applicant controls 75% or more of the properties included within the proposed annexation. Island annexations would also be defined as "minor" annexations.

DD JO Appropriated/Funded MB CM J Item No. 12

ANALYSIS: The City Council adopted the current fee for annexation with Resolution 44-2006, when the most recent comprehensive fee analysis was completed. As noted above, that fee is \$3,670; at the time of the adoption of that fee, it was noted as a “Major” annexation, and that note remains on the fee schedule. However, a “minor” annexation fee was never established. Using logic justified by LAFCo’s fee reduction for island annexations, staff would recommend that the fee for a “minor” annexation be 50% of the “major” annexation fee which would be \$1,835. The efforts related to public outreach in situations defined as a “minor” annexation are substantially reduced, and while the efforts may not be cut in half, a reduced fee is certainly appropriate.

In situations where properties would not be annexed, two fees are presented for consideration. The policy calls for a recorded, official agreement between the property owner and the City of Porterville, to be approved in a manner consistent with Chapter 609 of the Development Ordinance. A similarly standardized request is a modification of entitlement permit, which requires staff review and Council approval. The current fee adopted for that effort is \$150; the fee is applied when a modification to an existing entitlement (such as a Conditional Use Permit) is requested by the applicant. Staff feels that the amount of effort required of this new agreement is comparable, and recommends the adoption of a fee of \$150 to prepare the Extraterritorial Service Agreement for recordation.

Another cost associated with Extraterritorial Service Agreements would be a proposed fee deposit into an escrow account to offset the cost once certain thresholds are met in order to allow an annexation to move forward at a later, more appropriate time. Staff recommends that this cost be established per square footage, and “blocks” would be defined for areas where annexation is not immediately possible. The proposed cost per square foot of property is \$0.0136 cents, as explained in detail below. Accounts could be established per block to hold funds deposited with requests for extraterritorial service connections in escrow until such time as a larger property owner or the City selects to pursue annexation of the area. The basis for this fee deposit is areas approximately 20 acres in size; blocks larger than that would result in complexities associated with managing the account. Using that baseline, the fees to be deposited into an escrow account associated with a 20 acre annexation are as follows:

- City fees per acre: \$379.25
  - If the Council adopts the proposed fee for “Minor” annexations at \$1,835, then assuming annexation would not occur until a minimum of 75% of the property owners have recorded the “Irrevocable Agreement to Annex,” the City Annexation fees, including the PRC fee and an estimated cost of \$5,000 to complete environmental review would be \$7,585 for a 20 acre area, which becomes \$379.25 per acre.

- LAFCo fees per acre: \$174.00
  - Per the recently adopted policy, if an area were an island, it would be required to annex, so the determination of a fee for an Extraterritorial Service Agreement would by default be a standard annexation. The LAFCo fee for a standard annexation application is \$3,476.00; divided by 20 acres, the amount per acre is \$174.00.
  
- Board of Equalization fees per acre: \$40.00
  - The Board of Equalization's current fee to process an annexation of 20 acres is \$800.00. This would result in a fee per acre of \$40.00.
  
- Total fees to be deposited into an escrow account:
  - Per 20 acre "block": \$11,861
  - Per acre: \$593.05
  - Per square foot: \$0.0136
  - An average 6,000 square foot residential parcel would pay \$81.69 toward the escrow account. Larger parcels would pay more according to square footage of the lot.

It should be noted that the two new application requirements for Extraterritorial Service Agreements both require recordation by Tulare County. While the City would not establish a fee for the recordation, the County does charge for this process. As is done with other "pass-through" fees that are required to certify an action, the City will require the submittal of this check in advance of approving the agreement. The check would be payable to the County, and the City would send it on behalf of the applicant with the other materials for recordation.

RECOMMENDATION: That the City Council adopt the draft resolution defining fees associated with processing Extraterritorial Service Agreements and "minor" annexations.

