

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

Landscape Maintenance Districts

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Purpose

To define priorities and criteria for formation of Landscape Maintenance Districts and zones utilizing Landscape and Lighting Act proceedings (Streets and Highways Code, Section 22500, et seq.) for needs other than street lighting.

Background

The Landscape and Lighting Act of 1972 (Act), Sections 22500, et seq., provides the County the ability to form an assessment district, and zones within that district, for several purposes, including street lighting, landscaping, parks, trails, and open space easements. The County's existing Street Lighting District, formed pursuant to the Act conducts proceedings under the Act to annex properties where owners wish additional streetlights in their area.

This policy specifies other enhanced services that can be provided through the Act. If a new district is formed pursuant to the Act to implement this policy, the district will be called the Landscape Maintenance District (District), in order to distinguish the District from the San Diego County Street Lighting District.

The need for the District is based on the following:

The County may require Developers, or a developer may desire, to provide perpetual maintenance of a particular land feature. For example, the County may require a Developer to establish an open space easement or dedicate a trail, and require that the Developer ensure maintenance in perpetuity. Existing mechanisms to fund ongoing maintenance are limited. The developer could establish an endowment, or ensure that homeowners form a homeowners' association. The first option can be so expensive as to make a particular development condition infeasible. The second does not guarantee long-term maintenance because the associations can easily be dissolved or choose to change practices. Both options also fail to address the question of responsibility for contract administration and quality assurance.

Formation of the District and zones therein may provide a source of funds to ensure long-term maintenance of land features. Providing this revenue is important for communities and the environment well into the future. For organization and efficiency purposes, it is in the County's interest to provide for formation of the District to fulfill these needs distinctly and separately from the County's Street Lighting District. It is also in the best interest of the County to establish a policy specifying the allowed uses of these procedures.

Definitions

1. *Assessment Engineer's Report* is a report prepared by an assessment engineer pursuant to California Streets and Highways Code Sections 22500 et seq., and California Constitution Article XIII D. The Engineer's Report contains the plans and specifications for improvements and/or maintenance required of a proposed Zone, cost estimates, a diagram showing the area boundaries, and the assessments proposed to be levied in each parcel within the Zone. The Report may be required to have other information determined by the engineer or by the County to be relevant with respect to the Zone.

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2. *Developer* is an applicant for a subdivision map or a change in land use regulations requiring discretionary approval by the County
3. *Developed Community* means an existing community in which no developer-initiated Landscape Maintenance District or zone exists.
4. *District* is a *Landscape Maintenance District* formed pursuant to California Streets and Highways Code Sections 22500 et seq., and California Constitution Article XIID.
5. *Maintenance* is defined pursuant to California Streets and Highways Code Section 22531, generally the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement.
6. *Zone* means a specified area with the District in which rates of assessment may vary from other portions of the District.

Policy

It is the policy of the Board of Supervisors that:

The County of San Diego has the authority, under the Landscape and Lighting Act of 1972, and may initiate proceedings to form the District to provide the enhanced maintenance activities specified in this policy. The purpose of the District will be to provide an ongoing funding mechanism for maintenance of specified public improvements. District funding is necessary because the special maintenance of these features is more intense than that provided generally by the County and provides special benefits to adjacent property owners.

To ensure efficiency, the District will include only those facilities that the County is competent to maintain. The District may fund long-term maintenance of biological open space, trails, parks, or special landscaping. Such facilities will be declared public and must meet County specified standards before being accepted for maintenance.

Procedure

Formation and Annexation

- A. Proceedings to form the District or a zone of that District (Zone) may be initiated by the County, developers, civic groups, or other parties provided that (a) a funding mechanism is provided to cover all County formation costs, whether or not the formation is successful, and (b) the Director of Public Works or Director of Parks and Recreation, as appropriate, determines that the proposed maintenance through this mechanism is an appropriate use of the District.
- B. Petitions may be initiated by residents, community groups or governmental agencies.
- C. Developers interested in formation must deposit sufficient funds with the County prior to initiation of proceedings to pay for all costs of formation, including balloting and administration, and each proponent is responsible for producing an independent Assessment Engineer's Report prior to formation hearings unless waived pursuant to the Act. The County may require a Developer, or a Developer may desire, to annex to the District or to a specified zone of the District or to form a zone as a condition of annexation. In such cases, the Developer may be required to provide written consent from all owners of property

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within the development waiving the notice, hearing and right of protest and consenting to the annexation and zone formation, if any. (Streets and Highways Code §§ 22608, 22608.2.)

- D. There is a limited amount of Special District formation funding available, which can be used to assist Developed Communities, and which would be reimbursed upon successful formation and collection of assessments. In general, front funding is limited to \$3,000 per zone, with full reimbursement upon formation and assessment collection.
- E. The purpose of the District and its zones is generally to provide revenue for ongoing maintenance, and not to fund new construction. Community members should follow existing planning methods for new construction. Funding for construction of new facilities will be considered on a case-by-case basis.
- F. In Developed Communities, proponents will follow guidelines provided by the County for formation activities, including:
 - 1. All steering committee meetings must be open to the public, with all affected property owners invited.
 - 2. Provide the County with a community-initiated petition containing valid, non-weighted signatures of significant numbers to represent probable success of formation. Petitions must accurately describe the proposal, including the facilities to be maintained, and the approximate assessments for each property.
- G. Once a petition is received and approved, County staff will bring a Resolution of Intention to the Board and request approval to conduct assessment ballot proceedings, with a hearing date set in accordance with the provisions of Proposition 218.
- H. Proceedings may be initiated by the County in cases where landscaped medians are included as part of a County road improvement project or when the Board of Supervisors determines that is in the public interest to initiate such proceedings.
- I. Ballot results will be will be tabulated after a Board hearing and the Board of Supervisors may form the zone if there is not a majority protest weighted in accordance with the provisions of Proposition 218.
- J. As a condition of acceptance of maintenance responsibility, the County will require a Developer to provide funds for 24 months of district administration and maintenance costs, or until assessments placed on the tax roll are collected, whichever occurs later. Civic groups forming Zones may obtain loans to cover administrative and maintenance costs prior to County receipt of tax roll assessments.

Assessments

- A. Landscape Maintenance District property owners will be assessed via placement of levies on the tax roll, seeing their assessments as a line item of their property tax bills.
- B. Open space or other facilities required of developers as a condition of development will only be included in district zones if measures are taken to protect the County and ensure the requirements will continue to be met.

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Acceptance as a Public Facility

When a district forms, the open space, trail, park or landscape facility will be declared public. Therefore, the facility must meet specified County standards.

- A. Open space easements will only be accepted if they meet standards set by the County's Resource Management Plan Guidelines and Department of Parks and Recreation standards. Trails must also meet Department of Parks and Recreation standards for resources. These standards include, but are not limited to, fencing, stormwater erosion control devices, public access, vegetation plans and passive use.
- B. Proposals to form zones to maintain parks will be evaluated by the Director, Department of Parks and Recreation. Acceptance will depend on types of use and facilities. Parks must be open to the public and provide a special benefit to the community.
- C. Landscaping and landscaped medians must be located within public road rights of way and be constructed in accordance with County Road Standards, and will be evaluated by the Director, Department of Public Works. These standards include, but are not limited to, adequate irrigation and drainage systems, maintenance walkway, erosion protection measures, and concrete curbs and gutters.

Responsible Departments

- 1. Department of Public Works
- 2. Department of Parks and Recreation
- 3. Department of Planning and Land Use

Sunset Date

This policy will be reviewed for continuance by 12-31-2015.

References

Board Action
05-18-05 (3)
12-09-08 (33)