

ORDINANCE NO. 2020-24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING ARTICLE 17 (DEVELOPMENT FEE PROCEDURES) AND ARTICLE 18B (PUBLIC FACILITY DEVELOPMENT FEE) OF CHAPTER 6 OF THE ESCONDIDO MUNICIPAL CODE TO ACKNOWLEDGE CITY'S AUTHORITY REGARDING FUNDING MECHANISMS FOR PUBLIC SERVICES REQUIRED FOR DEVELOPMENT PROJECTS

WHEREAS, the City of Escondido's ("City") authority to require fees or other exactions to offset impacts to ongoing municipal services required for development projects is generally derived from the City's powers pursuant to Article XI, Section 7 of the California Constitution; and

WHEREAS, California statutes also provide authority for the City to require such fees or other exactions in relation to development projects, including but not limited to Government Code Section 37112 (acts necessary or proper to carry out governmental duties) and Government Code Section 66000 et seq. (the Mitigation Fee Act); and

WHEREAS, the City has the authority to create community facilities, assessment, or service districts to offset impacts to ongoing municipal services pursuant to other California statutes, including but not limited to the Mello-Roos Community Facilities District Act, the Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscaping and Lighting Act of 1972, the Benefit Assessment Act of 1982, and the Parking and Business Improvement Area Law of 1989; and

WHEREAS, the City's General Plan, including its Policies related to Public Facility Financing, Public Facility Deficiencies, Complete Streets, Fire Protection, Police Services, and Parks and Recreation, requires new development to contribute fees or establish other funding mechanisms so that the City can adequately operate and maintain municipal facilities and equipment and ensure ongoing levels of municipal services; and

WHEREAS, Article 17 of Chapter 6 of the Escondido Municipal Code concerns "development fees," which are defined as "any monetary exaction imposed as a condition of or in connection with approval of a development project for the purpose of defraying all or a portion of the cost of capital improvements related to the development project"; and

WHEREAS, Article 18B of Chapter 6 of the Escondido Municipal Code concerns "public facility fees," which are defined as "a monetary exaction imposed as a condition of development approval in connection with a residential or nonresidential development project in order to fund and to assure the provision of public facility improvements needed to serve such development at established city service level standards within a reasonable period of time"; and

WHEREAS, Article 18B of Chapter 6 of the Escondido Municipal Code defines "public facilities" as "the construction and equipping of public facilities including, but not limited to, police stations, fire stations, public libraries, senior centers, maintenance yard site, administrative space, and other public facility improvement needs related to projected residential and nonresidential development"; and

WHEREAS, Article 17 and Article 18B do not expressly address fees or other exactions for municipal services (apart from public facilities or capital improvements) required for development projects in the City; and

WHEREAS, on June 12, 2019, the City Council directed staff to investigate all options to address the City's general fund budget deficit; and

WHEREAS, on January 15, 2020, the City Council was provided with the results of the Keyser Marston Fiscal Impact Analysis, which concluded that the cost to provide municipal services to new residential developments exceeded revenues by \$536 to \$783 for each new residential unit per year; and

WHEREAS, on January 15, 2020, the City Council adopted Resolution No. 2020-2, directing staff to prepare documents necessary to consider the formation of a Community Facilities District ("CFD") to offset ongoing costs of municipal services resulting from new development; and

WHEREAS, on April 8, 2020, the City Council adopted Resolution No. 2020-24, which included a Resolution of Intention to Establish Community Facilities District No. 2020-1 of the City of Escondido to fund municipal services required for new development ("Services CFD"), and the setting of a public hearing date of May 13, 2020, for the City Council to consider approving the Services CFD; and

WHEREAS, on May 13, 2020, after the City Council held a properly noticed public hearing, the City Council adopted Resolution No. 2020-44 to approve and establish the Services CFD, which created a CFD funding mechanism by which development projects can offset impacts to municipal services required for the projects; and

WHEREAS, should a development project not be subject to the Services CFD, the City desires to continue its policy of ensuring that the development project otherwise offsets its impacts to municipal services required for the project through the payment of other lawful fees or exactions; and

WHEREAS, pursuant to its continued efforts to address the City's general fund budget deficit and to act in the best interests of the City's residents and taxpayers, the City desires to reaffirm its policy for development projects to offset the impacts to municipal services required for such projects; and

WHEREAS, the aforementioned fiscal policies for development projects are necessary and proper in relation to the City providing ongoing municipal services; and

WHEREAS, the City Council desires to amend the Escondido Municipal Code to reaffirm the City's aforementioned fiscal policies for development projects.

