Article 2: General Development Regulations

Division 6: Public Facility Regulations

(Added 12-9-1997 by O-18451 N.S.)

§142.0601 Purpose of Public Facility Regulations

The purpose of these regulations is to establish when public facilities will be required to be provided by private *development*. The intent of these regulations is to assure that the cost of providing public facilities to serve new *development* is the responsibility of that *development* and that minimum standards for public facilities are maintained to protect the public health, safety, and welfare.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§142.0605 When Public Facility Regulations Apply

This division applies to *development* of private property that requires *public improvements* or the payment of fees for public facilities.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§142.0607 Repair and Replacement of Public Facilities

Where in the course of *development* of private property, public facilities are damaged or removed the property owner shall, at no cost to the City, repair or replace the public facility to the satisfaction of the City Engineer.

(*Added 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)*

§142.0610 When Public Improvements May Be Required Incidental to a Building Permit

(a) Except as provided in Sections 142.0610(b), 142.0610(d), and 142.0611, no *structure* shall be erected or enlarged, and no Building Permit shall be issued, for any *lot* unless the *streets* and *alleys* abutting the *premises* have been dedicated and improved along the abutting frontage to the prevailing standards of the City of San Diego. *Street* improvements shall include street trees, curbs, gutters, sidewalks, and half-width paving. *Alley* improvements shall consist of full-width paving.

(b) Where *public improvements* do not exist or are not to the prevailing standard, a Building Permit may, nevertheless, be issued under any of the following circumstances provided any needed *dedication* has been granted:

(1) When a permit for the required *public improvements* has been issued in accordance with the provisions of the Municipal Code, provided, however, that the improvements covered by the permit shall be installed and accepted before the Building Official issues a Certificate of Occupancy for the *structure* permitted under the Building Permit;

(2) When *public improvements* constructed to less than the prevailing standard exist and the permit issuing authority finds that they are in *substantial conformance* with the requirements of this section; or

(3) When the permit issuing authority determines that the amount of work associated with the requested Building Permit is of such limited scope that the installation of *public improvements* should be deferred until such time as adjacent *public improvements* are installed.

(c) When the abutting *public improvements* are to be deferred, no Building Permit shall be issued until the property owner executes a waiver of the right of the property owner, or any successor in interest, to protest a future assessment project for installation of the required *public improvements*. The waiver shall be recorded against the property on which the Building Permit is issued.

(d) When the *development* involves a park or recreation facility where a public school district has a joint use agreement with the City to use that park or recreation facility and the public school district provides *public improvements* to that park or recreation facility to the satisfaction of the City Engineer, a Building Permit may be issued.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)

§142.0611 Exemptions from Requirement to Provide Public Improvements Incidental to a Building Permit

The following activities are exempt from Section 142.0610:

(a) The construction of accessory buildings such as residential garages;

(b) The construction of *accessory structures* such as swimming pools or patio decks;

(c) The alteration of existing buildings where the proposed improvements have a total value, as estimated by the Building Official, of $100,000 or less; and

(d) Neighborhood revitalization projects operated by the San Diego Housing Commission.

(e) The alteration of an existing *single dwelling unit*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)
(Amended 3-22-2018 by O-20917 N.S.; effective 4-21-2018.)

§142.0612 When Permits Are Required for Public Facilities

Permits are required for the construction of public facilities as follows:

(a) A Public Right-of-Way Permit is required for the activities specified in Section 129.0702;

(b) A Site Development Permit in accordance with Chapter 12, Article 6, Division 5 (Site Development Permit Procedures) is required for any of the following:

(1) Work involving more than 3,000 feet of *street frontage*; and

(2) Work for which established standards and regulations do not apply.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§142.0620 When Public Improvements Are Required for Development Permits

The approval of *development permits* shall be conditioned to provide public facilities in accordance with Section 142.0610 and to mitigate any impact the *development* may have on existing public facilities.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§142.0630 When Public Improvements Are Required for Subdivisions

The *subdivider* shall improve *public rights-of-way* and provide public facilities as required in Chapter 14, Article 4 (*Subdivision* Regulations).

