



D City of Irvine, Prohibiting Voter Approval Requirements on Fiscally Beneficial Projects

Shall Section 1009 be added to the Irvine City Charter which benefits Irvine’s general fund and local taxpayers by requiring that no City procedures or requirements delay important revenue streams from development projects which provide a fiscal benefit to Irvine citizens, be adopted?

What your vote means

YES	NO
A “Yes” vote is in favor of adopting this proposed Charter amendment measure.	A “No” vote is against adopting this measure.

For and against

FOR	AGAINST
<p>Donald P. Wagner Mayor, City of Irvine</p> <p>Bryan Starr President and CEO, Greater Irvine Chamber of Commerce</p> <p>Steve Q. Shen Irvine Investment Advisory Committee Member</p> <p>Jim Shute Irvine Finance Commissioner</p> <p>Carolyn Cavecche CEO, Orange County Taxpayers Association</p>	<p>Karen E. Jaffe Management</p> <p>Jeanne T. Baran Community Volunteer</p> <p>Chuck Heath Retiree, 40 Year Resident</p> <p>Thomas Kwon, Ph.D Entrepreneur, 35 Year Resident</p>

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City of Irvine

CITY COUNCIL ORDINANCE NO. 18-

AN ORDINANCE OF THE PEOPLE OF THE CITY OF IRVINE, CALIFORNIA, AMENDING THE CITY CHARTER OF THE CITY OF IRVINE TO PROHIBIT THE IMPOSITION OF ADDITIONAL APPROVAL BY THE ELECTORATE ON APPROVED DEVELOPMENT PROJECTS THAT PROVIDE THE CITY WITH SPECIFIED FISCAL BENEFITS

WHEREAS, the inherent powers of a charter city permit a city to adopt an ordinance proposing to regulate municipal land uses in order to facilitate the development of projects that provide a fiscal benefit to the City.

WHEREAS, the purpose of this Charter Amendment is to ensure there are no City procedures or requirements that would delay the important revenues to the City and its taxpayers from development projects deemed to provide a fiscal benefit to the City.

WHEREAS, to provide the City with the certainty necessary to ensure long-term fiscal growth and to avoid the need for future tax increases, it is appropriate to amend the Charter of the City of Irvine to place limitations on any City procedures or regulations, including any provisions in the Municipal Code, that would delay approved projects that would provide fiscal benefits to the City meeting the standards set forth in this Charter amendment.

WHEREAS, the Charter amendment would further the policy set forth in General Plan Land Use Element Objective A-5, Policy (c), to maintain a fiscally balanced General Plan that will generate revenue in excess of costs by a margin of 15 percent.

WHEREAS, the Charter amendment would advance the City's policy that funding be available for the City's long-term capital improvement and maintenance needs in furtherance of General Plan Land Use Element Objective A-5, Policy (c), including the improvement of the local transportation system and regional roadway network contemplated by General Plan Land Use Element Policy (d) of Objective M-3.

WHEREAS, the General Plan's Growth Management Element Objective M-7, Policy (c) and Objective M-8 reflect the necessity of maintaining fiscally sound land use policies and planning, which the Charter amendment seeks to facilitate.

WHEREAS, pursuant to Elections Code section 1415, and the inherent powers of a charter city, the City Council has determined to submit to the voters at a Special Municipal Election a ballot measure amending the City Charter of the City of Irvine to prohibit the imposition of additional approval by the electorate on approved development projects that would provide the City with a fiscal benefit by prohibiting the imposition of further approval by the electorate once such projects have been approved by the City.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF IRVINE, CALIFORNIA, DO ORDAIN AS FOLLOWS:

SECTION 1. Findings. The above recitals are true and correct and incorporated herein.

SECTION 2. Amendment to the City Charter. Section 1009 is hereby added to the City Charter as follows (addition shown as underline):

Section 1009. – Projects providing a fiscal benefit to the City.

A legislative approval, of or related to any development project found by the City to provide a "fiscal benefit," shall not require any further approval by the electorate after approval of the project by the City in accordance with the provisions of the Municipal Code as of the date of adoption of this Section. No Municipal Code provisions or City guidelines shall be inconsistent with this Charter provision. This provision is not intended to conflict with or alter the right of referendum provided by Section 903 and the California Constitution, or any other provisions in the City Charter.

