

**Article 5: Street Lighting, Landscaping and other Public Facility Procedures**

**Division 2: Maintenance Assessment Districts**

*(“San Diego Maintenance District Procedural Ordinance of 1969” added 4-8-1969 by O-10008 N.S.)*

*(Repealed 5-29-1975 by O-11622 N.S.)*

*(“San Diego Maintenance District Procedural Ordinance of 1975” added 5-29-1975 by O-11622 N.S.)*

*(“San Diego Maintenance District Procedural Ordinance of 1986” added 9-22-1986 by O-16713 N.S.)*

*(“Maintenance Assessment Districts” title amended 6-8-1998 by O-18523 N.S.)*

**§65.0201 Purpose and Intent; Citation of Division**

- (a) One of the purposes of this Division is to allow for the formation of *districts* in the City to fund *improvements* and *activities* through the levy of *assessments* upon the *properties* that receive benefits from those *improvements*. To accomplish this purpose, the City Council intends that the definition of the terms *improvement* and *activities* be interpreted liberally.
- (b) It is also the purpose and intent of this Division to establish a method by which *improvements* may be constructed, installed, or *maintained*; the costs of which are to be assessed to any real property which receives a *special benefit* from such *improvements*.
- (c) It is also the intent of this Division to provide a method for the City Council to authorize a non-profit corporation to assume responsibility for the administration and day to day management of a *district*.
- (d) This Division may be cited as the San Diego Maintenance Assessment District Procedural Ordinance.

*(Amended 5-6-2003 by O-19169 N.S.)*

*(Retitled from “Purpose and Intent” to “Purpose and Intent; Citation of Division” and amended 6-1-2016 by O-20653 N.S.; effective 7-1-2016.)*

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**§65.0202 Definitions**

Each word or phrase that is defined in this Division appears in italicized letters. For purposes of this Division, the following definitions shall apply:

“*Activities*” means, but is not limited to, all of the following that benefit *properties* in the *district*:

- (a) Promotion of *district* events;
- (b) Furnishing of music, programming, entertainment, or public art within the *district*;
- (c) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, landscaping, management of public spaces and other such services supplemental to those normally provided by the City; and
- (d) Other services provided for the purpose of conferring *special benefit* upon assessed *property* located in the *district*, including *administrative expenses*.

“*Administrative expense*” includes all incidental and personnel expenses incurred as a result of managing the *district*, including but not limited to *district* formation, *assessment* engineering, annual reporting, budget preparation and monitoring, *assessment* levying, invoicing, collections, information technology, communications equipment, contract procurement, vendor invoice payments, inspection of *improvements* and *activities* as required by contract, personnel, preparation and routing of requests for Council action, legal assistance, rent, office space, miscellaneous office expenses (i.e., supplies and utilities), and any related overhead or supervisory function incurred by the City or *owners’ association*.

“*Assessment*” means a levy for the purpose of acquiring, constructing, installing, or maintaining *improvements* and providing *activities* that will provide certain benefits to *properties* located within a *district*. *Assessments* levied under this Division are not special taxes.

“*Assessment engineer*” means an engineer registered pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code) hired by a *district* formation committee or the City to prepare an *engineer’s report*.

“*District*” means an area established, and not dissolved, pursuant to this Division, within which *property owners* pay *assessments* to fund *improvements* and *activities*.

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“*District management plan*” means a plan that outlines the framework of the *district* and shall include, but is not limited to, all of the following:

- (a) A map of the proposed *district* in sufficient detail to allow property owners to reasonably determine whether a *property* is located within the *district* boundaries;
- (b) The name of the proposed *district*;
- (c) A description of the boundaries of the *district*, including the boundaries of any benefit zones;
- (d) The *improvements* and *activities* proposed for the *district* and the maximum cost thereof;
- (e) The proposed source or sources of financing;
- (f) Any proposed rules and regulations to be applicable to the *district*, including whether the City or an *owners’ association* will administer the *district*;
- (g) A list of the *properties* proposed to be assessed, including the assessor’s parcel numbers; and
- (h) Any other item or matter required by the City to be incorporated into the *district management plan*.

