

ORDINANCE NO. 2013-12

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AMENDING ESCONDIDO ZONING CODE
ARTICLE 47 REGARDING ENVIRONMENTAL
QUALITY REGULATIONS

Planning Case No. AZ 13-0003

The City Council of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That the proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 2. That the City Council has reviewed and considered the Notice of Exemption prepared for this project in conformance with CEQA Section 15061(b)(3) "General Rule" and finds that no significant environmental impact will result from approving this code amendment.

SECTION 3. That upon consideration of the staff report, Planning Commission recommendation, Factors to be Considered, attached as Exhibit "A" to this Ordinance and incorporated by this reference, and all public testimony presented at the hearing held on this amendment, this City Council finds that this Code Amendment is consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 4. That Article 47 of the Zoning Code is amended as set forth in Exhibit "B" which is attached and incorporated by this reference.

SECTION 5. 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 6. That as of the effective date of this Ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. That the City Clerk shall certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the City of Escondido.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 11th day of December, 2013 by the following vote to wit:

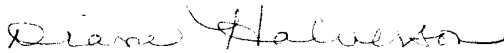
AYES : Councilmembers: DIAZ, GALLO, MASSON, MORASCO, ABED
NOES : Councilmembers: NONE
ABSENT : Councilmembers: NONE

APPROVED:



SAM ABED, Mayor of the
City of Escondido, California

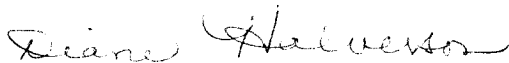
ATTEST:



DIANE HALVERSON, City Clerk of the
City of Escondido, California

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

I, DIANE HALVERSON, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2013-12 was adopted at a regular meeting of the City Council of the City of Escondido held on the 11th day of December, 2013, after having been read at the regular meeting of said City Council held on the 4th day of December, 2013.



DIANE HALVERSON, City Clerk of the
City of Escondido, California

ORDINANCE NO. 2013-12

EXHIBIT "A"
FACTORS TO BE CONSIDERED
AZ 13-0003

1. The California Environmental Quality Act (CEQA) establishes environmental review requirements that are binding on cities. However, CEQA affords some latitude in its implementation. The amendment to the City's Environmental Quality Regulations (EQR) will clearly specify how the city implements these requirements/options.
2. The amendments to the Environmental Quality Regulations (EQR) will implement the California Environmental Quality Act (CEQA) and state CEQA Guidelines for the City of Escondido by applying the provisions and procedures contained in CEQA to development projects proposed within the City of Escondido.
3. The amendment to the Environmental Quality Regulations will ensure consistency between the City's thresholds of environmental significance and the Public Facilities Master Plans, which implements the Growth Management Element of the General Plan. The proposed amendments would update thresholds requirements in conformance with regionally adopted standards. The standards also would achieve consistency between the City's Environmental Quality Standards and General Plan Quality of Life, and environmental protection policies and programs.
4. The proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15061(b)(3) "General Rule." The proposal does not have the possibility to have a significant effect on the environment.

EXHIBIT "B"

PROPOSED MODIFICATIONS

Article 47

Environmental Quality

Prior history: Zoning Code, Ch. 109, §§ 1090.00—1090.40 as amended by Ord. Nos. 89-3, 90-69 and 92-38.

DIVISION 1. REGULATIONS

Sec. 33-920. Purpose.

These environmental quality regulations (EQR) implement the California Environmental Quality Act (CEQA) and state CEQA Guidelines (guidelines) by applying the provisions and procedures contained in CEQA to development projects proposed within the City of Escondido. (Ord. No. 95-2, § 1, 2-15-95)

Sec. 33-921. Incorporation of the California Environmental Quality Act and the CEQA Guidelines.

The City of Escondido hereby adopts the California Environmental Quality (CEQA) Guidelines (Division 13 of the Public Resources Code of the State of California, Sec. 21000 et seq.) and the CEQA Guidelines (Sec. 15000 et seq.) as amended, by reference. Whenever any provisions of CEQA or the guidelines conflict with any provision of this chapter, CEQA and the guidelines shall supersede this chapter. (Ord. No. 95-2, § 1, 2-15-95)

Sec. 33-922. Exemption procedures.

