

(O-92-47 COR.COPY)

ORDINANCE NUMBER O- 17725 (NEW SERIES)

ADOPTED ON JAN 0 6 1992

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 2,  
DIVISION 2, OF THE SAN DIEGO MUNICIPAL CODE  
BY AMENDING SECTION 62.0208 RELATING TO COST  
REIMBURSEMENT DISTRICT PROCEDURAL ORDINANCE.

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

Section 1. That Chapter VI, Article 2, Division 2, of the San Diego Municipal Code be and the same is hereby amended by amending Section 62.0208 to read as follows:

**SEC. 62.0208 COST REIMBURSEMENT DISTRICT PROCEDURAL  
ORDINANCE**

(a) Purpose and Intent.

In the course of the development of properties, whether through the subdivision process or the development or redevelopment of previously subdivided properties, it is frequently necessary or desirable to require the Developer to install certain Public Improvements, which improvements exceed in size, capacity or number that which is normally required to benefit the development or which are located off-site of the development and which benefit property or properties not within the subdivision or development and which improvements are dedicated to the public. It is the purpose of the "Cost Reimbursement District Procedural Ordinance" (Ordinance) to establish requirements and procedures for reimbursement to either the Developer or

City, or both, by those property owners who subsequently benefit from these improvements to the extent of their benefit. It is the intent of the Council that all property owners who subsequently benefit from the Public Improvements, make the appropriate reimbursements to the Developer or City, or both. A reimbursement district may be formed prior to or concurrent with the construction of the improvements. The formation of a reimbursement district will not be available to the Developer if construction is substantially complete. It is further the intent of the Council that this Ordinance shall be supplemental to the reimbursement procedures set forth in the California State Subdivision Map Act (Government Code section 60410 et sec.) (Act), and any other provisions of this Municipal Code.

(b) Nature of Improvements.

The Act provides in Sections 66485 and 66486 for the adoption of a local ordinance which establishes requirements and procedures for reimbursement. The Act also requires the City to enter into an agreement with the Developer to reimburse the Developer for that excess portion of the costs attributable to improvements which are supplemental in size, capacity, number, or length for the benefit of property or properties located outside the development area. The Street Superintendent shall determine the area of benefit and establish reimbursement charges based on benefit as provided in this Ordinance.

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(c) Definitions.

1. "Actual or estimated cost of Public Improvements" means the actual or estimated costs for the construction, engineering, district formation, right-of-way, condemnation proceedings, mitigation or any other expense incidental to the construction of improvements.

2. "Substantial completion of a facility" means construction of a facility which has progressed sufficiently so that the facility can be used for the purpose for which it was intended.

3. "Benefitted Area" means the entire area which receives a benefit from the Public Improvement.

4. "Developer" means the person who is responsible for constructing the Public Improvement.

5. "Street Superintendent" means the person whose duty it is under the law to have the care or charge of the streets or the improvement thereof in the City.

6. "Excess Costs" means the costs attributable to the improvements which benefit areas outside the development area.

7. "Public Improvements" means those improvements described in this Ordinance, including, but not limited to, streets (access or major thoroughfare), bridges, traffic signals, drainage, water or sanitary sewer facilities, other public

facilities such as parks and libraries, and any accessory improvements necessary to the functioning of the Public Improvements. "Public Improvements" do not include any improvements that will benefit only the development in which they are located. The term "Public Improvements" may also be treated as including the cost of acquisition of any necessary land or right-of-way for the construction of the improvement.

8. "Reimbursement District" means the Benefitted Area within which property is subject to a reimbursement charge for the purpose of reimbursing the Developer or City, or both, for the Excess Costs of the Public Improvement.

9. "Resolution of Lien" means the resolution passed by the Council establishing the amount of charges due from each parcel within a Reimbursement District established pursuant to Section 62.0208(j) of this Ordinance.

(d) Request For Reimbursement Agreement.