“*Engineer’s Report*” means a report prepared by an *assessment engineer* in accordance with article XIII D, section 4(b) of the California Constitution, and shall include, but is not limited to:

- (a) The method and basis of levying the *assessment* in sufficient detail to allow each *property owner* to calculate the amount of the *assessment* to be levied against their *property*;
- (b) The proportionate *special benefit* derived by each *property*;
- (c) The total amount of all *special benefit* to be conferred upon the *properties*; and
- (d) The total amount of general benefit.

“*Existing district*” means a *district* established prior to July 1, 2016.

“*Fiscal Year*” means a twelve-month period commencing on July 1 and ending on the following June 30.

“*Improvement*” means the acquisition, construction, installation, or maintenance of any tangible property including, but not limited to, the following:

- (a) Parking facilities;
- (b) Benches, booths, kiosks, display cases, pedestrian shelters, and signs;
- (c) Trash receptacles and public restrooms;
- (d) Lighting and heating facilities;
- (e) Decorations;
- (f) Parks and public spaces;
- (g) Fountains and monuments;
- (h) Planting areas;
- (i) Closing, opening, widening, or narrowing of existing streets;
- (j) Facilities or equipment, or both, to enhance security of persons and property within the area;
- (k) Ramps, sidewalks, plazas, and pedestrian malls;
- (l) Rehabilitation or removal of existing structures; and
- (m) Design, construction and maintenance of community signs.

“*Owners’ association*” means a private non-profit entity which represents, and whose membership includes, the assessed *property owners* or *property owners’* representatives in a *district*. An *owners’ association* may be an existing non-profit entity or a newly formed non-profit entity.

“*Property*” means real property situated within a *district*.

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“*Property owner*” or “*owner*” means any person or entity shown as the owner of *property* on the last equalized secured property tax assessment roll or otherwise known by the City to be the current owner of *property*.

“*Special benefit*” means a particular and distinct benefit over and above general benefits conferred on *properties* located in a *district* or to the public at large. *Special benefit* includes incidental or collateral effects that arise from certain *improvements* or *activities* of *districts* even if those incidental or collateral effects benefit *property* or persons not assessed. *Special benefit* excludes general enhancement of property value.

(Amended 5-6-2003 by O-19169 N.S.)

(Amended 6-1-2016 by O-20653 N.S.; effective 7-1-2016.)

### §65.0203 Non-exclusiveness of Remedies

The remedies provided in this Division for the enforcement of any *assessment* levied pursuant to this Division are not exclusive, and additional remedies may be provided at any time.

(“*Nonexclusiveness of Remedies*” renumbered from Sec. 65.0205 on 6–8–1998 by O-18523 N.S.)

(Retitled from “*Nonexclusiveness of Remedies*” to “*Non-exclusiveness of Remedies*” and amended 6-1-2016 by O-20653 N.S.; effective 7-1-2016.)

### §65.0204 Rules of Construction

This Division shall be liberally construed in order to effectuate its purposes. No error, irregularity, informality and no neglect or omission of any officer, in any procedure taken under this Division which does not directly affect the jurisdiction of the City Council to order the work, shall void or invalidate such procedure or any *assessment* or the cost of the work done.

(“*Rules of Construction*” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016.

Former Section 65.0204 “*Abandonment of Proceedings*” repealed.)

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**§65.0205 Alternative Financing Method; No Limit on Other Provisions of Law**

This Division provides an alternative method of financing certain *improvements* and *activities*. The provisions of this Division shall not affect or limit any other provisions of law authorizing or providing for *improvements* or *activities* or the raising of revenue for the benefit of *properties*.

*(Alternative Financing Method; No Limit on Other Provisions of Law” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0205 “Effect Upon Other Law” repealed.)*

**§65.0206 Establishment of a District**

A *district* may be established as provided in this Division, in the following manner:

