

ORDINANCE NO. 12134
(New Series)

O.77-225
REV.

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 2,
DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE
BY AMENDING SECTION 102.0409, REGARDING FEES
FOR BRIDGES AND MAJOR THOROUGHFARES.

AUG 24 1977

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

Section 1. That Chapter X, Article 2, Division 4, of
the San Diego Municipal Code be, and it is hereby amended by
amending Section 102.0409 to read as follows:

SEC. 102.0409 FEES - BRIDGES OR MAJOR THOROUGHFARES

There may be required the payment of fees for the
purpose of defraying the cost of constructing bridges
or major thoroughfares in accordance with the conditions
stipulated in Chapter 4, Article 5 of the Subdivision
Map Act. Such facilities shall be consistent with the
General Plan or such other community plans as have been
adopted by the City Council pursuant thereto.

1. GENERAL CONDITIONS

A. Facilities to be constructed shall conform
with the general plan and to the transportation or
circulation element and the flood control provisions
thereof which identify those major thoroughfares
whose primary purpose is to carry through traffic
and provide a network connecting to the state highway
system or which identifies railways, freeways,
streams, or canyons for which bridge crossings are
required.

MICROFILMED

001, 4 1977

01427

B. Major thoroughfares to be constructed shall be those that are in addition to, or a reconstruction of, any existing major thoroughfares serving the area at the time the boundaries of the area of benefit are established.

C. Bridges to be constructed shall be an original bridge serving the area or an addition to any existing bridge facility serving the area at the time the boundaries of the area of benefit are established. No fees shall be collected or expended to reimburse the cost of constructing existing bridge facilities.

D. In establishing the property liable for payment of fees under this section, there may be included in the area of benefit land in addition to that which may be the subject of any subdivision map or building permit application being considered concurrently with the proceedings to create a benefitting district.

E. In determining the method of fee apportionment for major thoroughfares, land which abuts the proposed improvement shall not be allocated higher fees than land not abutting the improvement unless the abutting property is provided direct, useable access to the major thoroughfare.

2. RESOLUTION OF INTENTION TO FORM DISTRICT

Whenever the Council deems it necessary to form a district representing an area of benefit under the provisions of this section, the Council shall by resolution declare its intention to form such a district to establish

MICROFILMED
OCT 4 1978

fees for the construction of bridges or major thoroughfares.

The resolution of intention shall state the following:

- A. The time and place of the public hearing.
- B. The boundaries of the area of benefit.
- C. The description of the proposed improvements.
- D. The estimated cost of the construction of the proposed improvements, including right-of-way design and contract administration.
- E. The estimated advance or contribution of funds by City.
- F. The method of fee apportionment.
- G. The estimated fee which will be established as a condition of approval of final subdivision maps or for issuance of building permits.

3. NOTICE OF HEARING

Notice of hearing shall be given by publishing a copy of the resolution of intention once at least ten (10) days prior to the time fixed for the hearing in the City Official Newspaper. Such notice shall also be given by mailing a copy of said resolution of intention at least fifteen (15) days before the time fixed for the hearing to each owner of land within the proposed improvement district as shown on the last equalized County assessment roll.

4. PUBLIC HEARING

At the time and place fixed in the resolution of intention, the Council shall hear any owner liable to the payment of fees who may appear and present testimony

MICROFILMED

OCT 4 1978

-3-

12134

01429

material to the matters set forth in the resolution of intention. Also, the Council shall hear and pass upon all written protests filed by the owners of land within the proposed improvement district. Written protests must be filed with the City Clerk prior to the time of the hearing and must contain a description of the property in which each signer thereof is interested. Each description must be in sufficient detail to clearly identify the same. If the signers of the protests are not shown on the last equalized assessment role as the owners of such property, the protest must contain or be accompanied by written evidence that such signers are the owners of such property. The hearing may be continued from time to time by the Council.

5. MAJORITY PROTESTS

A. If within the time when protest may be filed under the provisions of this section there is a written protest filed with the City Clerk by the owners of more than one-half of the area of the property to be benefited by the improvement and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned and the Council shall not for one (1) year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section. Protests may be withdrawn by the owner

MICROFILMED

OCT 4 1978

12134

C1430

making the same, in writing, at any time prior to the conclusion of the public hearing.