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§142.0640 Development Impact Fees for Public Facilities and Spaces

(a) Purpose

The purpose of this Section is to implement the City's General Plan which contains policies related to the maintenance of an effective facilities financing program to ensure the impact of new *development* is mitigated through appropriate fees. This Section applies to communities identified as Facilities Benefit Assessment communities and Development Impact Fee communities in the City's General Plan. Facilities Benefit Assessments (FBAs) and Development Impact Fees (DIFs) are collectively identified as DIFs. Nothing in this Section shall be construed to prohibit the City from imposing additional DIFs on a particular project.

(b) Payment of Fees

Development Impact Fees (as defined in California Government Code Section 66000) for applicable *development* shall be paid prior to requesting a final inspection. A final inspection shall not occur until the applicable DIFs are paid in areas where DIFs have been established by City Council resolution or ordinance. Notwithstanding the above, the City Manager may also require the payment of DIFs for *development* that would increase demand for public facilities or result in the need for new public facilities. DIFs shall not be required for inclusionary *dwelling units* provided pursuant to Chapter 14, Article 2, Division 13 if the *applicant* has satisfied all the requirements of Division 13 for inclusionary *dwelling units* on the same *premises* as the market-rate *dwelling units*. The DIF amount due shall be based upon the DIF schedule in effect when the *development* application was *deemed complete*, or the DIF schedule in effect when the fees are paid, whichever amount is lower, plus an automatic increase consistent with Section 142.0640(c), if applicable.

Exemptions:

(1) *Accessory Dwelling Units*, *Junior Accessory Dwelling Units*, *movable tiny houses*, and guest quarters are exempt from DIF, except as follows:

(A) The first two *Accessory Dwelling Units* on a *premises* are exempt from the requirement to pay DIF, regardless of the *gross floor area* of the *Accessory Dwelling Unit*, unless the *Accessory Dwelling Units* are constructed in accordance with Section 143.1305(c)(1), in which case payment of DIF will be required in accordance with Section 142.0640(b)(1)(B).

(B) *Accessory Dwelling Units* that are 750 or more square feet in *gross floor area* and are in excess of the first two *Accessory Dwelling Units* on a *premises* or are constructed in accordance with Section 143.1305(c)(1) shall be required to pay DIF at the *multiple dwelling unit* rate, which shall be scaled in accordance with Table 142-06A based upon the *Accessory Dwelling Unit* size, or shall be proportionate in relation to the square footage of the primary *dwelling unit* on the *premises* at the *multiple dwelling unit* rate, whichever results in the lower DIF. The DIF for the *Accessory Dwelling Unit* shall not exceed the DIF for the primary *dwelling unit*.

(C) Notwithstanding Sections 142.0640(b)(1)(A) and (B), *Accessory Dwelling Units* on a *premises* in which the *record owner* agrees to reside in one of the *dwelling units* as their primary residence for a minimum of three years from the date of building permit issuance for the *Accessory Dwelling Unit* are exempt from the requirement to pay DIF. Prior to the issuance of the building permit, the *record owner* shall sign an affidavit acknowledging the *record owner* intends to reside in one of the *dwelling units* as their primary residence for a minimum of three years from the date of issuance of the building permit for the *Accessory Dwelling Unit*. The affidavit shall be in a form that is approved by the City and recorded in the Office of the County Recorder. This requirement shall not apply to a *record owner* that is a community land trust, as defined in California Revenue and Taxation Code Section 402.1(a)(11)(C)(ii), or is a qualified nonprofit corporation as described in California Revenue and Taxation Code Section 214.15.

(2) *Permanent Supportive Housing*, low barrier navigation centers, and transitional housing facilities are exempt from DIFs.

