

## ORDINANCE NO. XXXX

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, ADDING CHAPTER 2.48.380 TO THE FULLERTON MUNICIPAL CODE TO ESTABLISH AN INFRASTRUCTURE FUND

WHEREAS, The City of Fullerton faces continued financial challenges which greatly restrict its ability to provide additional General Fund monies towards infrastructure maintenance and improvements, specifically towards its streets, sidewalks and public right-of-way areas.

WHEREAS, The City Council recently received a report from the Infrastructure and Natural Resources Advisory Committee regarding recommendations related to increased infrastructure expenditures based on a thorough review and assessment of the City's overall infrastructure assets and ability to properly fund such improvements.

WHEREAS, The City Council directed Staff to return to the City Council with a financial policy related to creating an opportunity to dedicate existing revenues, and potentially future increased revenues, towards maintaining and improving the City's infrastructure.

WHEREAS, it is the intent of the City Council to bind the actions of future City Councils in continuing to make increased expenditures towards the City's infrastructure, as defined, without diminishing the ability of City operations to have nominal growth in future years from current recurring revenue sources including secured property tax and sale tax.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON DOES ORDAIN AS FOLLOW:

#### SECTION 1: FINDINGS

A. The purpose of this Ordinance is to establish an Infrastructure Fund in which certain property tax and sales tax revenues above and beyond a baseline amount established by the City Council shall be deposited to make available for infrastructure improvements, as defined, to the benefit of the community.

B. The City Council finds that the current state of the City's infrastructure is in critical need of additional expenditures for maintenance, rehabilitation, replacement and new infrastructure / improvements and that current revenues are not adequate to advance the state of the City's infrastructure.

C. The City Council recognizes that City operations are currently underfunded to meet the expectations and desires of residents as expressed through community input and public comments.

D. Increased revenue from secured property tax and sales tax shall be prioritized to address the City's infrastructure need while providing for current City operations to continue to reasonably grow based on cost of living increases and normal expenditure increases associated with the delivery of public services, the cost of goods and equipment, and increased State mandates which are largely unfunded.

SECTION 2. Chapter 2.48.380 INFRASTRUCTURE FUND of Title 2 of the Fullerton Municipal Code is hereby added as follows:

CHAPTER 2.48.380 INFRASTRUCTURE FUND.

A. Definitions. As applied in this section, the following words and terms are defined as follows:

1. "Infrastructure" means long-lived capital assets that are generally stationary in nature and can be preserved for a significant number of years. They include, but are not limited to, alleys, arterials, streets, highways, curbs and gutters, sidewalks, bridges, street trees, landscaped medians, traffic signals, streetlights, retaining walls along streets and arterials, public facilities and improvements within the public right-of-ways or on public property.
2. "General Fund Revenue Baseline" (Baseline) means the externally audited sales tax and secured property tax revenue as reported in the Comprehensive Annual Financial Report (CAFR) for fiscal year ending June 30, 2019. The Baseline may be adjusted by majority action of the City Council due to change in disbursement of taxes resulting from state or court action and, beginning with the fiscal year ended June 30, 2029 CAFR, and every ten years thereafter.
  - a. The sales tax baseline shall be adjusted by the annual Consumer Price Index for All Urban Consumers, Los Angeles-Long Beach-Anaheim, CA Metropolitan Statistical Area (CPI), for the preceding fiscal year.
  - b. The secured property tax baseline shall be adjusted by 2.5% annually.

B. Establishment of the Fund. There is hereby established an "Infrastructure Fund," which shall be a fund within the City's General Fund. The Infrastructure Fund shall be used to fund maintenance, repair and replacement of public infrastructure, as defined, which is not eligible for funding from enterprise or utility funds, with an emphasis on funding of local streets, arterials, alleys and sidewalks.

C. Automatic Transfers into and from the Infrastructure Revenue Fund.

1. No less than fifty percent (50%) of annual secured property tax revenue above the annual secured property tax baseline shall be transferred into the Infrastructure Fund commencing with fiscal year beginning July 1, 2021.

No less than fifty percent (50%) of annual sales tax revenue above the annual sales tax baseline shall be transferred into the Infrastructure Fund commencing with fiscal year beginning July 1, 2021.

2. Where any of the designated annual tax revenues required to be transferred to the Infrastructure Fund are below the General Fund Revenue Baseline, no transfer will be made to the Infrastructure Fund. Conversely, no transfer out of the Infrastructure Fund to the General Fund will be made.
3. Nothing in this section shall prohibit the City Council, as part of the budgeting process, from contributing additional revenues to the Infrastructure Fund.
4. Transfers from the Infrastructure Fund shall only be used for the maintenance, rehabilitation, replacement, and construction of infrastructure as defined.

D. Suspension of Automatic Transfer. The automatic transfer described in Subsection C. shall be temporarily suspended by City Council resolution on a four-fifths (4/5<sup>th</sup>) vote of the membership when revenue projections underlying the adopted budget reflect a decline in actual revenues, as compared to the revenue forecasts underlying the adopted budget for the fiscal year immediately prior. Automatic transfers shall remain suspended until positive revenue growth is reflected in the revenue forecasts underlying the adopted budget.

E. True-up of Revenue Transfer. At the end of each fiscal year, the secured property tax and the sales tax revenue amounts shall be reconciled to make true the correct amount(s) transferred into the Infrastructure Fund. Corrected amounts shall be made prior to the close of the fiscal year or as practicable.

F. Annual Report. An annual report of transfers and expenditures shall be provided to the Infrastructure and Natural Resources Advisory Committee within ninety (90) days of the issuance of the CAFR for the applicable fiscal year.

SECTION 3. Any provision of the Fullerton Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, phrase or clause of this Ordinance is for any reason held to be unconstitutional, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses may be declared unconstitutional.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law. This Ordinance shall become effective thirty days from and after its passage.

ADOPTED BY THE FULLERTON CITY COUNCIL ON JULY 7, 2020.

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Jennifer Fitzgerald  
Mayor

ATTEST:

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Lucinda Williams, MMC  
City Clerk

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Date