The following sections implement Section 15300.4 of the CEQA Guidelines which requires the city to list those specific activities which fall within each of the following exempt classes:

(a) Ministerial projects. Pursuant to Section 15369 of the CEQA Guidelines, "ministerial projects" are those that involve little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. They involve the use of fixed standards or objective measurements. Projects in the city specifically deemed to be ministerial include all post-approval submittals in substantial conformance with the approval. Post-approval submittals include certified tentative subdivision maps, final maps, grading, landscape and improvement plans, CC and R's, and building plans. Other ministerial projects include final inspections, issuance of licenses, utility service connections and disconnections, city-ordered brush clearance of nonsensitive areas in accordance with City of Escondido procedures, and other similar actions for which no discretion exists that could create or avoid environmental impacts.

(b) Categorical exemptions. Pursuant to Section 15300 of the CEQA Guidelines, Categorical Exemptions are classes of projects determined not to have a significant effect on the environment and are therefore exempt. No clarifications or additions are necessary to Sections 15300 to 15333 other than to specify that Administrative Adjustments, within prescribed parameters, fall within Class 5, Section 15305 of the Guidelines.

(c) "General rule" exemptions. Section 15061(b)3 of the CEQA Guidelines provides that "Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The following are specific actions considered not to have a significant effect pursuant to this provision:

- (1) Minor zone or Municipal Code amendments that do not involve physical modifications, or lead to physical improvements beyond those typically exempt, or which refine or clarify existing land use standards;
- (2) Projects that are not specifically listed as categorical or statutory exemptions but exhibit characteristics similar to one or more specific exemptions.

(d) Determination procedures. Initial determinations as to whether a statutory, categorical or general rule exemption is warranted are made by the staff planner before an application is deemed complete. Prior to project approval, the director or his/her designee shall prepare a notice of exemption form, which shall be placed in the appropriate case file and be available for public review. Prior to any final action, the notice of exemption shall be reviewed and certified by the appropriate decision makers as part of the approval action. Written findings supporting the determination on the environmental status and shall be considered prior to approval of the project and be included on the notice of exemption.

(e) Exceptions. Even though a project may otherwise be eligible for an exemption, no exemption shall apply for grading and clearing activities, parcel maps, plot plans and all discretionary development projects otherwise exempt that would have a potential for significant effect on all or a portion of the site involving:

- (1) Plant or animal species, which disturb, fragment or remove such areas defined by either the California Endangered Species Act (Fish and Game Code Sections 2050 et seq.), or the Federal Endangered Species Act (16 U.S.C. Section 15131 et seq.) as sensitive, rare, candidate, species of special concern, endangered, or threatened biological species or their habitat (specifically including coastal sage scrub habitat for the California Gnatcatcher);
- (2) Archaeological or cultural resources from either historic or prehistoric periods;
- (3) Stream courses designated on U.S. Geological Survey maps;
- (4) Hazardous materials, unstable soils or other factors requiring special review.

Sec. 33-923. Mitigation and reporting requirements.

It is the intent of the city to ensure that all required mitigation measures to avoid potentially significant effects are effectively implemented and monitored throughout the project approval, permitting, construction process, as well as the lifespan of the project. In conjunction with the approval of each project, an individual program shall be developed and adopted, to ensure that each feature related to the mitigation measures to avoid a significant effect is specifically included in the conditions of approval, incorporated into the subsequent stages of development review and permitting process, monitored during construction, final inspection, as well as on an ongoing basis. The program may contain

remedies to ensure compliance with the ongoing mitigation measures beyond final inspection. (Ord. No. 95-2, § 1, 2-15-95)

Sec. 33-924. Coordination of CEQA, quality of life standards, and growth management provisions.

The purpose of this section is to ensure consistency between the city's thresholds of environmental significance and the Public Facilities Master Plans which implements the growth management element of the General Plan. The city's General Plan contains quality of life standards that are to be considered in comprehensive planning efforts as well as individual project review. The degree to which a project, and the area in which it is located, conforms to the quality of life standards, is an issue in determining thresholds of significance. Notwithstanding the city's goal of providing adequate infrastructure concurrent with development, the Public Facilities Master Plans acknowledges that the concurrent provision of infrastructure cannot be provided in all cases, particularly in the short term. Instead, only critical infrastructure deficiencies affect the timing of development. The following criteria are intended to clarify how facility deficiencies should affect the following CEQA determinations.

