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(O-2008-36)
Revised

12/4

ORDINANCE NUMBER O- 19691 (NEW SERIES)

DATE OF FINAL PASSAGE DEC 18 2007

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 1, DIVISION 25 OF THE SAN DIEGO MUNICIPAL CODE TO MAKE CORRECTIONS TO THE SAN DIEGO TOURISM MARKETING DISTRICT PROCEDURAL ORDINANCE BY AMENDING SECTIONS 61.2504, 61.2506, 61.2507, 61.2508, 61.2510, 61.2512, 61.2515, 61.2516, 61.2518, 61.2519, 61.2520, 61.2522, 61.2523 AND REPEALING SECTION 61.2511, ALL RELATING TO PROCEDURES FOR ESTABLISHING A TOURISM MARKETING DISTRICT.

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

Section 1. That Division 25, Chapter 6, Article 1, of the San Diego Municipal Code is hereby amended by amending Section 61.2504, 61.2506, 61.2507, 61.2508, 61.2510, 61.2512, 61.2515, 61.2516, 61.2518, 61.2519, 61.2520, 61.2522, 61.2523 and repealing section 61.2511 all relating to procedures for establishing a Tourism Marketing District.

§61.2504 Definitions

Each word or phrase that is defined in this Division appears in the text of this Division in italicized letters. For purposes of this Division, the following definitions shall apply:

"Activities" [No Change]

"Assessment" [No Change]

"Business" [No Change]

"Business owner" [No Change]

"*District management plan*" or "*plan*" means a framework for the operation of a *tourism marketing district* as defined in Code section 61.2507.

"*Tourism marketing district*," or "*district*," [No Change]

"*Tourism marketing district association*" or "*association*" [No Change]

Transient [No Change]

§61.2505 Alternative Financing Method; No Limit on Other

Provisions of Law

[No Change]

§61.2506 Establishment of Tourism Marketing District

A tourism marketing district may be established as provided in this Division, in the following manner:

A tourism marketing district may be established as provided in this Division, in the following manner:

- (a) Upon the submission of a written petition, signed by the *business owners* in the proposed *district* who will pay more than 50 percent of the *assessments* proposed to be levied, the San Diego City Council [Council] will initiate proceedings to establish a *district* by the adoption of a resolution expressing its intention to establish a *district*. Where the same *business owner* would be assessed an amount in excess of 40 percent of the total amount of all *assessments* proposed to be levied, that *business owner's* share of the *assessment* over such 40 percent shall not be included in determining whether the petition is signed by *business owners* who will pay more than 50 percent of the total amount of *assessments* proposed to be levied.

- (b) [No Change]
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
 - (1) [No Change]
 - (2) A time and place for a public hearing on the establishment of the *tourism marketing district* and the levying of *assessments*, which shall be consistent with the requirements of San Diego Municipal Code section 61.2508.

§61.2507 Tourism Marketing District Management Plan

The *district management plan* shall contain all of the following:

- (a) and (b) [No Change]
- (c) A description of the boundaries of the *district*, including the boundaries of any benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected lands and *businesses* included. Nothing in this Division prohibits the boundaries of a *district* created pursuant to this Division to overlap with other assessment districts established pursuant to other provisions of law including, but not limited to, the Parking and Business Improvement Area Law of 1989, California Streets and Highways Code section 36500 *et.seq.*, or the Property and Business Improvement District Law of 1994, California Streets and Highways Code section 36600 *et.seq.*
- (d) through (m) [No Change]

The *district management plan* shall be approved by the San Diego City Council at the time the Council considers the petition of *businesses* seeking to establish a *tourism marketing district*. Should the *businesses* or the *tourism marketing district association* seek to modify the *plan* at any time, such modifications shall be subject to the requirements of San Diego Municipal Code sections 61.2521 and 61.2522.

§61.2508 Notice of Proposed Assessments; Public Hearing

If the San Diego City Council [Council] proposes to levy an *assessment* that is consistent with the *assessment* proposed in the petition of *businesses* submitted pursuant to San Diego Municipal Code [Code] section 61.2506 and with the *district management plan* submitted pursuant to Code section 61.2507, the City shall provide notice to the *business owners* of the public hearing set pursuant to paragraph (2) of subdivision (c) of Code section 61.2506.

(a) and (b) [No Change]

(c) If the proposed *assessment* formula is based on gross room revenue, the amount of the proposed *assessment* for each identified *business* shall be estimated based on gross room rental revenue for the City's most recent complete fiscal year. The City shall give the *business owner* written notice, by mail, of the proposed establishment of the *tourism marketing district*, the estimated total initial annual *assessments* for the entire *district*, the duration of the payments, the reason for the *assessment* and the basis upon which the amount of the proposed *assessment* was calculated, a specific formula in sufficient detail to allow the *business owner* to calculate the proposed assessment for the *owner's* establishment, together

with the date, time, and location of a public hearing on the proposed *assessment*. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to Code section 61.2508(d) and 61.2508(e), including a disclosure statement that the existence of a majority protest, as defined in Code section 61.2508(e), will result in the *assessment* not being imposed.

(d) Each notice mailed to owners of identified *businesses* within the *district* pursuant to Code section 61.2508(c) shall contain a ballot which includes the City's address for receipt of the ballot once completed by any *business owner* receiving the notice, whereby the *business owner* may indicate their name, reasonable identification of the *business*, and their support or opposition to the proposed *assessment*.