ATTACHMENTS:

1. Resolution 74-2014 Defining Objectives and Policies for Annexations and Municipal Services
2. Resolution 75-2014 Establishing Procedures for Annexations and Extension of Municipal Services
3. Draft resolution adopting fees related to annexations and extension of municipal services

RESOLUTION NO. 74 -2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE DEFINING OBJECTIVES AND POLICIES FOR ANNEXATIONS AND MUNICIPAL SERVICES

WHEREAS: The City of Porterville established a policy concerning annexation and provision of municipal services in 1986, noting that “the City, in order to grow for reasons of economies of scale and quality of services must expand its boundaries within reason, generally encourages the owners of properties contiguous to the city of Porterville to annex to said City of Porterville”; and

WHEREAS: Since 1990, the population of the city of Porterville has increased 53% according to the California Department of Finance, and the land area of the city proper has increased by 38% according to City annexation records; and

WHEREAS: The City of Porterville accepts its responsibility to provide municipal services to those residents, businesses, and other land uses within the limits of the city. The City of Porterville has taken the position that the costs of all physical improvements within the city have been paid by property owners, and other taxes derived in the city, and, therefore, these same people should not be required to bear the expense of additional physical improvements needed to serve newly annexed areas.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville does hereby define the following objectives related to annexations and municipal services:

1. To promote orderly development while discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending government services.
2. To honor the City’s fundamental responsibility to provide efficient and sustainable public services to the inhabitants of the city, and where appropriate, to provide those services beyond the limits of the city within the Urban Development Boundary, and only in extreme cases to those properties beyond the Urban Development Boundary within the Urban Area Boundary.
3. To provide for land development and growth in a manner consistent with the General Plan, particularly as it relates to land use and circulation.
4. To consider an application upon its own merits, and identify what benefits would accrue to the City as an agency and service provider, to the residents of the city of Porterville, and to the applicant.
5. To identify the problems involved in any proposal considered for annexation or request for extra-territorial services and resolve them in the manner most beneficial to the properties within the city of Porterville.
6. To develop factual information to permit informed discussion between City representatives and property owners/residents of unincorporated territories.

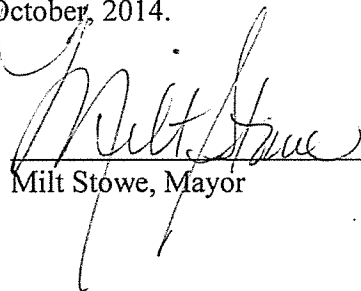
BE IT FURTHER RESOLVED, that the City Council of the City of Porterville does hereby establish the following policies for consideration of annexations and municipal services:

1. It shall be the policy of the City of Porterville to consider annexation proposals only within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County Local Area Formation Commission (LAFCo).

**ATTACHMENT  
ITEM NO. |**

2. It shall be the policy of the City of Porterville to consider extra-territorial service requests primarily within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County LAFCo.
3. It shall be the policy of the City of Porterville, only where necessary in order to respond to an existing or impending threat to public health or safety of affected residents, to consider extra-territorial service requests within the Urban Area Boundary, as adopted by City Council and identified on the City of Porterville Zoning Map.
4. It shall be the policy of the City of Porterville to consider annexation proposals and extra-territorial service requests in a manner consistent with the policies and regulations adopted by the Tulare County LAFCo and the State of California, as applicable.
5. It shall be the policy of the City of Porterville to discourage single-family one (1) lot annexation proposals that may have an adverse fiscal impact on the City of Porterville.
6. It shall be the policy of the City Council that territory shall not be annexed to the city of Porterville, which as a result of such annexation, unincorporated territory is completely surrounded, or substantially surrounded by the city of Porterville.
7. It shall be the policy of the City of Porterville that annexation proposals shall be in conformance with the Cortese-Knox-Hertzberg Act of 2000, as amended.
8. It shall be the policy of the City Council to consider each petition/consent for annexation upon its relationship to what economic benefits will accrue to the City of Porterville, and to the area residents/property owners.
9. It shall be the policy of the City Council that the costs of all physical improvements will be borne by the property owners/resident or developer.
10. It shall be the policy of the City of Porterville to maintain the viability of agricultural productivity; i.e. protecting and conserving as much agricultural land as possible in the area surrounding the Porterville community.
11. It shall be the policy of the City of Porterville that the applicant for annexation present proposals to the Project Review Committee and explain the particulars of the area under consideration for possible annexation, including a plan for services.
12. It shall be the policy of the City of Porterville to consider any requests for annexation or extra-territorial services in a manner consistent with the procedures adopted by resolution of the City Council.

PASSED, APPROVED AND ADOPTED this 21<sup>st</sup> day of October, 2014.