The Developer may request the Council or the Council on its own volition may initiate the formation of a reimbursement district: (1) whenever a Developer elects or is required by the City to install or replace improvements which are in excess of those improvements required to accommodate the development and which the City Council determines to benefit property other than that of the Developer; or (2) whenever the City participates in the

costs of improvements which the Council determines will be of benefit to property other than, or in addition to, the Developer's property; provided that the costs of the facilities constructed by the Developer are not later reimbursed through an assessment under a Public Improvement District. The request of the Developer shall be in writing and submitted to the Street Superintendent with a completed application and an application fee. The Street Superintendent shall expeditiously process the request to the City Council.

(e) Costs of Formation of Reimbursement District.

Before the Council authorizes initiation of the formation of a Reimbursement District, the Developer shall deposit with the City the following fees to cover various administrative costs.

1. Application fee.

An application fee, which shall be set by City Council resolution, shall be deposited in a general cost reimbursement district administration fund established by the City Auditor and Comptroller. The application fee and all administrative fees shall be deposited in the appropriate funds established by City Council for each district.

2. Administrative Fees.

An administrative fee, which shall be set by Council resolution, shall cover administrative expenses, such as the calculation of the Excess Costs

of the facilities, determination of the Benefitted Area, determination of the proposed spread of the Excess Costs to the benefitting parcels, accounting of funds, and time to conduct an audit. Administrative fees shall also cover the costs of publishing all notices and mailings and shall cover County Recorder and similar costs.

3. Engineering Service Costs.

In those situations where an excessive amount of time and labor would be involved in the preparation of documents and estimates, the City Engineer may request that special engineering services be retained to expedite and facilitate the preparation of the documents and estimates. This retained engineer shall have no contractual relationship with the Developer. The costs of any such engineering service shall be paid by the Developer; however, the costs shall be considered an incidental cost of the improvements to be recouped pursuant to the provisions of the Reimbursement District.

(f) Council Action on Request.

After considering the Developer's request or upon the recommendation of the City Manager, the City Council in its sole discretion may direct the City Manager to begin the proceedings for the formation of a Reimbursement District.



(g) Costs for monitoring the Reimbursement District.

Three weeks prior to the noticed public hearing described in Section 62.0208(i), the Developer shall deposit with the City such additional funds in the project monitoring fund as the Street Superintendent determines may be required. If the Reimbursement District is formed by the City Council, these funds shall be used to cover the costs of annually monitoring the Reimbursement District for the life of the District. If funds from the deposit become depleted below fifty percent (50%) of the original deposit amount, the City may require an additional amount be withheld from any lien payments to replenish the fund to an appropriate level. In the event that the Reimbursement District is fully built out prior to the expiration of the District, a pro rated refund will be made along with the final reimbursement.

(h) Estimate of the Street Superintendent.

Pursuant to the direction of the City Council and after consultation with the Developer, the Street Superintendent shall prepare and file with the City Clerk:

1. A plat indicating the boundaries of the Reimbursement District which identifies all parcels within the District.
2. The actual or total estimated cost of the Public Improvements.
3. An estimate of the assessment and spread necessary to equitably pay the Excess Costs.

(i) Notice and Hearing on Establishment of Reimbursement District.

1. Upon receiving the request from the Street Superintendent, the City Clerk shall set a noticed public hearing before the City Council.

2. The City Clerk shall cause a notice of the hearing, in substantially the following form, to be published once in a newspaper of general circulation in the City at least ten (10) calendar days prior to such hearing:

NOTICE OF HEARING

1. The City Council of The City of San Diego will hold a public hearing at \_\_\_\_\_ on \_\_\_\_\_ at the City Council Chambers on the 12th Floor of the City Administration Building, 202 C Street, San Diego, California, 92101 to consider the establishment of a reimbursement district for the financing of certain public facilities and related improvements within the City otherwise known as the \_\_\_\_\_ Cost Reimbursement District No. \_\_\_\_\_.