(3) Inclusionary *dwelling units* provided pursuant to Chapter 14, Article 2, Division 13 are exempt from DIFs if the *applicant* has satisfied all the requirements of Division 13 for inclusionary *dwelling units* on the same *premises* as the market-rate *dwelling units*. When an *applicant* provides more affordable *dwelling units* than required pursuant to Chapter 14, Article 2, Division 13, the exemption is applied to the largest (in terms of square feet) applicable affordable *dwelling unit*(*s*).

(4) For *development* utilizing the Complete Communities: Housing Solutions Regulations in Chapter 14, Article 3, Division 10, all covenant-restricted affordable *dwelling units* and *dwelling units* that do not exceed 500 square feet or that contain at least three bedrooms, as specified in Section 143.1010(f) are exempt from DIFs.

(5) For *development* of a streetary, in accordance with Section 141.0621, the DIFs shall be assessed at a rate of 1/15th of the Development Impact Fees established by City Council resolution or ordinance, and shall be collected every two years with the issuance of the applicable Public Right of Way Permit.

(6) Active sidewalks developed in accordance with Section 141.0621 are exempt from DIFs.

(7) The first two *dwelling units* constructed in accordance with Chapter 14, Article 3, Division 13 shall be exempt from the requirement to pay DIF. The third and fourth *dwelling units* constructed in accordance with Chapter 14, Article 3, Division 13 shall be required to pay DIF, which shall be scaled in accordance with Table 142-06A, based upon the *dwelling unit* size.

Table 142-06A
Scaled Development Impact Fee Rate for Specific Residential Development

Unit Size (SF)	Scaled Fee Rate
1,251 >	Full Fee
1,201 - 1,250	99%
1,151 - 1,200	97%
1,101 - 1,150	95%
1,051 - 1,100	92%
1,001 - 1,050	90%
951 - 1,000	87%
901 - 950	85%
851 - 900	83%
801 - 850	80%
751 - 800	78%
701 - 750	76%
651 - 700	73%
601 - 650	71%
551 - 600	68%
501 - 550	66%

(8) *Development* that designs and constructs an onsite park that satisfies the *development's* park standard identified in the Parks Master Plan, shall not be subject to the requirement to pay the Citywide Park DIF, where the requirements set forth in San Diego Resolution R-313688 (Aug. 13, 2021) (Resolution R-313688) have been satisfied. *Development* that designs and constructs an onsite park that satisfies a portion of the *development's* parks standards shall be subject to a proportionate share credit of the DIF for the Citywide Park DIF where the requirements set forth in Resolution R-313688 have been satisfied. To be eligible for any exemption under this subsection, the following additional requirements shall apply:

(A) The park shall be designed and constructed in accordance with a General Development Plan approved in accordance with Council Policy 600-33;

(B) The park shall be designed and constructed in accordance with the City's Park Development Standard Terms and Conditions and Consultant's Guide to Park Design and Development to the satisfaction of the Parks and Recreation Director, or their designee;

(C) The park shall be publicly accessible in perpetuity to the Parks and Recreation Director, or their designee;

(D) If the *development* is receiving park credit for long-term maintenance in accordance with the Parks Master Plan, a maintenance agreement to maintain the park to the satisfaction of the Parks and Recreation Director, or their designee, shall be recorded with the County Recorder prior to final inspection of the first Building Permit;

(E) A performance bond and payment bond shall be provided for the design and construction of the park prior to the final inspection of the first *dwelling units* in the *development*, and no final inspection shall occur for the remaining 50 percent of the total *dwelling units* in the *development* until the park has been constructed to the satisfaction of the Parks and Recreation Director, or their designee; and

(F) Prior to requesting final inspection of the first *dwelling unit* in the *development*, a fee in the amount of 10 percent of the total DIF related to parks that would have otherwise been required shall be paid to fund park and recreation improvements in the City in accordance with Resolution R-313688.

(9) Interim residential *development* that obtains a Building Permit in accordance with Section 141.0309 shall be required to pay one-third of the applicable residential DIF. At the end of 10 years from issuance of the Neighborhood Use Permit, if the interim residential use and associated Neighborhood Use Permit is extended beyond the initial term, the remaining two-thirds of the applicable residential DIF in effect at the time of the granting of the initial Building Permit shall be paid.