- (a) A *district* formation committee, comprised of *property owners* proposing to form a *district*, working with the Mayor or Mayor’s designee, shall formulate, vote upon, and submit a draft *district* management plan to the City for review and comment. Once City staff has commented, an independent *assessment engineer* hired by the City or the *district* formation committee will review the plan and prepare an *engineer’s report* consistent with the draft *district* management plan, article XIII D, section 4(b) of the California Constitution, Sections 53750 through 53758 of the California Government Code, the City of San Diego Municipal Code, and all other applicable laws.
- (b) The draft *district* management plan shall include the *improvements* and *activities* to be funded, the *assessment* methodology, any benefit zones within the *district*, the frequency of services, the boundaries of the *district*, and a statement regarding the desire for the *district* to be administered by the City or an *owners’ association*.
- (c) City staff shall approve the draft *district* management plan and *engineer’s report*. After approval of the draft *district* management plan and *engineer’s report*, City staff shall inform the *district* formation committee that it may initiate a formal petition drive to demonstrate to the City that appropriate support exists to proceed with the *assessment* ballot proceeding for formation of the *district*.
- (d) The City may, at its sole discretion, determine whether or not the City will provide the initial funding for the costs of preparing the draft *district* management plan and *engineer’s report*.

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- (e) Upon the submission of a written petition supporting the approved *district management plan*, signed by the *property owners* who own at least 30 percent of the total number of assessable parcels in the proposed *district*, as identified in the *district management plan* or *engineer's report*, or those *property owners* who would pay at least 30 percent of the proposed *assessments* to be generated in the proposed *district*, the City may initiate proceedings to establish a *district*. The petition shall contain a map showing the boundaries of the *district*, a general summary of the types of *improvements* and *activities* that will be provided within the *district*, the exact cost to the respective *property owner* and their proportional weight relative to the total budget proposed for the new *district* which will fund the costs of providing such *improvements* and *activities*.
- (f) Prior to submitting the draft *district* management plan and petition to the City, the formation committee shall document that:
- (1) At least two noticed and public meetings were held which included an agenda item for discussion of the *district* proposal;
  - (2) A notice was published in a newspaper of general circulation, or publication of similar distribution, which accurately summarized the draft *district* management plan and cost and gave notice of the two public meeting dates;
  - (3) Information about the proposed *district* was posted for a minimum of three weeks at a community-accessible public building within the proposed *district* boundary; and
  - (4) The officially recognized community planning committee for the area where the proposed *district* is located was informed about the proposed *district* formation.
- (g) Upon verification of the petition by City staff, the City Council may proceed with the formation of the *district* by the adoption of a resolution of intention expressing its intention to establish a *district*.
- (h) The resolution of intention described in subsection (g) above shall contain all of the following:

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- (1) A brief description of the proposed *improvements* and *activities*, the amount of the proposed *assessment*, a statement that bonds will not be issued, and a description of the exterior boundaries of the proposed *district*. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an *owner* to generally identify the nature and extent of the *improvements* and *activities* and the location and extent of the proposed *district*; and
- (2) A time and place for a public hearing on the establishment of the *district* and the levying of *assessments*, which shall be consistent with the requirements of San Diego Municipal Code sections 65.0209 and 65.0210.

*(“Establishment of a District” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0206 “Determination by Engineer Required” repealed.) (Amended 11-1-2016 by O-20737 N.S.; effective 12-1-2016.)*

**§65.0207 Engineer’s Report**

The *engineer’s report* shall contain all of the following:

- (a) A map of the *district*.
- (b) The name of the proposed *district*.
- (c) A description of the boundaries of the proposed *district*, including the boundaries of any benefit zones, in a manner sufficient to identify the affected *properties*. Nothing in this Division prohibits the boundaries of a *district* created pursuant to this Division to overlap with other assessment districts established pursuant to other provisions of law including, but not limited to, the Parking and Business Improvement Area Law of 1989, California Streets and Highways Code section 36500 *et seq*, or the Property and Business Improvement District Law of 1994, California Streets and Highways Code section 36600 *et seq*.
- (d) The general description of *improvements* and *activities* proposed and their estimated maximum cost for each fiscal year.
- (e) The estimated total amount proposed to be expended for administration and operation of the *district* for each fiscal year.
- (f) The proposed source or sources of financing including the proposed method and basis of levying the *assessment* in sufficient detail to allow each *property owner* to calculate the amount of the *assessment* to be levied against their *property*.



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- (g) A statement that the *district* will continue until it is disestablished pursuant to San Diego Municipal Code section 65.0221.
- (h) A separation and quantification of the *special benefits* and general benefits, and the proportionate *special benefit* derived by each assessed *property*, determined in relationship to the entirety of the cost of providing the *improvements* and *activities*.
- (i) A list of the *properties* to be assessed.
- (j) Any other item or matter required to be incorporated by the Council, the San Diego Municipal Code, or any other applicable law.

