

ORDINANCE NUMBER O- 21521 (NEW SERIES)

DATE OF FINAL PASSAGE SEP 21 2022

AN ORDINANCE AMENDING CHAPTER 9, ARTICLE 8, DIVISION 6 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 98.0610; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 6 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 142.0640, RELATING TO BUILD BETTER SAN DIEGO (SD) CITYWIDE INITIATIVE.

WHEREAS, Build Better SD is a Citywide initiative to support the City of San Diego's equity, access, conservation, and sustainability goals; and

WHEREAS, as part of the initiative the City reviewed the Land Development Code, which is part of the San Diego Municipal Code (Municipal Code); and

WHEREAS, this Citywide initiative will create mechanisms to allow an applicant to pay a reduced mobility development impact fee in exchange for providing an onsite mobility improvement; and

WHEREAS, this Citywide initiative replaces public facilities financing plans with the current annual capital improvement program budget to ensure development impact fees are expended on relevant and meaningful projects and enables the quick delivery of public spaces and infrastructure; and

WHEREAS, this Citywide initiative will move the timing of the housing impact fee collection to occur prior to final inspection to align it with the collection of other Citywide development impact fees; and

WHEREAS, the Planning Commission of the City of San Diego held a public hearing on April 21, 2022, to consider the Build Better SD initiative; and

WHEREAS, the Planning Commission recommended adoption of the Build Better SD; including the amendments to the Municipal Code; and

WHEREAS, the matter was set for public hearing on August 1, 2022, testimony having been heard, evidence having been submitted and the City Council having fully considered the matter and been fully advised concerning the same; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego as follows:

Section 1. That Chapter 9, Article 8, Division 6 of the San Diego Municipal Code is amended by amending section 98.0610, to read as follows:

**§98.0610 Payment of Housing Impact Fee**

Except as provided elsewhere in this section, the applicable Housing Impact Fee shall be paid prior to a final inspection. A final inspection of the Nonresidential Development Project shall not occur until the applicable Housing Impact Fee is paid. The amount of the Housing Impact Fee shall be determined as follows, in accordance with the fee schedule set forth in Appendix A in effect on the date the project application is submitted.  $(\text{Gross Square Feet Nonresidential Space}) \times (\text{Applicable Fee by type of use as determined by the Mayor or his or her designee by application of APPENDIX A to this Division}) = \text{Housing Impact Fee}$ . For purposes of this Division, the Housing Impact Fee for an interior remodel shall be the fees for the new use, less any fees that either were paid or would have been paid based on the existing use of the building.

Section 2. That Chapter 14, Article 2, Division 6 of the San Diego Municipal Code is amended by amending section 142.0640, to read as follows:

**§142.0640 Impact Fees for Financing Public Facilities and Spaces**

(a) [No change in text].

(b) Payment of Fees

Development Impact Fees (as defined in California Government Code Section 66000) for applicable development shall be paid prior to requesting a final inspection. A final inspection shall not occur until the applicable DIFs are paid in areas where DIFs have been established by City Council resolution or ordinance. Notwithstanding the above, the City Manager may also require the payment of DIFs for development that would increase demand for public facilities and/or result in the need for new public facilities. DIFs shall not be required for inclusionary dwelling units provided pursuant to Chapter 14, Article 2, Division 13 if the applicant has satisfied all the requirements of Division 13 for inclusionary dwelling units on the same premises as the market-rate dwelling units. The DIF amount due shall be based upon the DIF schedule in effect when the *development* application was submitted, or the DIF schedule in effect when the fees are paid, whichever amount is lower, plus an automatic increase consistent with Section 142.0640(c), if applicable.

Exemptions:

(1) through (9) [No change in text].

(c) through (e) [No change in text].

(f) Developer Reimbursement Agreements (DRA)

For purposes of this Division, a DRA means an agreement to reimburse another entity for all or a portion of the cost of the entity's contracts with

consultants and/or contractors for the design and construction of a public works project. The City Manager may enter into a DRA for a public works project that contains supplemental size, capacity, number, or length, or will serve Citywide needs, the need for which is not directly attributable to the *development*, provided that the following minimum requirements are satisfied:

- (1) [No change in text].
- (2) The public works project is identified in the annual capital improvement plan budget and the amount of reimbursement does not exceed the amount identified for the public works project in the annual capital improvement plan budget.
- (3) through (4) [No change in text].
- (5) For DRAs executed prior to July 1, 2023, should the applicable Community specific DIF fund be exhausted, the City Manager may authorize a credit against any applicable Citywide DIF or reimbursement funds to developers in accordance with the DRA's executed prior to July 1, 2023.

(g) [No change in text].

Section 3. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this Ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Shannon C. Eckmeyer  
Shannon C. Eckmeyer  
Deputy City Attorney

SCE:sc  
07/07/2022  
Or.Dept: Planning  
Doc. No.: 2971112\_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of SEP 13 2022.