  
\_\_\_\_\_  
Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 

\_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk

RESOLUTION NO. 75 -2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
ESTABLISHING PROCEDURES FOR ANNEXATIONS AND EXTENSION OF  
MUNICIPAL SERVICES

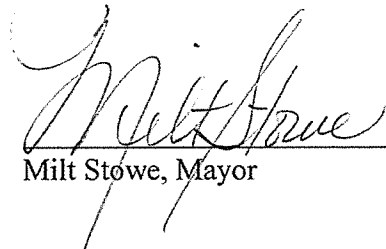
WHEREAS: The City Council of the City of Porterville, acknowledging that over time policies and procedures must be evaluated and reconsidered in light of changes to the regulatory environment and physical setting of the community, adopted a resolution defining objectives and policies for annexations and municipal services; and

WHEREAS: The evaluation of applications and service requests has long been delegated to staff, a practice that has the potential to lend itself to inconsistent implementation of succinctly defined procedures; and

WHEREAS: Local, regional, and state laws have changed since the Council's last review of policies and procedures related to annexations and extension of municipal services.

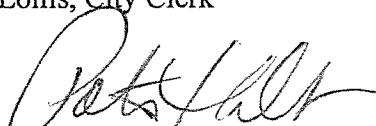
NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville does hereby define procedures to submit application for annexations and municipal services, and to have said application(s) processed as outlined in Exhibit "A," attached.

PASSED, APPROVED AND ADOPTED this 21<sup>st</sup> day of October, 2014.

  
Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By:   
Patrice Hildreth, Chief Deputy City Clerk

**ATTACHMENT  
ITEM NO. 2**

All properties requesting annexation or extraterritorial services are subject to the procedures established below unless otherwise stated. Compliance with City of Porterville procedures does not guarantee approval by LAFCo of annexations or extra-territorial service agreements. Upon request for an annexation or extraterritorial services request, staff will evaluate whether the applicant's property is within the City's Urban Development Boundary or Urban Area Boundary and explain the process.

## **ANNEXATION APPLICATION PROCEDURE**

1. A complete annexation application packet includes: fees, an Irrevocable Agreement to Annex, application for Development Agreement (to be enacted only in the event of failed annexation attempt), Application for Annexation, and other materials as required with those applications respectively.
2. On receipt of an application as outlined above, all materials will be considered by the Project Review Committee, who will coordinate in a pre-consultation process with LAFCO staff and the County Public Works Department for review and recommendation.
3. During review by the Project Review Committee of the necessary application and data, staff will prepare a report and findings on all aspects of the proposed action(s).
4. An environmental document will be prepared pursuant to the California Environmental Quality Act (CEQA), reviewing the potential environmental effect of the proposed activities. The Zoning Administrator will make an initial determination of the level of environmental review required.
5. After proper noticing, a public hearing will be held for the City Council to hear comments related to the project at a regularly scheduled meeting. The Council will authorize staff to initiate the application with LAFCo. Documents will be filed in accordance with the Cortese-Knox-Hertzberg Act of 2000, as amended, and submitted to the Local Agency Formation Commission for its review, recommendation and action.
6. On consummation by the City Council, the City Clerk shall submit the necessary materials to the State Board of Equalization with the appropriate acreage fees, which are paid by the Applicant.
7. In the event the annexation fails, either by dissenting votes of the City Council or at hearing at LAFCo, the City Council may approve an extraterritorial service agreement within the Urban Development Boundary, subject to conditions identified in the Development Agreement.

## **ANNEXATION EXEMPTION PROCEDURE**

Where a certain property meets all of the following criteria, they may proceed with an Extraterritorial Service Agreement for water or storm-water drainage without first attempting annexation, subject to the conditions of Extraterritorial Service Agreements as defined below.

1. Previously developed single-family residences on parcels 24,999 square feet or smaller, OR a school developed by a State funded school district.
2. The parcel requesting services must be immediately adjacent to a municipal main providing the requested service, or the property owner shall provide for the extension of the main line to City standards at their expense.

**EXHIBIT A**

## EXTRATERRITORIAL SERVICES APPLICATION PROCEDURE

Extraterritorial Service connections may be made subject to the following conditions. Note specific parameters and the required findings for connections in the Urban Development Boundary and the Urban Area Boundary.

