

## ARTICLE 10

### MAINTENANCE DISTRICTS

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## ARTICLE 10

### MAINTENANCE DISTRICTS

SEC. 10-10.01 CITATION AND AUTHORITY. This article shall be known and may be cited as the Maintenance District Procedures of the City of Hayward, and is adopted as a local ordinance dealing with a municipal affair pursuant to Section 200 of the Charter of the City of Hayward. Except for the provisions of Sections 5850 through 5853, inclusive, these procedures supplement the provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code and any future amendments thereto. These procedures shall be controlling over the provisions of any general law in conflict herewith.

SEC. 10-10.05 PURPOSE AND INTENT. The purpose of this article and the intent of the City in its adoption is to make available an alternative procedure by which the City Council may provide for the payment, in whole or in part, of the costs and expenses of maintaining and operating public improvements which are local in nature and which specially benefit the lots or parcels assessed. It is intended that the costs and expenses of maintaining and operating such public improvements shall be payable from annual benefit assessments apportioned among the lots or parcels of property within the established maintenance district, the nature and formula(ae) for which is to be determined in the proceedings held annually pursuant to the provisions of this Article.

The further purpose of this Article is to provide an alternative procedure by which the City Council may reserve the right to elect to award contract(s) for maintaining and operating such public improvements by either negotiation or bidding or a combination of both rather than by bid contract(s) only in each of the years during which the district continues in existence.

SEC. 10-10.10 COUNCIL POWERS. The City Council may declare by resolution its intention to order work done or improvements made. The City Council in either the resolution of intention or by separate resolution also may declare its intention to order that costs and expenses of maintaining and operating any or all public improvements of a local nature, including the costs of necessary repairs, replacements, fuel, power, electrical current, care, supervision, and any and all other items necessary for the proper maintenance and operation thereof, shall be assessed either partly or wholly, upon such district as the City Council shall determine will be benefited by the maintenance and operation of the public improvements proposed to be maintained, and the amounts so assessed shall be collected in the same manner and by the same officers as the taxes for general City purposes are collected.

In either the resolution of intention or by separate resolution, the City Council may reserve the right to elect to award contract(s) for maintaining and operating such public improvements by either negotiation or bidding or a combination of both instead of by bid contract(s) only in each of the years during which the district continues in existence. The decision whether to proceed by negotiated or bid contract(s) or a combination of both for a particular year is to be determined and exercised each year at the time the budget and assessment are adopted for the year in question and not at the time the right to elect is reserved.

SEC. 10-10.15 ASSESSMENT FORMULA. In either the resolution of intention to order work done or improvements made, or the separate resolution, there shall be a statement of the formula(ae) upon and by which annual assessment levies for the payment of costs and expenses will be apportioned according to benefits among the several lots or parcels of property within the

maintenance district established therefor, and zones of benefit if required. The resolution shall instruct the Director of Public Works to prepare a budget annually.

SEC. 10-10.20 BUDGET. The Director of Public Works shall annually prepare a budget for the costs and expenses of maintaining and operating any or all of the public improvements of a local nature during the ensuing fiscal year, which shall include the following:

- a. The gross amount required for the costs and expenses of maintaining and operating said public improvements;
- b. The balance which will be available in the assessment fund at the end of the current fiscal year for such purpose;
- c. The amount, if any, to be contributed by the City to pay any part of the costs and expenses;
- d. Amounts to be repaid to City for funds advanced by the City to pay deficits which accrued in prior years; and
- e. The net balance which is the amount necessary to pay the costs and expenses.

SEC. 10-10.25 REPORT TO COUNCIL. When the budget has been completed by the Director of Public Works, it shall be incorporated into a report which, in addition to the budget, sets forth the benefit formula(ae), a description of each lot or parcel of property in the maintenance district by assessor's parcel number or address, and the amount of assessment to be levied against each property. The report shall be signed by the Director of Public Works and filed with the City Clerk. The City Clerk shall place the matter on the agenda for a hearing by the City Council.

SEC. 10-10.30 NOTICE. The City Clerk shall cause notice of the hearing to be published once in a newspaper of general circulation in the City and to be mailed by first class mail to all owners of property whose names and addresses appear on the latest equalized assessment roll subject to the assessment. Publication and mailing shall be completed not less than ten (10) days prior to the hearing. Notice also may be posted in such manner and places as is deemed desirable by the City Clerk.

SEC. 10-10.35 NOTICE FORM. The form of notice, depending on the particular situation, shall be substantially as follows:

- a. Published Notice.

NOTICE OF HEARING ON  
\_\_\_\_\_ MAINTENANCE DISTRICT

NOTICE IS HEREBY GIVEN that the Director of Public Works has caused to be prepared and filed with the City Clerk a report, in writing, which provides the basis for the benefit assessment for the following type(s) of maintenance and operation\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

to be borne by all lots or parcels of property within existing district, or proposed

maintenance District

No. \_\_\_\_\_ more particularly described in Exhibit "A" attached and incorporated by reference. The report sets forth the amounts to be provided in the budget for maintenance and operation, a description of each lot or parcel of property in the maintenance district by assessor's parcel number or address, and the amount of assessment to be levied for the fiscal year 19\_\_ through 19\_\_ against each lot or parcel of property. The report is available for public inspection in the office of the City Clerk.

Any interested owner objecting to (only items with X are subject to objection at this hearing):

- establishment of the district;
- boundaries of the district;
- fairness of the benefit formula(ae);
- boundaries of the zones of benefit;
- the amount of the assessment on any lot or parcel of property;
- if applicable, reservation by City of right to elect whether to proceed each year by either negotiated or bid contract or contracts or combination of both instead of bid contract or contracts only;
- additional improvements;

may file with the City Clerk at or before the hour fixed for hearing a written and signed protest, describing the lot or parcel of property by assessor's parcel number or address and stating the grounds of protest, and may appear and be heard at the hearing.