(a) Negative and mitigated negative declarations. In situations where the preparation of a negative declaration is otherwise appropriate, yet quality of life standard deficiencies are found to exist, a negative declaration may still be prepared under the following circumstances, as applicable:

- (1) Facility deficiencies are of an interim nature in that a master plan has been adopted for the provision of the facilities, appropriate fees are charged to offset project impacts, or other measures are in place to address long-run impacts;
- (2) The project does not in itself, or in conjunction with other pending and approved projects, cause the number of units outside specified fire and emergency response times to exceed ten (10) percent of the total number of city units;
- (3) A project proposes less than two hundred (200) units, and the cumulative total of reasonably anticipated projects does not exceed a total of one thousand (1,000) units where such police service beat is experiencing, or is likely to experience, unacceptable service times;
- (4) After mitigation, the project does not exceed SANTEC thresholds for intersections/segments with a service level of LOS E or F within certain specified areas of the Downtown Specific Planning Area, or LOS D, E or F elsewhere in the community.
- (5) Adequate sewer, water and drainage facilities for the area can be provided to the satisfaction of the city engineer in accordance with adopted master plans;
- (6) After mitigation, the project does not individually generate air-quality impacts for fixed, mobile or construction sources within the general plan area by more than any of the following thresholds per day:

Pounds per Day Thresholds

Respiratory Particulate Matter (PM10)	Fine Particulate Matter (PM2.5)	Oxides of Nitrogen (NOx)	Oxides of Sulfur (Sox)	Carbon Monoxide (CO)	Lead and Lead Compounds	Volatile Organic Compounds (VOCs)
100	55	250	250	550	3.2*	75** 55***

* Not applicable to Construction

** Threshold for construction per SCAQMD CEQA Air Quality Handbook

*** Threshold for operational per SCAQMD CEQA Air Quality Handbook

- (A) Standby, diesel generators in conformance with Zoning Code Section 33-1122 are exempt from the above requirement for daily emissions of oxides of nitrogen.
- (7) Greenhouse Gas (GHG) emissions. In situations where a negative declaration is otherwise appropriate, the following incremental GHG emissions are generally not considered significant:
 - (A) Projects that do not generate more than 2,500 metric tons (MT) of Carbon Dioxide equivalent (CO₂e) greenhouse gas (GHG) emissions; or,
 - (B) Projects generating more than 2,500 MT CO₂e that have achieved 100 points implementing reduction measures outlined in the Escondido Climate Action Plan (E-CAP) screening tables, adopted by separate Resolution; or,
 - (C) Projects generating more than 2,500 MT CO₂e that demonstrate through a project specific analysis quantifying GHG emissions that through mitigation and design features, the project reduces GHG emissions consistent with the E-CAP.
- (8) Noise impacts of circulation element street widening. In situations where a negative declaration is otherwise appropriate, the following incremental noise increases are generally not considered significant:
 - (A) Short- or long-term increases, regardless of the extent, that do not result in noise increases in excess of General Plan standards;
 - (B) Short- or long-term increases that result in a three (3) DbA or less incremental increase in noise beyond the General Plan's noise standards.
- (9) Demolition or Removal of Historic Resources. Demolition of an historic resource would be considered significant if:
 - (A) Structures are determined to be a unique or rare example of an architectural design, detail, historical type or method of construction in the community representing an example of a master (a figure of generally recognized greatness in a field, or a known craftsman of consummate skill), possessing high artistic value, embodying the distinctive characteristics of a types period or method of construction referring to the way in which a property was conceived, designed or fabricated in past periods of history in Escondido, and containing enough of those characteristics to be

considered a true representative of a particular type, period, or method of construction;

- (B) Structures located within an historic district and the relationship with other structures in the vicinity contributes to the unique character and quality of the streetscape and/or district;
- (C) Structures involving the site of a locally historic person (or event) whose activities were demonstrably important within the context of Escondido, and is generally restricted to those properties that illustrate (rather than commemorate) important achievements that are directly associated with the subject property and reflect the time period;
- (D) Structures listed with, or eligible for listing with the State or National Register;
- (E) Pursuant to CEQA Section 15300.2(f) a categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of an historic resource, since a project that is ordinarily insignificant in its impact to the environment in a particularly sensitive environment may be significant.