B. If any majority protest is directed against only a portion of the improvement, then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the City Council shall not be barred from commencing new proceedings, not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the City Council within such one-year period from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds by the affirmative vote of four-fifths of its members that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with such portion of the improvement or acquisition.

6. RESOLUTION OF DISTRICT FORMATION

A. If a majority protest is not filed, or if filed and protests are withdrawn such that less than a majority protest exists at the conclusion of the hearing, the Council shall by resolution determine whether or not it is deemed necessary to form the district representing an area of benefit and establish the fees therefor. A certified copy of the resolution designating a benefitting district

MICROFILMED

OCT 4 1978

12134

01431

shall be recorded by the City in the office of the San Diego County Recorder. The apportioned fees specified in said resolution shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final subdivision map or as a condition of issuing a building permit for improvements having a total value of more than \$3,000.00; and shall include the principal charge plus interest from the date of establishment of the charge at a rate determined by the City Council.

B. Any action or proceeding to attack, review, set aside, avoid, or annul the resolution forming the district, designating the area of benefit and establishing the fees therefor, or any of the proceedings, acts or determinations taken, done, or made prior to the adoption of such resolution, shall not be maintained by any person, unless such action or proceeding is commenced within sixty (60) days after the date of adoption of such resolution. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity of such resolution or of such proceedings, acts or determinations.

C. Any defect, error or informality in the publication or mailing of notices of the hearing, or of the landowner or person interested in the land to receive the notice shall not invalidate any proceedings conducted or resolution adopted pursuant to this section.

MICROFILMED

OCT 4 1978

12134

01432

7. FEES COLLECTED

A. Fees paid pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A separate fund shall be established for each planned bridge facility project or major thoroughfare project. If the benefit area is one in which more than one bridge is required to be constructed, a fund may be so established covering all of the bridge projects in the benefit area.

B. Moneys in such funds shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the City for the cost of constructing the improvement; provided, however, that the City will retain a reasonable percentage of all moneys collected for reimbursement for construction to defray the expenses incurred in administering the bridge facility or major thoroughfare fund. The percentage of funds so retained will be determined by the City Council at the time of formation of the recovery district.

C.- A resolution adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

8. ADVANCE OR CONTRIBUTION OF CITY FUNDS

A. The City may advance money from its General or other fund to pay the cost of constructing all

MICROFILMED

OCT 4 1978

or a portion of the improvement and may reimburse the General or other fund for such advance from planned bridge facility or major thoroughfare funds established to finance the construction of such improvements.


B. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the Council shall make provision for payment of the share of the improvement cost apportioned to such land from sources other than the planned bridge facility or major thoroughfare fund.

9. REIMBURSEMENT TO SUBDIVIDER OR DEVELOPER

Whenever a subdivider or land developer is required to pay a fee for the construction of a bridge or improvement of a major thoroughfare as a condition precedent to the acceptance of a final subdivision map or as a condition of issuing a building permit and the facility is, or is to be, dedicated to the public, the Council may contract with the subdivider or land developer for the construction of the bridge or improvement of a major thoroughfare, and reimburse the subdivider or land developer for the cost of constructing the facility from the fees collected from the benefitting district.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By 
Frederick C. Conrad
Chief Deputy City Attorney

FCC:clh
Rev. 7/22/77
T&LU

MICROFILMED

OCT 4 1978

Passed and adopted by the Council of The City of San Diego on AUG 24 1977
 by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lee Hubbard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Joel M. Strobl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jess D. Haro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
 Mayor of The City of San Diego, California.

EDWARD NIELSEN
 City Clerk of The City of San Diego, California.

(Seal)

By Kathleen Masterson, 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 10 1977

AUG 24 1977

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

EDWARD NIELSEN
 City Clerk of The City of San Diego, California.

(Seal)

By Kathleen Masterson, Deputy.