The report will be heard by the Council at its meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_, at the hour of \_\_\_\_\_ o'clock \_\_.m. in the Council Chambers, 777 B Street, Hayward, California 94541, at which time Council will examine the report and hear protests.

Notice prior to the final determination of the district shall indicate that the formation of the district, the boundaries of the district, the benefit formula(ae) and the amount of assessment and reservation of the right to elect each year at the time the budget and assessment are adopted and confirmed by bid or negotiated contract(s) or combination thereof for operation and maintenance of the improvements, are subject to objection. In subsequent years, only the amount of assessment or changes in the formula(ae) are subject to objection and the notice shall so indicate.

- b. Mailed Notice. The form of mailed notice shall be substantially the same as that of published notice, but shall also contain a description of the lot or parcel of property by assessor's parcel number or address and the amount of the proposed assessment against the property as set forth in the report. If applicable, the notice shall contain a statement that the City Council intends to reserve the right to elect to award contract(s) for maintaining and operating the public improvements, the costs of which are to be assessed in whole or in part upon the district by either negotiated or

bid contract(s) or combination thereof, in each of the years during which the district continues in existence. The election to proceed by negotiated or bid contract(s) or combination thereof shall be made each year at the time the budget and assessment are adopted for the year in question and not at the time the right to elect is reserved.

Affidavits or certifications of publication and mailing shall be filed with the City Clerk.

SEC. 10-10.40 PROTESTS. Written protests may be filed with the City Clerk prior to 5:00 p.m. on the day fixed for hearing. The City Clerk shall endorse on each protest the date and time it is filed. Any written protest not made in the manner provided herein and any oral protest not made in the course of the hearing shall be deemed to be waived voluntarily by any person who might have made such protest. Any person who fails to protest at the time and in the manner provided herein shall be deemed to have consented to the proposed assessment and any other act, determination, or proceeding on which protest could have been made.

SEC. 10-10.45 HEARING. In connection with the hearing provided for the establishment of the maintenance district, property owners may protest the establishment of the district, the proposed district boundaries, the zones of benefit, the fairness of the benefit formula(ae), the amounts of the assessments and, if applicable, the reservation by the City of the right to elect to proceed each year either by negotiated or bid contract(s) or combination thereof, instead of by bid contract(s) only. After a maintenance district has been established and finally determined, annual hearings will be limited to protests about increases in the amounts of the assessments, any change in the formula(ae), or the ordering of additional improvements. The City Council may receive oral and documentary evidence pertaining to any matters contained in the report.

SEC. 10-10.50 DISTRICT MODIFICATION. At the annual hearing the City Council may make modifications in the district or to the formula(ae) or in the amounts of the assessments for the purpose of making them more fair and equitable, or the ordering of additional improvements; provided, however, that if any decision results in increases in any assessment, or assesses additional property, prior to making a final determination as to such increased or additional assessments, the matter shall be set for hearing at a subsequent meeting of the City Council, which the Council shall call or to which it may adjourn. Notice of the time, place, and purpose of the meeting shall be given in accord with the provisions of section 10-10.35.

SEC. 10-10.55 MAJORITY PROTEST. If the City Council finds that protests against modifications in the district or to the formula(ae) used, or an increase in the amounts of the assessment, or the ordering of additional improvements are made by the owners of more than one-half (1/2) of the area of the property in the proposed maintenance district, no further proceedings shall be taken for a period of six (6) months from the date of the finding by the City Council, unless the protests are overruled by an affirmative vote of four-fifths (4/5) of the members of the City Council.

SEC. 10-10.60 FINAL DETERMINATION. At the initial hearing or at the subsequent hearing or at any adjourned meeting, or at any meeting of the City Council, the City Council may finally adopt the district, formula(ae) by which to establish the annual assessments, and determine whether to reserve the right to elect to proceed each year by negotiated or bid contract(s) or combination thereof, rather than bid contract(s) only. If a reservation is made, the Council may exercise its election for negotiated or bid contract(s) or combination thereof for the first year, at the time the budget and assessment is approved for the first year. For each year thereafter such election shall be made at the time the budget and assessment is approved for the year in question.

SEC. 10-10.65 BENEFIT ASSESSMENTS - POSTING. The officer designated by law to extend ad valorem property taxes upon the tax roll on which they are collected shall post to the tax roll the total amount of the benefit assessment levied and to be collected for each year on each lot o, parcel of property within the maintenance district as set forth in the report. The amount so posted shall appear as a separate item on the tax bill.

SEC. 10-10.70 METHOD OF COLLECTION. The special benefit assessments shall be collected upon the last secured tax roll upon which ad valorem property taxes are collected. They shall be in addition to all of the ad valorem property taxes, and shall be collected together with, and not separate therefrom, and enforced in the same manner and by the same persons and at the same time and with the same penalties and interest as are the ad valorem property taxes. All laws applicable to the collection and enforcement of ad valorem property taxes shall be applicable to the special benefit assessment levy, and the assessed lot or parcel of property, if sold for taxes, shall be subject to redemption in the same manner as such real property is redeemed from the sale for ad valorem property taxes, and if not redeemed, shall in like manner pass to the purchaser.

SEC. 10-10.75 OMITTED PROPERTY. If any property within the maintenance district is inadvertently or erroneously omitted in any report, the property shall be assessed for the omitted amount in the next year after such omission is discovered.