NOW, THEREFORE, the City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That the foregoing recitals are true and correct.

SECTION 2. That a properly noticed public hearing on this matter has been held before the City Council.

SECTION 3. That the City Council has duly reviewed and considered all evidence submitted in association with the public hearing for this Ordinance, including, without limitation, written information; oral testimony from City staff, interested parties, and the public; the concurrently provided Staff Report, which along with its attachments

is incorporated herein by this reference as though fully set forth herein; and additional information submitted during the public hearing.

SECTION 4. That Article 18B of Chapter of the Escondido Municipal Code be amended to insert a new Section 6-457, which shall read as follows:

**Sec. 6-457. Other Fees and Exactions for Public Services.**

(a) In addition to the fees set forth in this article, the City may condition the issuance of a grading permit, construction permit, building permit, or other development entitlement for a development project on the establishment of a funding mechanism to offset the impacts to additional ongoing public services required for such project. The funding mechanism may consist of:

- (1) the imposition of an exaction or fee otherwise authorized by the Escondido Municipal Code, the Mitigation Fee Act, or other applicable local, state, or federal law; or
- (2) the participation of the subject real property in a community facilities, assessment, or service district ("district") organized and adopted by the City in accordance with local, state, or federal law; or
- (3) the execution of an irrevocable offer to annex into a district upon formation of the same if a district has not yet been organized and adopted but the need for which has been identified.

(b) A district referred to in this section may include, but shall not be limited to, those organized pursuant to the Mello-Roos Community Facilities District Act, the Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscaping and Lighting Act of 1972, the Benefit Assessment Act of 1982, the Parking and Business Improvement Area Law of 1989, or any other district formed pursuant to the City's authority or otherwise provided for by applicable law.

SECTION 5. That Section 6-434 (Exemptions) of Article 17 of Chapter 6 of the Escondido Municipal Code be amended to read as follows:

**Sec. 6-434. Exemptions.**

The provisions of this chapter do not apply to:

- (a) Taxes or special assessments levied by the city;
- (b) Fees for processing development applications or approvals;
- (c) Fees for enforcement of or inspections pursuant to regulatory ordinances;
- (d) Fees collected under development agreements adopted pursuant to California Government Code section 65864 et seq.;

(e) Fees collected pursuant to California Government Code section 66477 as money in lieu of park land dedication;

(f) Fees imposed pursuant to a reimbursement agreement by and between the city and a property owner or developer for that portion of the cost of a capital improvement paid by the property owner or developer which exceeds the need for the capital improvement created by the development; or

(g) Fees and exactions for public services referenced in Escondido Municipal Code section 6-457.

SECTION 6. SEPARABILITY. If any section, subsection sentence, clause, phrase, or portion of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 7. That as of the effective date of this Ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8. That the City Clerk is hereby directed to certify to the passage of this Ordinance and to cause the same or a summary to be prepared in accordance with Government Code Section 36933, to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 21<sup>st</sup> day of October, 2020 by the following vote to wit:

AYES : Councilmembers: DIAZ, MARTINEZ, MCNAMARA

NOES : Councilmembers: MORASCO

VACANT : Councilmembers: DISTRICT 2

APPROVED:

DocuSigned by:  
*Paul McNamara*  
CAACE20782954D3  
PAUL MCNAMARA, Mayor of the  
City of Escondido, California

ATTEST:  
DocuSigned by:  
*Zack Beck*  
A58535D0BDC1430...  
ZACK BECK, City Clerk of the  
City of Escondido, California

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STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO : ss.  
CITY OF ESCONDIDO )

I, Zack Beck, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2020-24 passed at a regular meeting of the City Council of the City of Escondido held on the 21<sup>st</sup> day of October, 2020, after having been read at the regular meeting of said City Council held on the 23<sup>rd</sup> day of September, 2020.

DocuSigned by:  
*Zack Beck*  
A58535D0BDC1430...  
ZACK BECK, City Clerk of the  
City of Escondido, California

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