(c) Automatic Annual Increases

For communities identified as Development Impact Fee communities in the General Plan, unless otherwise specified in the applicable City Council resolution(s) establishing the DIFs, the amount of the DIFs shall be increased, starting on July 1, 2010, and on each July 1st thereafter, based on the one-year change (from March to March) in the Construction Cost Index (CCI) for Los Angeles as published monthly in the Engineering News-Record. The increases to DIFs consistent with the Construction Cost Index in Los Angeles shall be automatic and shall not require further action of the City Council. If the one-year change in the CCI for any given year is less than 0.2 percent, the City Manager or designee may elect to keep the DIFs for Development Impact Fee communities unchanged. For communities identified as Facilities Benefit Assessment communities in the General Plan, the DIFs shall be the amount identified in the applicable fee schedule adopted by City Council resolution.

(d) Waiver or Reduction of Fees

Any party on whom DIFs are imposed may file an application for a waiver or reduction of the DIFs with the City Manager in accordance with this Subsection. Nothing in this Subsection shall affect the requirements set forth in Section 142.0640(b). The procedures provided in this Subsection are additional to any other procedure authorized by law for protesting or challenging DIFs.

(1) An application for a waiver or reduction of DIFs shall set forth the factual and legal basis to support the application for a waiver or reduction of DIFs.

(2) An application for a waiver or reduction of DIFs shall only be processed after the applicable fee or amount of deposit, as adopted by City Council resolution, has been paid in full. If a deposit is required, and the deposit as adopted by City Council resolution is insufficient to cover the actual cost to the City to process the application, an additional deposit, in an amount determined by the City Manager, shall be required. Any unused portion of a deposit shall be returned to the *applicant*. If the City Council grants the application for a waiver or reduction of the DIFs, then the fee or the amount of the deposit expended shall be returned to the *applicant* in full, minus a five-hundred-dollar processing fee.

(3) An application for a waiver or reduction of DIFs shall be filed no later than 10 calendar days after the DIFs are paid.

(4) The decision on an application for a waiver or reduction of DIFs shall be decided by the City Council within 60 calendar days of the date that the application is received by the City Manager, but failure of the City Council to hold a hearing within this time frame does not limit the authority of the City Council to consider the application. The *applicant* shall bear the burden of presenting evidence to support the application for a waiver or reduction of DIFs.

(5) Notice of the time and place of the City Council hearing, including a general explanation of the matter to be considered shall be mailed at least 14 calendar days prior to the hearing to the *applicant*, and any interested party who files a written request with the City Manager requesting mailed notice of all applications for a DIFs waiver or reduction. Written requests for this notice shall be valid for one year from the date on which it is filed unless a renewal request is filed prior to the end of the one-year term.

(6) An application for a waiver or reduction of DIFs may only be granted if the City Council makes the following *finding*: there is no reasonable relationship between the amount of the DIFs and the cost of the public facilities attributable to the *development* on which the DIFs are imposed.

(7) If an application for a waiver or reduction of DIFs are granted, any DIFs previously paid with respect to the application at issue shall be refunded in accordance with the resolution adopted by the City Council granting the application.

(e) Adjustments to DIFs for Residential Development

The City Manager or designee is authorized to adjust DIF for residential *development* to reflect residential uses not identified in the fee schedule approved by the City Council.

(f) Developer Reimbursement Agreements (DRA)

For purposes of this Division, a DRA means an agreement to reimburse another entity for all or a portion of the cost of the entity's contracts with consultants and/or contractors for the design and construction of a public works project. The City Manager may enter into a DRA for a public works project that contains supplemental size, capacity, number, or length, or will serve Citywide needs, the need for which is not directly attributable to the *development*, provided that the following minimum requirements are satisfied:

(1) The source of reimbursement shall be limited to DIF (as defined in Government Code section 66000) funds.

(2) The public works project is identified in the annual capital improvement plan budget and the amount of reimbursement does not exceed the amount identified for the public works project in the annual capital improvement plan budget.

