

ORDINANCE NUMBER O- 20419 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 04 2014

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 1,
DIVISION 22 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION 61.2210 RELATING TO DEFERRAL
OF PAYMENT OF FACILITIES BENEFITS ASSESSMENTS.

WHEREAS, the City Council adopted Ordinance No. O-19893, which provided for the deferral of Facilities Benefit Assessments (FBAs) and Development Impact Fees (DIFs) in certain circumstances, on September 1, 2009; and

WHEREAS, Ordinance No. O-19893 allowed for the deferral of payment of the fees for a maximum deferral period of two years (Deferral Program); and

WHEREAS, Ordinance No. O-19893 allowed for the Deferral Program of DIFs indefinitely, but only allowed for the Deferral Program of FBAs until November 10, 2011; and

WHEREAS, the intent of O-19893 was to stimulate the local economy; and

WHEREAS, the City Council adopted Ordinance No. O-20100 on October 4, 2011, which specifically allowed for the Deferral Program of FBAs until December 31, 2014, in order to continue to address the economy's negative impact to financial markets that provide construction lending; and

WHEREAS, an evaluation of the data related to deferral of FBA and DIF payments compiled from November 2009 through June 2014 demonstrates that many applicants had used fee payment deferrals, the deferral period is significantly below the authorized maximum deferral period of two years, and deferred collection of the FBAs has not delayed the anticipated

funding schedule of the Capital Improvements Program (CIP) projects as shown in the public facilities financing plans for the corresponding FBA area; NOW, THEREFORE,

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

Section 1. That Chapter 6, Article 1, Division 22 of the San Diego Municipal Code is hereby amended by amending section 61.2210 to read as follows:

§61.2210 Payment of Facilities Benefits Assessments

- (a) through (e) [No Change in Text.]
- (f) Deferral of Facilities Benefit Assessment Payment in Certain Circumstances

Notwithstanding Section 61.2210(a), Construction Permits may be issued if the City Manager defers payment of the Facilities Benefit Assessments in accordance with this Section.

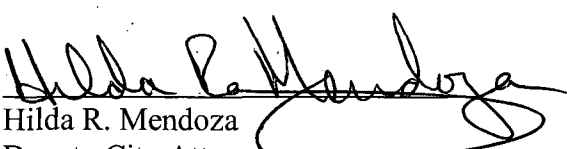
- (1) Payment of Facilities Benefit Assessments may be deferred for a maximum period of two years from the effective date of a Fee Deferral Agreement, or until a final inspection is requested, whichever occurs earlier. A final inspection shall not occur, and where applicable no certificate of occupancy shall be issued, until the applicable Facilities Benefit Assessments are paid.
- (2) Payment of Facilities Benefit Assessments may only be deferred if the applicable administrative processing fee, as set forth in the Comprehensive Fee Schedule on file in the Office of the City Clerk, is paid by the Construction Permit applicant or landowner.

- (3) Payment of Facilities Benefit Assessments may not be deferred unless and until a Fee Deferral Agreement is entered into with the Construction Permit applicant or landowner 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 Facilities Benefit Assessment. 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.
- (4) At the end of the Facilities Benefit Assessment deferral period set forth in Section 61.2210(f)(1), the deferred Facilities Benefit Assessments due shall be determined in accordance with Section 61.2210(c), except that the Facilities Benefit Assessment shall be determined by the Facilities Benefit Assessment rate for the year in which the Facilities Benefit Assessment is actually paid as set forth in the Facilities Benefit Assessment fee schedule in effect when the Fee Deferral Agreement was executed by the City, or the Facilities Benefit Assessment fee schedule approved by the City Council for a subsequent update or amendment of the applicable public facilities financing plan, whichever is lower.

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

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


APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Hilda R. Mendoza
Deputy City Attorney

HRM:meb
8/28/2014
Or.Dept:Planning
Doc. No.:852695

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of OCT 21 2014.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10/31/14
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 1,
DIVISION 22 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION 61.2210 RELATING TO DEFERRAL
OF PAYMENT OF FACILITIES BENEFITS ASSESSMENTS.

§61.2210 Payment of Facilities Benefits Assessments

(a) through (e) [No Change in Text.]

(f) Deferral of Facilities Benefit Assessment Payment in Certain
Circumstances

Notwithstanding Section 61.2210(a), Construction Permits may be issued
if the City Manager defers payment of the Facilities Benefit Assessments
in accordance with this Section.

(1) ~~Payment of Facilities Benefit Assessments may be deferred in the
following circumstances:~~

(A) ~~Where a development is located in a Facilities Benefit
Assessment area that has a sufficient cash balance to fund
existing programmed facilities for the next two fiscal
years;~~

~~(B)~~ Development of affordable housing projects. For purposes of this Subsection, an affordable housing project means a project that consists entirely ~~(with the exception of a manager's unit)~~ of residential housing units reserved for extremely low, very low, low, or moderate income households as defined in California Health and Safety Code Sections 50105, 50106, 50079.5 and 50093, as evidenced through a recorded agreement with the San Diego Housing Commission and/or the Redevelopment Agency of the City of San Diego; and

~~(C)~~ Until December 31, 2014, all other development that is otherwise subject to this Division.

~~(2)~~ Payment of Facilities Benefit Assessments 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 Facilities Benefit Assessments are paid.

~~(3)~~(2) Payment of Facilities Benefit Assessments may only be deferred if the applicable administrative processing fee, as set forth in the Comprehensive Fee Schedule on file in the Office of the City Clerk, is paid by the Construction Permit applicant or landowner.

~~(4)~~(3) Payment of Facilities Benefits Assessments may not be deferred unless and until a Fee Deferral Agreement is entered into with the Construction Permit applicant or landowner 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 Facilities Benefit Assessment. 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.

~~(5)~~(4) At the end of the Facilities Benefit Assessment deferral period set forth in Section 61.2210(f)~~(21)~~, the deferred Facilities Benefit Assessments due shall be determined in accordance with Section 61.2210(c), except that the Facilities Benefit Assessment shall be determined by the Facilities Benefit Assessment rate for the year in which the Facilities Benefit Assessment is actually paid as set forth in the Facilities Benefit Assessment fee schedule in effect when the Fee Deferral Agreement was executed by the City, or the Facilities Benefit Assessment fee schedule approved by the City Council for a subsequent update or amendment of the applicable public facilities financing plan, whichever is lower.

HRM:meb
8/28/2014
Or.Dept: Planning
Doc. No.: 852688

Passed by the Council of The City of San Diego on OCT 21 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 04 2014

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

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

By Mary Fernandez, 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 06 2014, and on NOV 04 2014

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 Mary Fernandez, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20419