

**10-DAY REPORT REGARDING MEASURES TAKEN TO ALLEVIATE
CONDITIONS WHICH LED TO ADOPTION OF URGENCY ORDINANCE NO.
2024-12 ESTABLISHING A TEMPORARY PROHIBITION ON NEW
COMMERCIAL BATTERY ENERGY STORAGE SYSTEMS WITHIN THE CITY
OF ESCONDIDO**

I. Background

At its October 9, 2024, meeting, the City Council of the City of Escondido ("City") adopted an urgency interim ordinance establishing a temporary prohibition on new commercial battery energy storage systems ("BESS") within the City's boundaries ("Urgency Ordinance No. 2024-12"). More specifically, Urgency Ordinance No. 2024-12 prohibits any use permit, variance, building permit, business license, or any other entitlement for use from being approved or issued for the establishment, construction, or operation of a commercial BESS facility for any location or property within the City, unless a use permit was approved prior to October 9, 2024, authorizing the establishment, construction, and operation of the commercial BESS facility, in which case the commercial BESS facility could continue in operation as approved but cannot be replaced or modified in a manner that would require revision or amendment to the use permit under the City's Zoning Regulations.

An interim ordinance takes immediate effect upon adoption and expires forty-five days after adoption, unless extended at a later date after notice and a public hearing for up to an additional ten months and fifteen days, and subsequently for an additional twelve months. (Government Code Section 65868(a).)

Urgency Ordinance No. 2024-12 took effect on October 9, 2024, and will expire on November 23, 2024. Government Code Section 65858(d) requires that at least ten days prior to the expiration of an interim ordinance or any extension, the City Council must issue a written report describing the measures taken to alleviate the condition(s) which led to the adoption of the ordinance.

II. Measures Taken Since the Adoption of the Interim Ordinance

As City staff's findings demonstrate, Urgency Ordinance No. 2024-12 was enacted in order to preserve public health, safety, and general welfare of City residents, firefighters, and emergency responders during emergency operations, based on, among other things, the hazards of fire, explosion, or dangerous conditions in new and existing BESS facilities and negative economic impacts inconsistent with the City's adopted 2023 to 2028 Comprehensive Economic Development Strategy.

To alleviate the conditions that led to the adoption of Urgency Ordinance No. 2024-12, the City has taken the following steps since adoption:

- 1) City staff have taken preliminary steps to study and consider the hazards associated with commercial BESS facilities, land use development policies, and standards relating to commercial BESS facilities to evaluate the potential development of such facilities within the City.

- 2) In collaboration with the City Attorney's office, City staff have explored amendments to the City's General Plan and Zoning Regulations aimed at enhancing public safety and mitigating the potentially catastrophic impacts of new commercial BESS facilities in the City and nearby communities in order to accomplish the goals of Urgency Ordinance No. 2024-12. This includes research into what other cities in California are doing in order to enhance safety standards and environmental safeguards regarding commercial BESS facilities and identify effective legislative frameworks that could be adapted to local needs.
 - City staff have found at least one city within the state has adopted an “Energy Storage Facility” ordinance (City of Beaumont, Ordinance No. 1142), prohibiting energy storage facilities in all zones except their industrial zone; adopting definitions for jargon associated with BESS facilities; and adopting use standards for such facilities; and
 - City staff continue to review contemporary literature on BESS facilities as they relate to zoning ordinances, including but not limited to the U.S. Department of Energy’s technical report *Energy Storage in Local Zoning Ordinances* dated October 2023. (https://www.pnnl.gov/main/publications/external/technical_reports/PNNL-34462.pdf);
- 3) City staff have engaged with interested parties likely to be affected by a commercial BESS facility prohibition to collect their concerns and unique insights that will guide the development of specific regulations and mitigation strategies addressing both community safety and the impact of commercial BESS facilities within the City of Escondido.
- 4) Recognizing the distinct safety risks associated with commercial BESS facilities, including but not limited to fire and environmental risks, City staff have taken preliminary steps toward an in-depth review of existing emergency response procedures to enhance emergency preparedness for potential incidents at these sites. Such steps include review, evaluation, and comment on the San Diego County BESS Best Practices – Policy Recommendations for Battery Energy Storage Systems Projects which is currently being developed by the County. City staff have also taken preliminary steps toward identifying environmental sensitive watercourses that could be impacted by BESS facility proximity.

III. Conclusion

The City has not concluded its research and thus has not yet taken any action at this time regarding the form of any permanent regulations pertaining to the establishment or use of commercial BESS facilities. As a result, an extension of urgency Ordinance No. 2024-12 is recommended to allow the City the time to effectively study and consider land use development policies and standards related to commercial BESS facilities that should be added to the City's General Plan and Zoning Regulations.