Your property is located within the proposed boundaries of the cost reimbursement district and may be subject to a fee to pay a portion of the cost of providing such facilities. If, within a 20-year period from the date of forming this district, you either file a final map, are issued a building permit for improvements which will ultimately utilize the cost reimbursement improvements, or are issued a building permit for improvements valued in excess of \$20,000, the fee would become due and payable. The boundaries of the district are more particularly described by Plat No. \_\_\_\_\_ which is on file in the Office of the City Clerk. All persons desiring to testify with respect to: the necessity of said public improvements, the cost of said public improvements, the benefitted area or the amount of the costs eligible to be recovered, may appear and be heard at this hearing.

2. The Street Superintendent shall, at least twenty (20) days prior to the hearing, cause a copy of the above notice to be mailed to each owner of real property within the benefitted area as shown on the last equalized tax roll. The notice shall be accompanied by a map of the proposed benefitted area and a statement by the Street Superintendent describing:

a. A brief description of the public improvements and that portion considered to be in excess of the developer's requirements which benefits other properties.

b. The estimated or actual costs necessary to pay for the public improvements.

c. The estimated or actual costs which are proposed to be assessed against the benefitting property when the property is developed/redeveloped.

d. A plat, indicating the boundaries of the district.

(j) Action by City Council.

After the public hearing, the City Council may in its sole discretion approve a resolution establishing the district as well as enter into a reimbursement agreement with the Developer to provide for the disbursements of proceeds of the district.

If the scope of the project or nature of the work is altered during construction, the City Council may increase the estimated cost by not more than fifteen (15) percent without further notice to the affected property owners.

The Benefitted Area shall be that area which, upon the recommendation of the Street Superintendent and after a noticed public hearing, in the opinion of the City Council is determined to be the area benefitted by the construction of the Public Improvements.

Benefit may be obtained by frontage, proximity to the improvements, release of anticipated subdivider/building responsibilities or other such means as determined by the Street Superintendent.

The resolution establishing the Reimbursement District shall indicate it is a "Resolution of Lien." The resolution shall reference an exhibit containing the following:

1. A list of the properties, identified by assessor's parcel number and ownership of record, which are included within the Reimbursement District boundaries.

2. A plat, indicating the boundaries of the Reimbursement District and identifying the properties assessed.

3. An apportionment of the Excess Costs which represent the actual or estimated fee to be charged each parcel within the Reimbursement District. If the costs are estimated, the resolution shall indicate that the fees are subject to recomputation by the Street Superintendent when the construction and final audit have been completed.

4. The time when the assessed fees are due and payable.

5. Other matters as appropriate to the establishment and administration of this Reimbursement District.

The reimbursement agreement with the Developer shall contain provisions necessary and appropriate to specify the procedures and terms for reimbursements.

The charges against each parcel within the Reimbursement District shall be subject to an annual six (6) percent simple interest payable at the time fees are paid and the lien released.

Once the allocation of the cost has been approved by a resolution of the City Council, the Resolution of Lien shall constitute a statement of charges due from the owners and their successors, heirs or assigns of the various parcels of property as their benefitted share of the Public Improvements.

Subsequent to the construction of the Public Improvements, the Street Superintendent shall respread the lien after final costs have been calculated and verified by an audit, and shall cause the lien roll to be appropriately modified. All affected property owners shall be notified in writing of their final lien amount.

The Street Superintendent shall record a copy of the Council "Resolution of Lien" with the County Recorder. Upon payment of the amounts due, or upon the expiration of the Reimbursement District, the Street Superintendent shall file a release of lien upon the property or properties affected with the County Recorder.

(k) Limitations on Reimbursement Agreement.

The reimbursement agreement shall indicate that the liens are subject to an annual six (6) percent simple interest charge and shall be payable to the City during the term of the agreement. Lien payments shall be placed by the City in the appropriate funds established by Council for each Reimbursement District. These funds will be established to reimburse the Developer for costs incurred for the construction of the improvements. Accrued interest during period money is on deposit with City shall be transferred to the project monitoring fund, prior to payment to the Developer or subdivider. The term of any reimbursement agreement shall be established by the City Council and shall be based upon the reasonable expectations of the development of benefitted properties or the use of the Public Improvement by the benefitted properties; provided, however, that the maximum term of any reimbursement agreement shall be for a period of twenty (20) years.