(3) Any contract for expenses subject to reimbursement pursuant to a DRA shall be awarded in accordance with the City Charter and San Diego Municipal Code Chapter 2, Article 2, Divisions 27, 30, 31, and 33 through 36. San Diego Municipal Code Chapter 2, Article 2, Division 32 shall not apply to consultant contracts that are entered into pursuant to a DRA.

(4) The amount of the DRA shall not exceed $30,000,000.

(5) For DRAs executed prior to July 1, 2023, should the applicable Community specific DIF fund be exhausted, the City Manager may authorize a credit against any applicable Citywide DIF or reimbursement funds to developers in accordance with the DRA's executed prior to July 1, 2023.

(g) For any Fee Deferral Agreements that were entered into prior to February 26, 2022, any liens resulting from the recordation of the Fee Deferral Agreement shall not be due or payable until a final inspection is requested.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 9-11-2009 by O-19893 N.S; effective 11-10-2009.)
(Retitled to "Payment of Development Impact Fees" and amended 10-11-2011 by O-20100 N.S.; effective 11-10-2011.)

(Retitled from "Payment of Development Impact Fees" to "Impact Fees for Financing Public Facilities" and amended 4-6-2016 by O-20626 N.S.; effective 5-6-2016.)
(Amended 5-15-2018 by O-20934 N.S.; effective 6-14-2018.)
(Amended 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)
(Amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)
(Amended 1-28-2020 by O-21167 N.S; effective 7-1-2020.)
(Amended 8-12-2020 by O-21223 N.S.; effective 10-8-2020.)
(Amended 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)
(Amended 12-9-2020 by O-21276 N.S.; effective 1-8-2021.)
(Amended 2-1-2021 by O-21288 N.S.; effective 3-3-2021.)

[Editors Note: Amendments as adopted by O-21288 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.
Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-21288-SO.pdf

(Amended 11-23-2021 by O-21391 N.S.; effective 1-6-2022.)
(Retitled from "Impact Fees for Financing Public Facilities" to "Development Impact Fees for Public Facilities and Spaces" and amended 1-27-2022 by O-21416 N.S.; effective 2-26-2022.)

[Editors Note: Amendments as adopted by O-21416 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.
Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-21416-SO.pdf**]**

(Amended 3-11-2022 by O–21439 N.S.; effective 4-10-2022.)

[Editors Note: Amendments as adopted by O-21439 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.
Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-21439-SO.pdf**]**

(Amended 9-21-2022 by O-21521 N.S; effective 10-21-2022.)
(Amended 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)

[Editors Note: Amendments as adopted by O-21618 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.
Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-21618-SO.pdf]

(Amended 1-16-2024 by O-21758 N.S.; effective 3-16-2024.)

[Editors Note: Amendments as adopted by O-21758 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.
Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-21758-SO.pdf]

§142.0670 Standards for Public Improvements

(a) Streetscape and *street* improvements shall be constructed in accordance with the standards established in the Land Development Manual and the following regulations:

(1) For *Urbanized Communities*, the design of sidewalks shall be in *substantial conformance* with the historic design of sidewalks on adjacent properties including location, width, elevation, scoring pattern, texture, color, and material to the extent that the design is approved by the City Engineer, unless an alternative design is approved as part of a use permit or *development permit*. An alternative design also requires an Encroachment Maintenance and Removal Agreement in accordance with Section 129.0715.

(2) All existing fluted-pole, post-top street light standards shall be maintained or replaced in-kind as redevelopment occurs. Minor variations in design and location are permissible.

(3) All private improvements in the *public right-of-way* shall comply with the provisions for *encroachments* in Chapter 12, Article 9, Division 7 and the standards established in the Land Development Manual.

(4) Public *street* improvements shall comply with the applicable regulations in the Land Development Code and the standards established in the Land Development Manual.

(5) Where, in the course of *development* of private property, a driveway is abandoned and is no longer suited for vehicular use, the property owner shall remove the depressed curb section and apron and restore the *public right-of-way* to the satisfaction of the City Engineer.