(b) Environmental Impact Reports. Where deficiencies exist relative to the city's quality of life standards, and the extent of the deficiency exceeds the levels identified in subsection (a) of this section, an environmental impact report shall be prepared. (Ord. No. 95-2, § 1, 2-15-95; Ord. No. 2001-18, § 4, 7-25-01; Ord. No. 2002-10, § 5, 4-10-02; Ord. No. 2003-36, § 4, 12-3-03)

Sec. 33-925. City responsibility for environmental documentations and determinations.

(a) The city shall have responsibility and control over the form, scope and content of all documents comprising the environmental assessment of a project. All reports, studies or other documents prepared by or under the direction of an applicant, intended for inclusion in the environmental documents, shall be clearly identified as proponent's environmental assessment (PEA), and shall set forth in detail the assumptions and methodologies supporting any conclusions reached or upon which any recommendations may be based.

(b) The city, at its sole discretion, may decide to utilize the services of a private consulting firm to prepare or review all studies, reports and other documents required or permitted by the guidelines, including those submitted by the proponent or any other party. In all cases, the consultant shall enter into a contract with and shall be responsible directly to the city. All services shall be performed to the satisfaction of the director of planning and building, or his/her designee.

(c) All costs incurred in the preparation of the environmental documents, including the cost of services performed under subsection (b) of this section, shall be borne by the proponent. (Ord. No. 952, § 1, 2-15-95)

Sec. 33-926. Enhanced CEQA review for projects subject to congestion management program requirements.

Unless otherwise exempt from state law, development proposals or other discretionary planning actions which are expected to generate either an equivalent of two thousand four hundred (2,400) or more average daily trips (ADT) or two hundred (200) or more peak hour vehicle trips shall include as part of the enhanced CEQA review the following information:

(a) A traffic analysis to determine the project's impact on the regional transportation system. The regional transportation system includes all the state highway system (freeways and conventional state highways) and the regional arterial system identified in SANDAG's (San Diego Association of Governments) most recent regional transportation plan (RTP). The regional transportation system includes all of the designated congestion management program (CMP) system.

(b) The traffic analysis shall be made using the traffic model approved by SANDAG for congestion management program traffic analysis purposes. The traffic analysis shall also use SANDAG's most recent regional growth forecasts as the basic population and land use database.

(c) The traffic analysis should acknowledge that standard trip generation estimates may be overstated when a project is designated using transit-oriented development design principles. Trip generation reductions should be considered for factors such as focused development intensity within walking distance to a transit station, introduction of residential units into employment centers, aggressive transportation demand management programs, and site design and street layouts which promote pedestrian activities.

(d) The project analysis shall include an estimate of the costs associated with mitigating the project's impacts to the regional transportation system. The estimates of any costs associated with the mitigation of interregional travel (both trips end outside the county) shall not be attributed to the project. Credit shall be provided to the project for public and private contributions to improvements to the regional transportation system. The city shall be responsible for approving any such credit to be applied to a project. The credit may be in any manner approved by the city including donated/dedicated right-of-way, interim or final construction, impact fee programs and/or money contributions. Monetary contributions may include public transit, ride sharing, trip reduction program support, and air quality transportation control measure funding support. (Ord. No. 95-2, § 1, 2-15-95)

Sec. 33-927. Public noticing of negative declarations and mitigated negative declarations.

In conformance with Article 6 of CEQA (Negative Declaration Process, section 15072), a notice of intent to adopt a negative declaration or mitigated negative declaration shall be mailed to the last known name of all organizations and individuals who have previously requested such notice in writing and shall also give notice of intent to adopt a negative declaration or mitigated negative declaration by the following procedures to allow the public the review period provided under CEQA section 15105:

(a) Publication at least one (1) time by the lead agency in a newspaper of general circulation in the area affected by the proposed project. If more than one (1) area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(b) Direct mailing to the owners of property within a five hundred (500) foot radius of the exterior boundaries of the project as shown on the latest equalized assessment roll, except as provided in California Government Code section 65091(a)(3), or as subsequently amended. (Ord. No. 99-15-R, § 4 Exh. C, 6-9-99)

Secs. 33-928.1—33-929. Reserved.

Editor's note—Ord. No. 2007-12, § 5, adopted May 9, 2007, repealed Ch. 33, Art. 47, Div. 2, §§ 33-928.1—33-929, pertaining to the environmental advisory board, which derived from Ord. No. 2003-25, § 1, adopted July 30, 2003; and Ord. No. 2005-05, § 11, adopted October 26, 2005.