

FISCAL IMPACT REVIEW ORDINANCE OF 1990

(O-91-62)

ORDINANCE NUMBER O- 17551 (NEW SERIES)  
ADOPTED ON NOV 13 1990

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 101.0270, PROVIDING FOR THE REVIEW OF THE FISCAL IMPACTS OF DEVELOPMENTS, PROVIDING DEFINITIONS, PROVIDING FOR THE EFFECT OF THIS ORDINANCE ON OTHER ORDINANCES AND REGULATIONS, AND PROVIDING FOR AN EFFECTIVE DATE ALL RELATING TO LAND DEVELOPMENT.

WHEREAS, the National Infrastructure Advisory Committee of the Joint Economic Committee of the United States Congress has inventoried infrastructure needs throughout the nation and has predicted a revenue shortfall through the year 2000 of \$400 billion (Hard Choices, Summary Report of the National Infrastructure Committee, prepared for the Joint Economic Committee of the United States Congress (Feb. 1984)); and

WHEREAS, California Government Code §§ 65088-65089 require the San Diego Association of Governments and all governmental entities within the region to analyze the impacts of land use decisions on regional transportation systems; and

WHEREAS, increased levels of development in The City of San Diego have impaired the ability of the City to provide essential public facilities at preferred levels of service; and

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WHEREAS, attainment of Preferred Level of Service standards will contribute significantly to the economic development of The City of San Diego; and

WHEREAS, The City of San Diego has adopted Preferred Level of Service standards in the General Plan and Progress Guide, Guidelines for Future development for Transportation Facilities including Freeways, Primary Arterials, Major Streets, and public transit; and

WHEREAS, The City of San Diego has therefore adopted a Preferred Level of Service standard for Transportation Facilities including Freeways, Primary Arterials, Major Streets, and public transit; and

WHEREAS, the City will adopt a twenty year Capital Facilities Plan that, if fully implemented, will achieve the preferred levels of service by the year 2010 when taken in conjunction with the City's Transportation Demand Management program; and

WHEREAS, the City has identified available funding sources to provide the Transportation Facilities scheduled in the Capital Facilities Plan; and

WHEREAS, a fiscal impact review program will promote the proper balance between the Capacity of existing and Programmed Transportation Facilities and the Demand for those facilities, which is identified as the Preferred Level of Service standard; and

WHEREAS, the City has embarked on a long-term public works program described in the Capital Facilities Plan Ordinance that

will promote economic growth by providing public facilities and services necessary to serve the level of growth under the Plan; and

WHEREAS, the construction of the public facilities and services described in the Capital Facilities Plan Ordinance will result in the creation of numerous employment opportunities for San Diego residents; and

WHEREAS, attainment of Preferred Level of Service standards, through the provisions of this Ordinance, will contribute significantly to the well-being and quality of life for existing and future residents of The City of San Diego, through:

- (1) reducing traffic congestion;
  - (2) improving air quality and lowering levels of air pollution, contaminants and particulates;
  - (3) providing Transportation Facilities adequate to serve existing development and new growth;
  - (4) enhancing the quality of transportation services;
  - (5) promoting the proper balance between existing and Programmed Transportation Facilities and the Demand for those facilities; and
  - (6) stimulating economic growth by the creation of employment opportunities, through the provision of capital facilities and by reduction in the costs of commuting and energy; and
  - (7) contributing to the health, safety and general welfare;
- and

WHEREAS, the City's housing programs and activities as set forth in the Housing Element of the General Plan will not be impaired by the adoption of this Ordinance; and

WHEREAS, in order to revise the process of transportation planning and implementation to efficiently, effectively and economically balance the fiscal impact of development in The City of San Diego, it is necessary to enact this ordinance; NOW, THEREFORE,

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

Section 1. That Chapter X, Article 1, Division 2, of the San Diego Municipal Code be and the same is hereby amended by adding Section 101.0270 to read as follows:

**SEC. 101.0270 FISCAL IMPACT REVIEW**

**A. General Provisions**

**1. Short Title.**

This section shall be known and may be cited as the "Fiscal Impact Review Ordinance of 1990."