(6) Driveways shall comply with the regulations in Chapter 14, Article 2, Division 5 (Parking Regulations).

(7) Landscaping within the *public right-of-way* shall comply with the regulations in Chapter 14, Article 2, Division 4 (Landscape Regulations).

(b) Sewer and wastewater facilities shall be constructed in accordance with the requirements in Municipal Code Chapter 6, Article 4 (Sewers) and the standards established in the Land Development Manual.

(c) Water distribution and storage facilities shall be constructed in accordance with the requirements in Municipal Code Chapter 6, Article 7 (Water System) and the standards established in the Land Development Manual.

(d) Drainage facilities shall be constructed in accordance with the requirements in Chapter 14, Article 2, Division 2 (Drainage Regulations) and the standards established in the Land Development Manual.

(e) Street lights are a *public improvement* only required as a condition of approval for a *subdivision map* and shall be constructed in accordance with the standards established in the Land Development Manual.

(f) Traffic studies prepared by or required by the City of San Diego shall use the procedures and traffic generation rates established in the Land Development Manual.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)
(Amended 4-8-2008 by O-19734 N.S; effective 5-8-2008.)
(Amended 1-23-2013 by O-20235 N.S.; effective 2-22-2013.)
(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

§142.0680 Cost Reimbursement District Regulations

(a) Cost Reimbursement District Regulations. This section shall be known as the "Cost Reimbursement District Regulations."

(b) Purpose and Intent. In the course of developing property, 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, dedicated for public use, that are supplemental in size, capacity, number, or length to those public improvements normally required to benefit the development, for the benefit of property not within the subdivision or development. The purpose of the Cost Reimbursement District Regulations is to establish requirements and procedures for reimbursement to either the developer or the City, or both, by those property owners who subsequently benefit from the public improvements to the extent of their benefit. It is the intent of the Council that property owners who develop their property and subsequently benefit from the public improvements make the appropriate reimbursements to the developer or City, or both. It is further the intent of the Council that the Cost Reimbursement District Regulations shall be supplemental to the reimbursement procedures set forth in the California State Subdivision Map Act Government Code sections 66485 and 66486.

(c) When a Cost Reimbursement District May Be Formed.

(1) A developer may apply to initiate the formation of a cost reimbursement district when the developer elects or is required by the City to install or replace *public improvements* which are supplemental in size, capacity, number, or length to those *public improvements* required to accommodate the development, for the benefit of property outside of the development, and will be dedicated to the public.

(2) A cost reimbursement district shall not be formed if construction of the *public improvements* has been completed and accepted by the City Engineer prior to the application for the cost reimbursement district, or if the costs of the *public improvements* will later be reimbursed through an assessment district.

The City may initiate the formation of a cost reimbursement district whenever the City participates in the costs of *public improvements*, which will benefit property other than, or in addition to, the developer's property.

(d) General Cost Reimbursement District Regulations.

(1) The developer shall submit an application requesting initiation and formation of a cost reimbursement district. The application shall be in writing and shall be accompanied by an application deposit, which shall be set by City Council resolution.

(2) The City Engineer shall process the request and recommend to the City Council whether to initiate the cost reimbursement district.

(3) The application deposit shall be deposited in a fund established by the City Auditor and Comptroller for each cost reimbursement district. The deposit shall be that amount sufficient to cover administrative and engineering expenses associated with the initiation, formation and monitoring of the cost reimbursement district, including calculation of the costs attributable to the *public improvements* which benefit areas outside the development area, determination of the development area benefited by the *public improvements*, determination of the proposed spread of the costs attributable to the *public improvements* which benefit those parcels outside the development area, an accounting of funds, publication and mailings of notices associated with the initiation or formation of the cost reimbursement district, recordation, and similar costs.

(e) Cost Reimbursement District Resolution of Initiation.

Upon recommendation by the City Engineer, the City Council, in its sole discretion, may adopt a "Resolution of Initiation," approving the initiation of a cost reimbursement district and a reimbursement agreement with the developer.