ELIZABETH S. MALAND  
City Clerk

By [Signature]  
Deputy City Clerk

Approved: 9/20/22  
(date)

[Signature]  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

(NOTE: The date of final passage is September 21, 2022, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck-Out~~**

**NEW LANGUAGE: Double Underline**

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 9, ARTICLE 8, DIVISION 6 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 98.0610; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 6 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 142.0640, RELATING TO BUILD BETTER SAN DIEGO (SD) CITYWIDE INITIATIVE.

**§98.0610 Payment of Housing Impact Fee**

Except as provided elsewhere in this section, the applicable Housing Impact Fee shall be paid ~~at the time required building permit fees are paid and no later than the first inspection~~ prior to a final inspection. A final inspection of the Nonresidential Development Project ~~performed by the City~~ shall not occur until the applicable Housing Impact Fee is paid. The amount of the Housing Impact Fee shall be determined as follows, in accordance with the fee schedule set forth in Appendix A in effect on the date the project application is submitted: (Gross Square Feet Nonresidential Space) x (Applicable Fee) by type of use as determined by the Mayor or his or her designee by application of APPENDIX A to this Division = Housing ~~Payment~~ Impact Fee. For purposes of this Division, the Housing Impact Fee for an interior remodel shall be the fees for the new use, less any fees that either were paid or would have been paid based on the existing use of the building.

~~(a) Notwithstanding Section 98.0610(a), Building Permits may be issued if the City Manager defers payment of the Housing Impact Fee in accordance with all of the following:~~

~~(1) Payment of Housing Impact Fees shall not be deferred unless and until a Fee Deferral Agreement is entered into to the satisfaction of the City Manager. The Fee Deferral Agreement shall be recorded against the applicable property in the Office of the San Diego County Recorder and shall constitute a lien for the payment of the Housing Impact Fee. The Fee Deferral Agreement shall be binding upon, and the benefits of the agreement shall inure to, the parties and all successors in interest to the Fee Deferral Agreement.~~

~~(2) Payment of Housing Impact Fees shall only be deferred if the applicable administrative processing fee, as adopted by City Council resolution, is paid by the Building Permit applicant or landowner.~~

~~(3) Payment of Housing Impact Fees may be deferred for a maximum period of two years from the effective date of a Fee Deferral Agreement, or until a final inspection is requested, whichever occurs earlier. A final inspection shall not occur, and where applicable, no certificate of occupancy shall be issued, until the applicable Housing Impact Fee is paid.~~

- (4) ~~If payment of the Housing Impact Fees is deferred, the amount of the Housing Impact Fee due shall be determined in accordance with section 98.0610(a).~~

**§142.0640 Impact Fees for Financing Public Facilities and Spaces**

- (a) [No change in text].
- (b) Payment of Fees

Development Impact Fees (as defined in California Government Code Section 66000) for applicable development shall be paid prior to requesting a final inspection. A final inspection shall not occur until the applicable DIFs are paid in areas where DIFs have been established by City Council resolution or ordinance. Notwithstanding the above, the City Manager may also require the payment of DIFs for development that would increase demand for public facilities and/or result in the need for new public facilities. DIFs shall not be required for inclusionary dwelling units provided pursuant to Chapter 14, Article 2, Division 13 if the applicant has satisfied all the requirements of Division 13 for inclusionary dwelling units on the same premises as the market-rate dwelling units. The DIF amount due shall be based upon the DIF schedule in effect when the development application was submitted, ~~Building Permit was issued~~, or the DIF schedule in effect when the fees are paid, whichever amount is lower, plus an automatic increase consistent with Section 142.0640(c), if applicable.



Exemptions:

(1) through (9) [No change in text].

(c) through (e) [No change in text].

(f) Developer Reimbursement Agreements (DRA)

For purposes of this Division, a DRA means an agreement to reimburse another entity for all or a portion of the cost of the entity's contracts with consultants and/or contractors for the design and construction of a public works project. The City Manager may enter into a DRA for a public works project that contains supplemental size, capacity, number, or length, or will serve ~~communitywide~~ Citywide needs, the need for which is not directly attributable to the *development*, provided that the following minimum requirements are satisfied:

(1) [No change in text.]

(2) The public works project is identified in the annual capital improvement plan budget ~~a City Council-adopted public facilities financing plan or impact fee study~~ and the amount of reimbursement does not exceed the amount identified for the public works project in the annual capital improvement plan budget ~~adopted public facilities financing plan or impact fee study~~.

(3) through (4) [No change in text.]

(5) For DRAs executed prior to July 1, 2023, should the applicable Community specific DIF fund be exhausted, the City Manager may authorize a credit against any applicable Citywide DIF or reimbursement funds to developers in accordance with the DRA's executed prior to July 1, 2023.

(g) [No change in text.]

SCE:sc  
07/07/2022  
Or.Dept: DSD  
Doc. No.: 2971100\_2

Passed by the Council of The City of San Diego on SEP 13 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 21 2022.

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

AUG 01 2022, and on SEP 21 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21521