(e) [No Change]

**§61.2509 City Council Adoption, Revision or Modification of Assessments;
Modification of Approved Activities; Changes to District
Boundaries**

[No Change]

§61.2510 Resolution of Establishment of Tourism Marketing District

(a) If the San Diego City Council [Council], following a public hearing, decides to establish a proposed *tourism marketing district*, the Council shall adopt a resolution of establishment that shall contain all of the following:

(1) through (9) [No Change]

- (b) The adoption of the resolution of establishment and recordation of the notice and map pursuant to San Diego Municipal Code section 61.2512 shall constitute the levy of an assessment in each of the fiscal years referred to in the *district management plan*.

§61.2511 [Repealed]

§61.2512 City Clerk to Record Notice and Map of District

Following adoption of a resolution establishing a *district* pursuant to San Diego Municipal Code section 61.2510 the City Clerk shall record a notice and map of the *district*.

§61.2513 Council Establishment of Benefit Zones

[No Change]

§61.2514 Establishment, Modification or Disestablishment; Districts and Benefit Zones

[No Change]

§61.2515 Expiration of Tourism Marketing District

If a *tourism marketing district* expires due to the time limit set pursuant to San Diego Municipal Code section 61.2507(h), a new *district management plan* may be created and a new *district* established pursuant to this Division.

§61.2516 Collection of Assessments

The collection of the *assessments* levied pursuant to this Division shall be made at the time and in the manner set forth by the San Diego City Council in the resolution establishing the *district* described in San Diego Municipal Code section 61.2510. A method for charging interest and

penalties for delinquent payments of *assessments* may also be prescribed in the resolution establishing the *district*.

§61.2517 Assessments Based on Estimated Benefits

[No Change]

§61.2518 Exemptions from Assessments

The following *business* revenues are considered exempt from assessment under this Division:

- (1) [No Change]
- (2) Revenues from a *transient* whose room rent is being paid directly by the federal government or the State of California, or
- (3) [No Change]

§61.2519 Validity of Assessments; Contests

The validity of an *assessment* levied under this Division shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution establishing the *district* and levying the *assessment* is adopted pursuant to San Diego Municipal Code section 61.2510. Any appeal from a final judgment in an action or proceeding shall be perfected by the appellant within 30 days after the entry of judgment.

§61.2520 City's Promotional Responsibilities

- (a) [No Change]
- (b) The City Manager, or the Manager's designee, will provide the *tourism marketing district association*, on an annual basis, a statement detailing actual TOT revenues collected under Code

section 35.0103 that are available for promoting the City. This statement should also describe the prescribed use of revenues from the City's TOT to include, but not be limited to:

- (1) [No Change]
- (2) The annual marketing subsidy as requested by the San Diego Convention Center Corporation and approved by the Council; and
- (3) [No Change]

§61.2521 Modifications of District Management Plan

[No Change]

§61.2522 District Plan Modification; Public Hearing Required

- (a) Upon the written request of a *tourism marketing district association*, the San Diego City Council [Council] may modify the *district management plan* after conducting one public hearing on the proposed modifications. The Council may modify the *activities* to be funded with the revenue derived from the levy of the *assessments* by adopting a resolution to make the modifications after holding a public hearing. Notice of the public hearing and the proposed modifications shall be accomplished by a first-class mailing to all affected *businesses* of the resolution of intention to modify the *plan*, as well as an official notice of the public hearing regarding the proposed modifications. If the modification includes the levy of a new or increased *assessment*, the Council shall comply with Code section 61.2508.

- (b) The Council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention and not less than 45 days after the mailing of the notice as referenced in 61.2522(a) above.

§61.2523 Tourism Marketing District Association; Report of Activities.

(a) and (b) [No Change]

- (c) The San Diego City Council [Council] may approve the report as filed by the *tourism marketing district association*, or may modify any portion of the report and approve it as modified. Such modification shall only be made subject to the noticing provisions of San Diego Municipal Code section 61.2522. The Council shall not approve a change in the basis and method of levying *assessments* that would impair an authorized or executed contract to be paid from the revenues derived from the levy of *assessments*.

§61.2524 Tourism Marketing District Association; Contract With Nonprofit

[No Change]

§61.2525 Renewal of Expired District

[No Change]

§61.2526 Disestablishment of District; Procedures

[No Change]

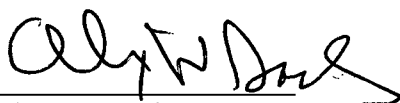
§61.2527 Disestablishment; Refund of Assessments

[No Change]

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

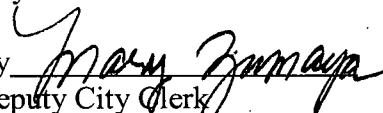
APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Alex W. Sachs
Deputy City Attorney

AWS:mm
10/30/07
11/20/07 revised
Or.Dept:CPCI
O-2006-36
MMS#5400

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of DEC 04 2007.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 12-18-07
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

Passed by the Council of The City of San Diego on DEC 04 2007, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage DEC 18 2007

AUTHENTICATED BY:

JERRY SANDERS
Mayor of The City of San Diego, California.

(Seal)

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

By Mary Zumaya, 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

NOV 20 2007

DEC 18 2007

, and on _____

I FURTHER CERIFY 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)

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

By Mary Zumaya, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number 0-19691