For purposes of this Section, a development project that provides a "fiscal benefit" shall mean: (a) a project that when added to the City's existing fiscal impact model does not interfere with or negatively impact the City's goal that overall development in the City generates revenue in excess of costs by a margin of 15 percent or more, in compliance with General Plan Land Use Element Objective A-5, Policy (c); (b) a project that has already been considered and included in the City's most recent fiscal impact model analysis which has been approved by the City prior to the date of adoption of this Section; or (c) a project that is the subject of a development agreement that was originally approved on or before the date of adoption of this Section, where the agreement recites, finds, or otherwise acknowledges that the City will receive a significant public benefit or benefits. For each development project for which an applicant requests that City staff make a determination of fiscal benefit to the City under Subsection (a) or (b) of this Section, the project applicant shall prepare a fiscal impact study as part of the project's application for a legislative approval, or the project applicant shall be required to pay, at the time the application for a legislative approval is submitted, for a fiscal impact study to be prepared in coordination with the City Manager and reviewed by City staff, demonstrating compliance with the criteria in Subsection (a). At the time of the legislative approval(s) of or related to a development project, the City shall (A) ratify the fiscal impact study (by a majority vote, if applicable), and shall make a finding regarding the proposed project's fiscal benefit based on the fiscal impact study, or (B) find that the project will remain the subject of the development agreement as set forth in Subsection (c). Any development project seeking to qualify as a project that provides a fiscal benefit shall be reviewed and approved as required by the California Environmental Quality Act.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The People of the City of Irvine, California, hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.



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SECTION 4. Effective Date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

SECTION 5. Execution. The Mayor is hereby authorized to attest to the Ordinance by the voters of the City of Irvine by signing where indicated below. The Clerk is authorized to publish this Ordinance in compliance with law.

Impartial Analysis City of Irvine Measure D

This proposed Charter amendment measure was placed on the ballot by a vote of the City Council of the City of Irvine.

If approved by a majority of voters, the proposed Charter amendment measure would add Section 1009 to the Irvine City Charter to prohibit the imposition of voter approval requirements on projects that obtain City approvals, so long as the project provides specified fiscal benefits.

The proposed Charter amendment would not restrict the power of referendum over individual project approvals, as otherwise allowed by state law and/or the Irvine City Charter. Nor would the proposed Charter amendment create any restrictions applicable to projects that do not provide a fiscal benefit.

Under the proposed Charter amendment, "fiscal benefit" means:

- a. a project that, when added to the City's existing fiscal impact model, does not interfere with or negatively impact the City's goal that overall development in the City generates revenue in excess of costs by a margin of 15 percent or more, in compliance with City of Irvine General Plan Land Use Element Objective A-5, Policy (c);
- b. a project that has already been considered and included in the City's most recent City-approved fiscal impact model analysis in existence as of the date of adoption of the proposed Charter amendment; or
- c. a project that is the subject of a development agreement that was originally approved on or before the date of adoption of the proposed Charter amendment, where the agreement recites, finds, or otherwise acknowledges that the City will receive a significant public benefit or benefits.

To attempt to make the showings of fiscal benefit set forth in (a) and (b), above, the applicant may either prepare a fiscal impact study, or the applicant shall be required to pay for a fiscal impact study to be prepared at the time the application is submitted in coordination with the City Manager and reviewed by City staff. At the time of the legislative approval(s) of or related to a development project, the City shall ratify the fiscal impact study and shall make a finding regarding the proposed project's fiscal benefit based on the fiscal impact study.

If the proposed project qualifies as fiscally beneficial under (c), above, at the time of the legislative approvals of or related to the project, the City shall find that the project will remain the subject of a development agreement that recites, finds, or otherwise acknowledges that the City will receive a significant public benefit or benefits.

A "Yes" vote is in favor of adopting this proposed Charter amendment measure.

A "No" vote is against adopting this measure.

If a majority of voters vote "Yes" then this measure will take effect when it is filed with the Secretary of State.

Dated: March 6, 2018

s/ Jeffrey Melching
City Attorney



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Argument in Favor of Measure D

A YES Vote on Measure D will add an amendment to our City Charter that will ensure that new development projects include appropriate infrastructure improvements and provide a financial benefit to the taxpayers or else be subject to potential additional forms of public approval.

Developers paying their fair share is the hallmark of this measure.

A YES vote would require that developers provide a fiscal benefit of at least 15% above the city's cost of new projects. **Developers will have to publicly disclose the financial benefit of their projects prior to city council approval, or else be subject to potential additional forms of public approval.**

Developers must disclose the cost burdens of their projects and guarantee that they are investing in the community and not acting as ciphers that sap taxpayer resources from the public treasury.

Irvine taxpayers will still have the right of referendum, which is guaranteed by the City Charter and the California State Constitution.

A Yes vote on Measure D provides a safeguard against runaway development by shining sunlight on the public cost of private development. Developers will be fully accountable for the fiscal impacts of their projects. The City Council will in turn be accountable to the residents of Irvine.