(f) Actions Necessary to Form a Cost Reimbursement District

(1) Engineer's Report. After the City Council initiates the cost reimbursement district, the City Engineer may consult with the developer and thereafter, shall file with the City Clerk an engineer's report which shall include the following:

(A) A plat indicating the proposed boundaries of the cost reimbursement district which identifies all parcels within the cost reimbursement district;

The actual or total estimated cost of the *public improvements*; and.

(B) An estimate of the assessment and methodology necessary to equitably distribute the costs attributable to the *public improvements* that benefit areas outside the development area, to the benefiting properties. Benefit may be obtained and calculated by frontage, equivalent dwelling units, average daily trips, proximity to the *public improvements*, or other similar means determined by the City Engineer.

(2) Notice and Hearing on Formation of Cost Reimbursement District.

(A) Upon receiving the request from the City Engineer to set a hearing on formation of a cost reimbursement district, the City Clerk shall set a noticed public hearing before the City Council.

(B) 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 calendar days prior to the hearing:

NOTICE OF HEARING

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 lien to pay a portion of the cost of providing such facilities. If, within a twenty–year period from the date of forming this district, you either file a final map or are issued a building permit, the lien amount will become due and payable. Payment of the lien under these reimbursement proceedings shall not be required in the following circumstances:

(a) For issuance of a building permit for improvements to an existing residential dwelling unit.

(b) For issuance of a building permit for the addition of accessory structures to an existing dwelling unit provided the accessory structure is not an Accessory Dwelling Unit, Junior Accessory Dwelling Unit, or movable tiny house.

(c) For issuance of a building permit to replace an existing dwelling unit provided the density on the lot is not increased.

(d) For issuance of a building permit to replace existing non-residential structures provided the size or intensity of use of the structures is not increased. For purposes of this section, “intensity of use” includes, but is not limited to, any increase in average daily trips, sewer usage, or water usage.

(e) For issuance of a building permit to repair or modify an existing non-residential structure, provided such improvements do not expand the size or intensity of use of the structure.

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 the proposed public improvements, the cost of the proposed public improvements, the benefited area or the amount of the costs eligible to be recovered, may appear and be heard at this hearing.

(C) The City Engineer shall, at least twenty (20) days prior to the hearing, cause a copy of the Notice of Hearing to be mailed to each owner of real property within the benefited area as shown on the last equalized tax roll. The notice shall be accompanied by a map of the proposed cost reimbursement district area and a statement by the City Engineer describing:

(i) The *public improvements* and that portion considered to be in excess of the developer's requirements which benefits other properties.

(ii) The estimated or actual costs necessary to pay for the *public improvements*.

(iii) The estimated or actual costs which are proposed to be assessed against the benefiting property when the property is developed.

(iv) A plat, indicating the boundaries of the cost reimbursement district.

(3) Additional Deposits by Developer.

(A) No later than three weeks prior to the date of the hearing set in accordance with section 142.0680(e)(2), the developer shall deposit with the City any additional funds determined by the City Engineer necessary to cover the costs required for the formation and monitoring of the cost reimbursement district.

(B) If the City Council approves formation of the cost reimbursement district, the funds shall be used to cover the costs of annually monitoring the cost reimbursement district for its life.

(C) If funds become depleted below the amount deposited at formation, the City Engineer may require the developer to deposit additional funds, or may require an additional amount be withheld from any lien payments to replenish the fund to an appropriate level.

(g) Formation of a Cost Reimbursement District.

(1) Following the public hearing, the City Council, in its sole discretion, may:

(A) approve the formation of a cost reimbursement district,

(B) determine the area benefited by the improvements,

(C) authorize the City Manager to enter into a cost reimbursement agreement with the developer to provide for the disbursements of proceeds from the cost reimbursement district, and

(D) adopt a Resolution of Lien pursuant to Section 142.0680(g).

(2) The Resolution of Lien shall reference an exhibit containing the following:

(A) A list of the properties, identified by assessor's parcel number and ownership of record, which are included within the cost reimbursement district boundaries.