**2. Definitions.**

For the purpose of this Section, the following definitions shall apply:

a. "Applicant" shall mean and refer to a person, corporation, partnership or any other entity that makes or causes to make an application for Development approval.

b. "Building Permit" shall have the same meaning as the same term in Chapter 9, Article 1, Division 1 of the San Diego Municipal Code.

c. "Capital Project" shall mean and refer to the construction, reconstruction, enlargement, expansion or enhancement of a Transportation Facility and shall include all associated project costs, including planning, design, engineering, land acquisition, utility relocation, auxiliary facilities, administrative charges and contingencies.

d. "City" shall mean and refer to The City of San Diego, California.

e. "City Council" shall mean and refer to the City Council of The City of San Diego, California.

f. "Congestion Management Program" shall mean and refer to a Congestion Management Program as provided in § 9 of AB 471, Chapter 106, Statutes of 1989, as amended by § 3 of AB 1791, Chapter 16, Statutes of 1990. (Codified as California Government Code § 65089)

g. "Development" shall mean and refer to the construction of a Dwelling Unit or square footage of non-residential space that creates an additional demand for a transportation facility.

h. "Development Action", shall mean and refer to any Building Permit, rezoning, tentative map, final map, vesting tentative map, tentative parcel map,

vesting tentative parcel map, conditional use permit, special use permit, planned Development permit, variance, special exception, environmental permit, or any other official action of The City of San Diego or any agency or subdivision thereof, including without limitation the City Planning Commission, Subdivision Review Board or City Council, having the effect of permitting the Development of land located within the City and subject to the provisions of this Ordinance.

i. "Dwelling Unit" shall have the same meaning as the same term in San Diego Municipal Code § 101.0101.19.

j. "Freeway" shall mean and refer to Freeways as defined in the Regional Transportation Improvement Program.

k. "Level of Service" or "LOS" shall mean and refer to a standard that measures the ratio of demand to capacity for transportation facilities. The Level of Service for Roadway Facilities shall be measured by the Level of Service rating in Appendix C(5) of the San Diego Association of Governments (SANDAG) Regional Transportation Plan (June 1989), which is incorporated by reference herein, or the most recent version of the SANDAG Regional Transportation Plan that contains a Level of Service rating.

l. "Preferred Level of Service" shall mean and refer to the desired Level of Service for Freeway

transportation facilities and services pursuant to a Congestion Management Program if same has been expressly adopted by the City Council, or, pending the adoption of Level of Service standards for specific transportation facilities by the Congestion Management Program, the Level of Service standards adopted pursuant to this section or as adopted by Resolution of the City Council. Pending the adoption of a Congestion Management Program, the Preferred Level of Service Standard for Freeway facilities shall be "C" during non-peak hours and "D" during the peak hours for 70% of the Freeway directional lane miles in The City of San Diego during the peak hour or as such percentage may be subsequently revised by Council resolution.

m. "Roadways" or "Roadway Facilities" shall mean and refer to Freeways, expressways, primary arterials and major streets.

n. "Significant Development" shall mean and refer to an application for a Development action to construct a residential project exceeding fifty (50) Dwelling Units, or a non-residential project exceeding twenty-five thousand (25,000) gross Square Feet.

o. "Square Feet" shall mean and refer to the gross building area of all floors of all non-residential buildings or structures that will be occupied by a use that creates a demand for transportation facilities.



**B. Effect of Section on Existing City Regulations and Ordinances.**

This section shall not affect, in any manner, any provision of the San Diego Municipal Code relating to the permissible use of property, density of Development, design and improvement standards and requirements or any other aspect of the Development of land or provision of public improvements subject to the zoning, subdivision, building or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all Development.

**C. Fiscal Impact Review.**

**1. Project Review - Significant Developments.**

a. All Development Actions on significant Developments shall include a fiscal impact study comparing the public revenues anticipated from the Development and the anticipated capital, operational, maintenance and replacement costs for public facilities needed to service the project at Preferred Level of Service standards, pursuant to guidelines adopted by the City Council upon recommendation of the Planning Commission.

b. The Applicant shall prepare a fiscal impact report for the reviewing agency using the information provided pursuant to subsection A.1 of this section.

c. The City shall consider the information provided by the Applicant during the Development review process. However, the fiscal impact analysis shall not serve as the sole basis for the approval or disapproval of an individual Development proposal unless the inability to provide transportation, fire, police, emergency equipment and services, sewer or water to the project affects the health and safety of the community.

d. No application for a Development Action on a significant Development shall be approved unless the developer has paid an administrative fee to defray the cost of reviewing the fiscal impact report and processing the fiscal impact study.