If, during the period following the formation of the Reimbursement District, any person records a final map (subdivision, parcel, consolidation or financial map) or applies for a building permit on a lot for which a lien for Public Improvements has been established in accordance with this Ordinance, and such person or his predecessor in interest has not paid the lien to the City, the established lien shall be paid prior to the filing of the final map or

the issuance of the building permit. Payment shall not be required, however, in connection with building permits having a total improvement value of twenty thousand dollars (\$20,000) or less, unless the building permit is for improvements which will ultimately use the Reimbursement District's improvements. Permits for improvements which are modifications or additions to existing single family residential structures shall not be subject to payment of lien under these reimbursement proceedings. All liens shall include a principal charge plus the annual six (6) percent simple interest rate calculated from the date of acceptance of the Public Improvements by the City or City Council's approval of the Reimbursement District, whichever occurs later.

(1) Obligation of Developer or Subdivider to Claim Moneys.

All moneys collected under the provisions of this Ordinance shall be deposited by the City Treasurer into an appropriate fund established for the collection of funds and the monitoring of a particular Reimbursement District. The City Auditor shall refund to the person or persons who paid for the improvements for which the liens were collected, or to their assignees, all moneys so collected.


The City shall notify the Developer of the existence of moneys deposited in this fund. No funds may be reimbursed to the Developer until all costs included in the Reimbursement District have been verified by audit. The

notice shall be mailed to the address contained in the reimbursement agreement and no further inquiries shall be required by the City. If any money remains on deposit with the City without being claimed by the party rightfully entitled to it within three (3) years after notice has been made as provided in Section 62.0208(1), the money shall be forfeited to the City, and it shall be transferred to the general fund of the City.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, however this ordinance shall not be applicable to lot consolidation maps which are in City processing at the time of its introduction.

APPROVED: JOHN W. WITT, City Attorney

By

  
\_\_\_\_\_  
John K. Riess  
Deputy City Attorney

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Passed and adopted by the Council of The City of San Diego on .....  
by the following vote: JAN 06 1992

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<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 Luzano*, 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  
DEC 09 1991, and on JAN 06 1992

~~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.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.  
By *Linda Luzano*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number **0-17725** Adopted **JAN 06 1992**

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CERTIFICATE OF PUBLICATION

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CITY CLERK'S OFFICE  
CITY ADMIN. BLDG.  
202 C ST.  
SAN DIEGO, CA 92101

IN THE MATTER OF  
AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 2,  
DIVISION 2, OF THE SAN DIEGO MUNICIPAL CODE  
BY AMENDING SECTION 62.0208 RELATING TO COST...

NO.

**ORDINANCE NUMBER O-17725**

**AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 2, DIVISION 2, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 62.0208 RELATING TO COST REIMBURSEMENT DISTRICT PROCEDURAL ORDINANCE.**

This ordinance updates the existing procedural ordinance. It clarifies the time for district formation, revises the terms for the reimbursement agreement and deletes references to language in the Subdivision Map Act. Definitions are revised and the application and deposit fee provisions are updated. The interest assumption rate is changed from seven (7) to six (6) percent per annum. The procedures for processing at the Council and by the City Clerk are revised. The threshold for the Building Permit reimbursement requirement is raised from \$10,000 to \$20,000.

A complete copy of this ordinance is available for inspection in the Office of the City Clerk, City Administration Building, 2nd Floor, 202 "C" Street, San Diego, CA 92101.

INTRODUCED ON DEC 09 1991  
Passed and Adopted by the Council of The City of San Diego on JAN 06 1992

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  
By Linda Lugano, Deputy.

Pub. Jan. 20 237873

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-17725

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:

JANUARY 20

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

Dated at San Diego, California this 20TH day of JAN., 19 92.

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\_\_\_\_\_  
(Signature)