(B) A plat, indicating the boundaries of the cost reimbursement district and identifying the properties assessed.

(C) An apportionment of the costs attributable to the improvements that benefit areas outside the development area, which represent the lien to be charged each parcel within the cost reimbursement district. If the costs are estimated, the Resolution of Lien shall indicate that the liens are subject to recomputation by the City Engineer when the construction of the *public improvements* and final audit have been completed.

(D) The actions causing the liens to become due and payable.

(E) Other matters as appropriate to the establishment and administration of the cost reimbursement district.

(h) Lien on Property.

(1) The Resolution of Lien constitutes a statement of charges, which may become due from the owners and their successors, heirs or assigns of the various parcels of property as their benefited share of the *public improvements*.

(2) Subsequent to the construction of the *public improvements*, the City Engineer shall re-spread the lien after final costs have been calculated and verified by an audit, and shall cause the assessment roll to be appropriately modified. All affected property owners shall be notified in writing of their final lien amount.

(3) If the scope of the project or nature of the work is altered during construction of the *public improvements*, City Council may increase the estimated cost.

(4) The liens against each parcel within the cost reimbursement district shall be subject to an annual 6 percent simple interest payable at the time the lien is paid and as may be more specifically provided for in the reimbursement agreement with the developer.

(5) The City Engineer shall record a copy of the Resolution of Lien with the County Recorder. Upon payment of the amounts due, or upon the expiration of the cost reimbursement district, the City Engineer shall cause to be filed a release of lien upon the affected property.

The maximum term of any liens on property shall not exceed twenty years from formation of the cost reimbursement district.

(6) If, during the period following the formation of the cost reimbursement district, any person records a *final map* (subdivision, parcel, or consolidation map) or applies for a building permit for construction on a lot for which a lien for *public improvements* has been established in accordance with section 142.0680, and such person or predecessor in interest has not paid the lien to the City, the established lien shall be paid prior to the earlier of the filing of the *final map* or the issuance of the building permit. Payment of the lien shall not be required in the following circumstances:

(A) For issuance of a building permit for improvements to an existing residential *dwelling unit*.

(B) For issuance of a building permit for the addition of *accessory structures* to an existing *dwelling unit* provided the *accessory structure* is not an *Accessory Dwelling Unit, Junior Accessory Dwelling Unit,* or movable tiny house.

For issuance of a building permit to replace an existing *dwelling unit* provided the density on the lot is not increased.

(C) For issuance of a building permit to replace existing non-residential *structures* provided the size of the *structures* or intensity of use of the *premises* is not increased. For purposes of this section, intensity of use includes, but is not limited to, any increase in average daily trips for the *premises*; increase in the use of water, sewer drainage facilities or other public facilities; increase in the access to water, sewer drainage facilities or other public facilities.

(D) For issuance of a building permit to repair or modify an existing non-residential *structure*, provided such improvements do not expand the size or intensity of use of the *structure*.

(i) Collection and Disbursement of Funds.

(1) All funds collected in accordance with section 142.0680 shall be deposited into an appropriate fund established for the collection of funds and the monitoring of the established cost reimbursement district.

(2) The City shall notify the developer constructing the *public improvements* pursuant to a reimbursement agreement of the existence of funds deposited. No funds may be reimbursed to the developer until all costs included in the cost reimbursement district have been verified or audited. The notification shall be mailed to the developer's address contained in the cost reimbursement agreement and no further inquiries or notification shall be required of the City.

(3) If funds remains on deposit with the City without being claimed by the developer within three (3) years after notice has been made as provided in section 142.0680(h)2), the funds shall be forfeited to the City, and shall be transferred to the general fund of the City.

(Added and Amended by renumbering section 62.0208 to 142.0680 11-22-2004 by O-19335 N.S.)
(Amended 9-15-2017 by O-20857 N.S.; effective 10-15-2017.)
(Amended 8-12-2020 by O-21223 N.S.; effective 10-8-2020.)
(Amended 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)