MICROFILMED
OCT 4 1978

Office of the City Clerk, San Diego, California	
Ordinance Number	12134 Adopted <u>AUG 24 1977</u>

ATTORNEYS

San Diego, City of
12th Floor, City Admin. Bldg.
202 C Street
San Diego, CA 92101

CERTIFICATE OF PUBLICATION

No.

IN THE MATTER OF

BRIDGES AND MAJOR THOROUGHFARES

ORDINANCE NO. 12134

(New Series)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 2, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 102.0409, REGARDING FEES FOR BRIDGES AND MAJOR THOROUGHFARES.

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

Section 1. That Chapter X, Article 2, Division 4, of the San Diego Municipal Code be, and it is hereby amended by amending Section 102.0409 to read as follows:

SEC. 102.0409 FEES - BRIDGES OR MAJOR THOROUGHFARES

There may be required the payment of fees for the purpose of defraying the cost of constructing bridges or major thoroughfares in accordance with the conditions stipulated in Chapter 4, Article 5 of the Subdivision Map Act. Such facilities shall be consistent with the General Plan or such other community plans as have been adopted by the City Council pursuant thereto.

1. GENERAL CONDITIONS

A. Facilities to be constructed shall conform with the general plan and to the transportation or circulation element and the flood control provisions thereof which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to the state highway system or which identifies railways, freeways, streams, or canyons for which bridge crossings are required.

H. Major thoroughfares to be constructed shall be those that are in addition to, or a reconstruction of, any existing major thoroughfares serving the area at the time the boundaries of the area of benefit are established.

C. Bridges to be constructed shall be an original bridge serving the area or an addition to any existing bridge facility serving the area at the time the boundaries of the area of benefit are established. No fees shall be collected or expended to reimburse the cost of constructing existing bridge facilities.

D. In establishing the property liable for payment of fees under this section, there may be included in the area of benefit land in addition to that which may be the subject of any subdivision map or building permit application being considered concurrently with the proceedings to create a benefitting district.

E. In determining the method of fee apportionment for major thoroughfares, land which abuts the proposed improvement shall not be allocated higher fees than land not abutting the improvement unless the abutting property is provided direct, useable access to the major thoroughfare.

2. RESOLUTION OF INTENTION TO FORM DISTRICT

Whenever the Council deems it necessary to form a district representing an area of benefit under the provisions of this section, the Council shall by resolution declare its intention to form such a district to establish fees for the construction of bridges or major thoroughfares. The resolution of intention shall state the following:

- A. The time and place of the public hearing.
- B. The boundaries of the area of benefit.
- C. The description of the proposed improvements.
- D. The estimated cost of the construction of the proposed improvements, including right-of-way design and contract administration.
- E. The estimated advance or contribution of funds by City.
- F. The method of fee apportionment.
- G. The estimated fee which will be established as a condition of approval of final subdivision maps or for issuance of building permits.

3. NOTICE OF HEARING

Notice of hearing shall be given by publishing a copy of the resolution of intention once at least ten (10) days prior to the time fixed for the hearing in the City Official Newspaper. Such notice shall also be given by mailing a copy of said resolution of intention at least fifteen (15) days before the time fixed for the hearing to each owner of land within the proposed improvement district as shown on the last equalized County assessment roll.

I, Patricia M. Dutra, hereby certify that the San Diego Daily Transcript is a daily newspaper of general circulation within the provisions of the Government Code of the State of California, printed and published in the City of San Diego, County of San Diego, State of California; that I am the principal clerk of said newspaper; and the

ORDINANCE NO. 12134
(New Series)

is a true and correct copy of which this certificate is annexed and was published in said newspaper on

September 7, 1977

I certify under penalty of perjury that the foregoing is true and correct at San Diego, California, on

September 12, 1977

Patricia M. Dutra
(Signature)

MICROFILMED OCT 4 1978

01436

...proceedings conducted or resumed...
...written protests filed by the owners of land within the proposed improvement district. Written protests must be filed with the City Clerk prior to the time of the hearing and must contain a description of the property in which each signer thereof is interested. Each description must be in sufficient detail to clearly identify the same. If the signers of the protests are not shown on the last equalized assessment rolls as the owners of such property, the protest must contain or be accompanied by written evidence that such signers are the owners of such property. The hearing may be continued from time to time by the Council.