1. Application: A complete extraterritorial services application packet includes: fees, an Irrevocable Agreement to Annex, application for Development Agreement, and other materials as required with those applications respectively.
2. General Plan Consistency:
  - a. Proposed Uses and Improvements: Service connections are to be withheld from proposed uses and improvements that would not be consistent with the adopted Land Use Element of the Porterville Area General Plan and the City of Porterville General Plan.
  - b. Existing Uses and Improvements: Service connections to existing uses and improvements which are not consistent with the adopted Land Use Element of the Porterville Area General Plan and the City of Porterville General Plan shall be considered at the discretion of the City Council, and may be subject to other restrictions.
3. Agreements and Covenants:
  - a. A Development Agreement must be approved by the property owner and the City Council, and recorded with the County of Tulare upon the property, at the applicant's expense.
  - b. An irrevocable agreement to annex must be signed by the property owner and recorded with the County of Tulare upon the property, at the applicant's expense.
4. Time Limitations: The City Manager or his designee, or the City Council may condition the approval of applications for service connections by establishing a time frame within which connections must be made to avoid re-application.
5. Improvement Plans: Applications for service connections which necessitate the extension of one or more municipal facilities to property in order to make such connections shall be conditioned by the City Manager or his designee, or the City Council to require that Construction Drawings of the intended public improvements be submitted to the City Engineer for plan check and approval. Costs incurred for the preparation of improvement plans, and certain off-site construction and/or installation costs related to extending facilities, shall be the responsibility of the applicant.
6. Fees: Prior to the issuance of a Connection Permit, payment must be made to the City of Porterville of all fees pertinent to the respective service connection, or connections, approved by the City Manager or his designee, or the City Council.



Within the Urban Development Boundary:

For connection of water or storm-water facilities, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. The City of Porterville Wastewater Facility is a regional facility and, as such, an extraterritorial service request cannot be denied; however, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. Contract services for police, fire, or building inspection services shall be approved by resolution of the City Council.

For connection of water or storm-water facilities, the following findings must be made in order for the Council to approve an extraterritorial service connection:

- That the subject property is a previously developed single-family residence on a parcel 24,999 square feet or smaller, OR a school developed by a State funded school district.
- That failure to connect to municipal services would result in a threat to public health or safety of affected residents.
- That connection of the subject property would not result in a negative impact to the City of Porterville water and/or storm-water system.
- That the subject property is not within an island as defined by Tulare LAFCo.
- That an attempt to annex the subject site is not realistic given current city limit boundaries. Specifically, the parcel is too far removed from the city limit, and/or the number and valuation of adjacent parcels would result in a failed annexation effort.

Within the Urban Area Boundary:

For connection of water or storm-water facilities, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. The City of Porterville Wastewater Facility is a regional facility and, as such, an extraterritorial service request cannot be denied; however, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. Contract services for police, fire, or building inspection services shall be approved by resolution of the City Council.

For connection of water or storm-water facilities, the following findings must be made in order for the Council to approve an extraterritorial service connection:

- That the subject property is a previously developed single-family residence on a parcel 24,999 square feet or smaller, OR a school developed by a State funded school district.
- That failure to connect to municipal services would result in a threat to public health or safety of affected residents.
- That connection of the subject property would not result in a negative impact to the City of Porterville water and/or storm-water system.

## **EXEMPTIONS AND EXCEPTIONS**

1. PVPUD: Connections to Porterville Regional Sewage Treatment Facilities serving uses and improvements to property within the boundaries and jurisdiction of the Porter Vista Public Utility District (PVPUD) are exempted from application to the City of Porterville. Interested parties should contact the PVPUD for information on connection requirements and fees pertaining

to sewer services. This exemption does not apply to requests for connection to Municipal Water and/or Master Storm Drain Facilities.

2. PRIOR APPROVALS: Porterville City Council approval of requests for connection to Regional Sewage Treatment, Municipal Water and/or Master Storm Drain Facilities as authorized prior to the adoption and effective date of the respective policies set forth herein shall remain valid and in force according to the terms and conditions initially specified at the time of approval, and re-application will not be required.

RESOLUTION NO \_\_\_\_\_ - 2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
PORTERVILLE ADOPTING CERTAIN FEES RELATED TO  
ANNEXATIONS AND EXTENSION OF MUNICIPAL SERVICES

WHEREAS, on October 21, 2014, the Council adopted Resolutions 74-2014 and 75-2014, approving policies and procedures related to annexations and extension of municipal services, and as a result defined tasks and services to be provided by staff; and

WHEREAS, associated with the adoption of those new policies and procedures, the Council directed staff to evaluate appropriate fees for consideration.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES HEREBY RESOLVE that fees associated with annexations and extension of municipal services are adopted as attached hereto as Exhibit "A."

PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of December, 2014.

By: \_\_\_\_\_  
Milt Stowe, Mayor

ATTEST:  
John D. Lollis, City Clerk

By: \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk

EXHIBIT "A"

FEES RELATED TO ANNEXATIONS AND EXTENSION OF MUNICIPAL SERVICES

FEE SERVICE NAME/DESCRIPTION	APPROVED FEE
Minor Annexation	\$1,835.00
Extraterritorial Service Agreement for service connection	\$150.00
Deposit into Annexation Escrow account, per square foot	\$0.0136