Please vote YES on Measure D and protect the City general fund, enhance revenues for public benefit and improve the integrity of Irvine's public disclosure process. Thank you.

s/ Donald P. Wagner
Mayor, City of Irvine

s/ Bryan Starr
President and CEO, Greater Irvine Chamber of Commerce

s/ Steve Q. Shen
Irvine Investment Advisory Committee Member

s/ Jim Shute
Irvine Finance Commissioner

s/ Carolyn Cavecche
CEO, Orange County Taxpayers Association

Rebuttal to Argument in Favor of Measure D

Measure D represents a direct and transparent attempt to take away Irvine citizens right to vote, or even challenge the development and growth of our city.

A "NO" vote STOPS City council from giving a free pass to the development community.

This measure is a sad admission by Irvine City Council that it only looks at development in terms of fiscal impact, and are willing to green light any projects with a mere 15% of projected revenue over cost. And that 15% is only a **budget estimate** view- ignoring projects that will experience cost overruns and ultimately missing the 15% threshold. There is NO developer accountability in this measure!

There is nothing in the plain language of Measure D requiring any infrastructure assessment at all. It does clearly say that if passed, Irvine voters are barred from questioning any development decision The Council makes- regardless of any resulting infrastructure, safety, or environmental shortfalls.

A "NO" vote STOPS City council from taking away your right to petition.

Measure D does NOT expose developer deals to sunlight- rather it keeps all activity in the shadows and unchallenged. Make no mistake- Measure D is squarely directed at you the voter and its singular aim is to keep your voice out of the future direction of your city. This measure precludes citizens from proactively bringing a referendum challenging the development decision process.
Ever.

Vote "NO" and retain your right to demand accountability!

s/ Karen E. Jaffe
Management

s/ Jeanne T. Baran
Community Volunteer

s/ Charles E. Heath
40 Year Resident , Retiree

s/ Thomas Kwon, Ph.D
Entrepreneur, 35 Year Resident



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Argument Against Measure D

The measure to appear on the June ballot that would prevent any electoral referendum from delaying an approved development project. If the City's initiative is approved, it will forever bar the citizens of Irvine from exercising their constitutional right to initiatives and referenda if the result would delay a development project that has been approved by City Council. The City's measure purports to "benefit Irvine's general fund and local taxpayers" but the reality is that it really benefits developers. If the City's measure is passed, *any* development project approved by City Council in which the revenues exceed expenses by a mere 15% will be protected from a challenge via voter-instigated initiative. In other words, if the expenses are about 87% or less of the projected revenue to the City, voters can do absolutely nothing to delay or halt the project. The City is making it clear that projects with a relatively small cash value to the city have a special protected status. This is problematic not only because the City is trying to preemptively prohibit its citizens from exercising their constitutional rights, but also because the development projects are evaluated solely on short term monetary gains. There is no interest in protecting the quality of life: traffic, pollution, overcrowded schools, and common sense no longer factor into determining the "value" of a development project. This measure provides an unconstitutional benefit to development companies and provides further incentive for monetary influence of elected officials.

s/ Karen E. Jaffe
Management

s/ Jeanne T. Baran
Community Volunteer

s/ Chuck Heath
Retiree, 40 Year Resident

s/ Thomas Kwon, Ph.D
Entrepreneur, 35 Year Resident

Rebuttal to Argument Against Measure D

The opponents of Measure D are wrong.

This measure **DOES NOT** "prohibit residents from exercising their constitutional rights." **Irvine taxpayers will still have the right of referendum over individual projects.** The City Attorney's impartial analysis itself states that "The proposed Charter Amendment would not restrict the power of referendum over individual project approvals, as otherwise allowed by state law and/or the Irvine City Charter."

What Measure D will do is hold developers responsible for actually having to pay their fair share.

Developers will have to publicly disclose the financial costs of their projects prior to city council approval, or else be subject to potential forms of public approval.

Measure D shines a light on the actual cost of private development and holds the developers accountable for the impacts of their projects.

A YES Vote on Measure D will add an amendment to our City Charter that will require that new development projects provide a financial benefit to the taxpayers or else be subject to potential additional forms of public approval.

Please join The Orange County Taxpayers Association, The Irvine Taxpayers Association, The Greater Irvine Chamber of Commerce, and The Irvine Police Association in supporting Measure D.

Measure D will continue to protect the high quality of life Irvine residents demand by safeguarding revenues to the city general fund that pay for our police officers and firefighters, support our schools, and help ensure infrastructure improvements are made.

Vote YES on Measure D. Thank you.

s/ Donald P. Wagner
Mayor, City of Irvine

s/ Bryan Starr
President and CEO, Greater Irvine Chamber of Commerce

s/ Steve Q. Shen
Irvine Investment Advisory Committee Member

s/ Jim Shute
Irvine Finance Commissioner

s/ Carolyn Cavecche
CEO, Orange County Taxpayers Association