H. MAJORITY PROTESTS.

A. If within the time when protest may be filed under the provisions of this section there is a written protest filed with the City Clerk by the owners of more than one-half of the area of the property to be benefited by the improvement and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned and the Council shall not for one (1) year from filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section. Protests may be withdrawn by the owner making the same, in writing, at any time prior to the conclusion of the public hearing.

B. If any majority protest is directed against only a portion of the improvement, then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year; but the City Council shall not be barred from commencing new proceedings, not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the City Council within such one-year period from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds by the affirmative vote of four-fifths of its members that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with such portion of the improvement or acquisition.

I. RESOLUTION OF DISTRICT FORMATION

A. If a majority protest is not filed, or if filed and protests are withdrawn such that less than a majority protest exists at the conclusion of the hearing, the Council shall by resolution determine whether or not it is deemed necessary to form the district representing an area of benefit and establish the fees therefor. A certified copy of the resolution designating a benefiting district shall be recorded by the City in the office of the San Diego County Recorder. The apportioned fees specified in said resolution shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final subdivision map or as a condition of issuing a building permit for improvements having a total value of more than \$3,000.00; and shall include the principal charge plus interest from the date of establishment of the charge at a rate determined by the City Council.

B. Any action or proceeding to attack, review, set aside, avoid, or annul the resolution forming the district, designating the area of benefit and establishing the fees therefor, or any of the proceedings, acts or determinations taken, done, or made prior to the adoption of such resolution, shall not be maintained by any person, unless such action or proceeding is commenced within six (6) months after the date of adoption of such resolution. Thereafter all persons are barred from any such action or proceeding, or any defense of invalidity of such resolution or of such proceedings, acts or determinations.

...proceedings conducted or resumed...
...proceedings conducted or resumed...

7. FEES COLLECTED

A. Fees paid pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A separate fund shall be established for each planned bridge facility project or major thoroughfare project. If the benefit area is one in which more than one bridge is required to be constructed, a fund may be so established covering all of the bridge projects in the benefit area.

B. Moneys in such funds shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the City for the cost of constructing the improvement; provided, however, that the City will retain a reasonable percentage of all moneys collected for reimbursement for construction to defray the expenses incurred in administering the bridge facility or major thoroughfare fund. The percentage of funds so retained will be determined by the City Council at the time of formation of the recovery district.

C. A resolution adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

8. ADVANCE OR CONTRIBUTION OF CITY FUNDS

A. The City may advance money from its General Fund to defray the cost of constructing all or a portion of the improvement and may reimburse the General or other fund for such advance from planned bridge facility or major thoroughfare funds established to finance the construction of such improvements.

B. Where the area of benefit includes lands not subject to the provisions for payment of the share of the improvement cost apportioned to such land from sources other than the planned bridge facility or major thoroughfare fund.

9. REIMBURSEMENT TO SUBDIVIDER OR DEVELOPER

Whenever a subdivider or land developer is required to pay a fee for the construction of a bridge or improvement of a major thoroughfare as a condition precedent to the acceptance of a final subdivision map or as a condition of issuing a building permit and the facility is, or is to be, dedicated to the public, the Council may contract with the subdivider or land developer for the construction of the bridge or improvement of a major thoroughfare, and reimburse the subdivider or land developer for the cost of constructing the facility from the fees collected from the benefitting district.

Section 2. This ordinance shall take effect and be in force on the thirty (30) day from and after its passage.
Introduced on August 10, 1977.
Passed and adopted by the Council of The City of San Diego on August 24, 1977.

AUTHENTICATED BY:

PETE WILSON,
Mayor of The City of
San Diego, California.
EDWARD NIELSEN,
City Clerk of The City of
San Diego, California.
By KATHLEEN MARTINEZ, Deputy

File No. 7, 1977

MICROFILMED

OCT 4 1978