

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 1 OF  
THE SAN DIEGO MUNICIPAL CODE BY REPEALING  
DIVISION 22, RELATING TO FACILITIES BENEFIT  
ASSESSMENTS AND DEVELOPMENT IMPACT FEES.

WHEREAS, under the City's 1979 General Plan, the City was divided into three "tiers" of growth: (1) "urbanized," which consisted of established and developed neighborhoods and the Downtown core; (2) "planned urbanizing," which consisted of newly planned and developing communities; and (3) "future urbanizing," which were largely vacant areas requiring a shift to "planned urbanizing" before being developed; and

WHEREAS, in 1980, the City adopted the "Procedural Ordinance for Financing of Public Facilities in Planned Urbanizing Areas" (FBA Ordinance), which set forth a procedure to impose special assessments on lands within the planned urbanizing areas to finance public facilities; and

WHEREAS, in 2008, the City adopted a new General Plan, which explains that the planned urbanizing areas have been "largely completed" and that the City is now "a jurisdiction of primarily two tiers: Proposition A Lands (formerly the Future Urbanizing Areas) and the Urbanized Lands (formerly the Planned Urbanizing Areas and Urbanized Areas)"; and

WHEREAS, the FBA Ordinance has since been amended to only require payment of a Facilities Benefit Assessment as a condition of property development, and is thus not subject to Proposition 218, but is subject to the Mitigation Fee Act and other constitutional limitations; and

WHEREAS, there is no legal distinction between a Facilities Benefit Assessment and a Development Impact Fee; and

WHEREAS, the FBA Ordinance currently mandates additional procedural requirements including an additional hearing to adopt a "Resolution of Intention," protest procedures, filing of

a map of an Area of Benefit with the City Clerk, recording a Notice of Assessment with the County Recorder, and filing release of liens with the County Recorder, which are not otherwise legally required; and

WHEREAS, City desires to improve government efficiency by removing these extra procedural requirements; and

WHEREAS, absent these locally imposed procedural requirements, existing state law and the United States and California Constitutions impose sufficient procedural requirements;

NOW, THEREFORE,

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

Section 1. That Chapter 6, Article 1 of the San Diego Municipal Code is amended by repealing Division 22.

Section 4. That the amounts of any Facilities Benefit Assessments adopted by City Council resolution prior to the effective date of this Ordinance shall be the amount of Development Impact Fees required to be paid in accordance with San Diego Municipal Code section 142.0640.

Section 5. That the City Manager is authorized and directed to release all Facilities Benefit Assessment liens that are attached to land.

Section 6. That adoption of this ordinance is contingent upon final passage of O-  
\_\_\_\_\_.

Section 7. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 8. 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 \_\_\_\_\_  
Heidi K. Vonblum  
Deputy City Attorney

HKV:nja  
05/14/15  
Or.Dept: Planning  
Doc. No.: 1030273

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

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor