

## ARTICLE 20

### ESTABLISHMENT OF COMMUNITY BENEFIT DISTRICTS

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## ARTICLE 20

### ESTABLISHMENT OF COMMUNITY BENEFIT DISTRICTS

SEC. 8-20.00 FINDINGS AND PURPOSE. The City Council finds as follows:

- (1) The City of Hayward contains many property owners desirous to form property-based assessment districts for the purpose of enhancing the security, safety, appearance, and economic viability of their environs;
- (2) The California Street and Highways Code provides for the establishment of a property-based improvement district and requires that property owners in the proposed district submit a petition signed by property owners who will pay more than fifty (50) percent of the assessments proposed to be levied;
- (3) The California Street and Highways Code limits the maximum number of years during which an assessment can be levied to five and the City Council believes that it would be in the best interests of some property and business improvement districts to plan for expenditures in excess of five years, such as for the maintenance of improvements;
- (4) The City Council desires to enact an enabling ordinance which will be responsive to the needs of property owners in the City.
- (5) The establishment of Community Benefit Districts and the levying of assessments therefor is a municipal affair.

The purpose of this chapter is to enhance the ability of the City and businesses therein to establish property and business improvement districts pursuant to the Property and Business Improvement District Law of 1994 (Streets & Highways Code Section 36600 et seq.) by: (1) extending the period for which a Community Benefit District may exist from five years, as authorized by the Property and Business Improvement District Law of 1994, to fifteen years; and (2) authorizing the reimbursement of formation costs.

SEC. 8-20.10 AUTHORITY. This Chapter is adopted pursuant to Article II of the City Charter and Article XI, Section 5 of the California Constitution, which confer unto the City the power to may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in its charter and the Constitution of the State of California.

SEC. 8-20.15 NONEXCLUSIVE PROCEDURE. This Chapter provides a procedure for the establishment of assessment districts that is separate from, and alternative to, other procedures existing under state or municipal law. This Chapter does not prohibit the City Council from establishing an assessment district or conducting proceedings for such district under any other procedure authorized by law.

SEC. 8-20.20 ESTABLISHMENT OF DISTRICT. The City Council may, by resolution, establish a Community Benefits District and levy assessments in connection with such a District pursuant to this Chapter. Pursuant to Section 1-5.00 of this Code any court action or proceeding to attack, review, set aside, void, or annul a resolution establishing a Community Benefit District pursuant to this Chapter shall not be maintained by any person unless such action or proceeding is commenced within 30 days after the effective date of such decision. Thereafter, all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such decisions or of such proceedings, acts, or determinations.

SEC. 8-20.25 INCORPORATION OF STATE LAW. This Chapter incorporates the Property and Business Improvement District Law of 1994 (Streets & Highways Code §§ 36600 et seq.), which is referred to in the Chapter as the “PBID Law”. In connection with such incorporation, all references in the PBID Law to a “District” or a “Property and Business Improvement District” shall be interpreted as references to a Community Benefit District. Except where a provision of the PBID law is inconsistent with a provision of this Chapter, all provisions of the PBID law shall apply to the establishment and operation of any Community Benefit District established pursuant to this Chapter. In the event of a conflict between the provisions of this Chapter and those of the PBID Law, the provisions in this Chapter shall prevail.

SEC. 8-20.30 RELATIONSHIP OF ASSESSMENT TO ZONING. Notwithstanding the requirements of Section 36632 of the PBID Law, any parcel of real property, regardless of the zoning of such parcel, may be included in a Community Benefit District and subject to an assessment in connection therewith, so long as such parcel specially benefits from the services and improvements funded by that District.

SEC. 8-20.35 ASSESSMENT AGAINST REAL PROPERTY. Only assessments against real property may be levied in connection with a Community Benefit District.

SEC. 8-20.40 INITIATION OF PROCEEDINGS. Proceedings to initiate formation of a Community Benefit District shall be pursuant to the requirements of Section 36621 of the PBID Law. Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.

SEC. 8-20.45 FORMATION COSTS. If so provided in the engineers report for a Community Benefit District, the assessment levied in connection with such a District may include amounts sufficient to recover the costs incurred in forming the District, including:

- a. The costs of preparation of the management plan and engineer's report required by state law;
- b. The cost of preparing, circulating and submitting the petition to the City Council seeking establishment of the District;
- c. The costs of printing, advertising and the giving of published, posted or mailed notices;
- d. Compensation of any consultant, engineer or attorney employed to render services in proceedings under this chapter or the PBID Law; and
- e. Costs incurred by the City for public hearings, notices, ballots and other proceedings required by law for approval of a new or increased assessment.

The engineer's report shall specify the formation costs eligible for recovery through assessments, the schedule for recovery of those costs, and the basis for determining the amount of the additional assessment for recovery of costs, including the maximum amount of the additional assessment, expressed either as a dollar amount, or as a percentage of the underlying assessment.

SEC. 8-20.50 ADVANCEMENT OF COSTS. The City Council may, in the resolution of intention for a Community Benefit District, provide that if the District is established funds may be advanced from the City's General Fund to permit the operation of the District prior to the City's collection of the assessment. Such advance shall occur only after the establishment of the District, and no advance shall be made if the District is not established. Any such advance may not exceed the total anticipated assessment proceeds for the first year of the assessment. Any such advance must be recovered from assessment proceeds as provided in the Resolution of Intention, along with interest calculated at a rate set forth in the Resolution of Intention. The duration of any such advance shall not exceed five years.

SEC. 8-20.55 DURATION. The duration of a new Community Benefit District shall be no greater than specified in the Resolution of Intention for the District, and shall in no event be in excess of fifteen years. This Section is intended to supplant any shorter limitation set forth in the PBID Law on the duration of assessments levied in connection with an assessment district.

SEC. 8-20.60 RENEWAL. A Community Benefit District may be renewed for a period not to exceed ten additional years by following the procedures set forth in Section 36660 of the PBID Law.

SEC. 8-20.65 DISESTABLISHMENT. The City Council may, on its own initiative, at any time adopt a resolution of intention to disestablish a Community Benefit District and shall adopt such a resolution if, during the annual thirty-day period set forth in Section 36670(a)(2) of the PBID Law, the City Council receives a written petition requesting disestablishment signed by property owners who pay more than fifty (50) percent of the assessments levied in connection with the district. This section provides an alternative method for the initiation of proceedings to disestablish a Community Benefits District and shall not be interpreted to preempt the existence of other methods set forth in Section 36670(a)(2) of the PBID Law. A resolution of intention adopted pursuant to this section shall have the same effect, and trigger the same notice and hearing requirements, as a resolution of intention otherwise adopted pursuant to Section 36670 of the PBID Law.

*Ord. 15-12, adding Article 20 of Chapter 8 of the Hayward Municipal Code regarding the Establishment of Community Benefit Districts, adopted March 24, 2015.*