2. **Analyses of Fiscal Impact Reports.**

a. At least annually the City shall prepare cumulative fiscal impact analyses which shall consider all fiscal impact reports submitted pursuant to subsection 3.A above and the cumulative fiscal impact of projects that are not subject to subsection 3.A.1. Fiscal impact analyses shall serve as policy guides for formulating land use plans and policies including the designation of the type, intensity and distribution of land use types by designated subregion of the City. The fiscal impact analysis shall cover a twenty-year period with five-year increments.

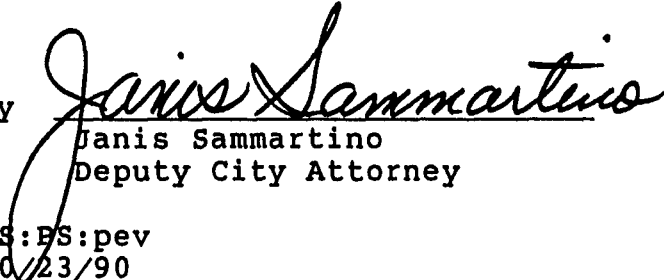
b. The City Council shall by resolution establish the subregions of the City for which the

information shall be compiled and reported, the method of compiling the information, the departments responsible for compiling the information and the date or dates of the calendar year by which such a Fiscal Impact Analysis shall be prepared.

Section 2. Effective Date. 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

  
Janis Sammartino  
Deputy City Attorney

JS:PS:pev  
10/23/90  
Or.Dept:Mgr.  
O-91-62  
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Passed and adopted by the Council of The City of San Diego on.....  
by the following vote:

NOV 13 1990

| Council Members        | Yeas                                | Nays                                | Not Present                         | Ineligible               |
|------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| Abbe Wolfsheimer       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> |
| Ron Roberts            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| John Hartley           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> |
| H. Wes Pratt           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Linda Bernhardt        | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> |
| J. Bruce Henderson     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> |
| Judy McCarty           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> |
| Bob Filner             | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> |
| Mayor Maureen O'Connor | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By *Linda Lugano*, 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

OCT 29 1990

NOV 13 1990

....., and on .....

~~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.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(Seal)

By *Linda Lugano*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number **0-17551** Adopted **NOV 13 1990**

CERTIFICATE OF PUBLICATION

RECEIVED  
CITY CLERK  
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SAN DIEGO, CALIF. 95

CITY OF SAN DIEGO  
ATTN: LINDA LUGANO  
CITY ADM. BLDG.  
202 C ST., 2ND FLOOR  
SAN DIEGO, CA. 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1,  
DIVISION 2,...

I, THOMAS D. KELLEHER, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

**ORDINANCE NUMBER O-17551 (NEW SERIES)**  
AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 101.0270, PROVIDING FOR THE REVIEW OF THE FISCAL IMPACTS OF DEVELOPMENTS, PROVIDING DEFINITIONS, PROVIDING FOR THE EFFECT OF THIS ORDINANCE ON OTHER ORDINANCES AND REGULATIONS, AND PROVIDING FOR AN EFFECTIVE DATE ALL RELATING TO LAND DEVELOPMENT.  
A complete copy of the ordinance is available for inspection in the office of the City Clerk of the City of San Diego, 12th floor, City Administration Building, 202 "C" Street, San Diego, CA.  
INTRODUCED ON October 28, 1990 Passed and Adopted by the Council of The City of San Diego on November 13, 1990  
AUTHENTICATED BY:  
MAUREEN O'CONNOR  
Mayor of The City of San Diego, CA  
CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, CA  
(SEAL)  
By Linda Lugano, Deputy  
Pub. Nov. 27 206339

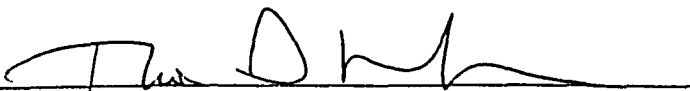
ORDINANCE NUMBER O-17551 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

NOV. 27

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 27TH day of NOV, 1990.

  
(Signature)

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