*(“Engineer’s Report” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0207 “Alternate Method for Resolution of Intention” repealed.)*

**§65.0208 Notice of Proposed Assessments; Public Hearing**

If the City Council proposes to levy a new or increased *assessment*, the notice, protest, and hearing procedure shall comply with California Government Code section 53753. There shall be no statements in favor or in opposition by the City, *district* proponents, or *district* opponents contained in or accompanying the notice and ballot materials.

*(“Notice of Proposed Assessments; Public Hearing” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016.)*

**§65.0209 Formation of a District**

- (a) Following a public hearing in which there is no majority protest, as that term is defined in California Government Code section 53753(e), the City Council may decide to establish the proposed *district*. If the City Council decides to establish the proposed *district*, it shall do so by adopting a resolution of formation that shall contain all of the following:
  - (1) A brief description of the proposed *improvements* and *activities*, the amount of the proposed *assessment*, a statement that bonds will not be issued, and a description of the exterior boundaries of the proposed *district*, which may be made by reference to any plan or map that is on file with the City Clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an *owner* to generally identify the nature and extent of the *improvements* and *activities* and the location and extent of the proposed *district*.

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- (2) The number, date of adoption, and title of the resolution of intention.
  - (3) The time and place where the public hearing was held concerning the establishment of the *district*.
  - (4) A statement that there was no majority protest.
  - (5) A statement that the *properties* in the *district* established by the resolution shall be subject to any future amendments to this Division.
  - (6) A statement that the *improvements* and *activities* to be conferred on *properties* in the *district* will be funded by the levy of the *assessments*.
  - (7) A statement that the revenue from the levy of *assessments* within a *district* shall not be used to provide *improvements* or *activities* outside the *district* or for any purpose other than the purposes specified in the resolution of intention, as modified by the City Council at the hearing concerning establishment of the *district*.
  - (8) A finding that the *property* within the area of the *district* will receive *special benefits* as a result of the *improvements* and *activities* funded by the proposed *assessments*.
- (b) Prior to adopting the resolution of formation, the City Council may modify the *engineer's report*, or any portion thereof, so long as the modification does not result in any *property owner* paying a higher *assessment* than indicated on that *property owner's* ballot or result in an *assessment* being levied on any *property* for which the *property owner* was not balloted.
  - (c) The adoption of the resolution of formation shall constitute the levy of an *assessment* in each of the fiscal years for the life of the *district*.
  - (d) The *improvements* and *activities* in the *district* may not commence any sooner than six months after City Council adoption of the resolution of formation so that the necessary amount of *assessment* funds may accrue to implement the *improvements* and *activities*.

(“Formation of a District” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0209 “Community Planning Groups and Designated Representatives” repealed.)

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**§65.0210 City Clerk to Record Notice and Map of District**

Following adoption of a resolution of formation pursuant to San Diego Municipal Code section 65.0209, the City Clerk shall record a notice and map of the *district*.

*(“City Clerk to Record Notice and Map of District” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0210 “Meetings between City and Property Owners; Notice” repealed.)*

**§65.0211 Existing Districts**

Every *existing district* is declared valid, effective, and in compliance with this Division. *Existing districts* are subject to this Division rather than any provision of prior law. Adoption of a resolution levying *assessments* in an *existing district* for a fiscal year beginning on or after July 1, 2016 shall authorize and constitute the levy of *assessments* for the life of the *existing district*.

*(“Existing Districts” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0211 “City Council Review” repealed.)*

**§65.0212 Property Owner Representatives**

- (a) *Property owners* may establish representatives for the purposes of communicating with the City on matters within their *district*.
- (b) In the event a *district* is managed by the City and the *district’s* boundaries are substantially the same as the boundaries of a community represented by a community planning group that has been established under applicable City guidelines, the community planning group shall be the preferred *property owner* representative for the *property owners* within the *district* for the purposes of Chapter 6, Article 5, Division 2. The community planning group may form a committee and designate that committee as the *property owner* representative in lieu of the community planning group acting as the *property owner* representative.
- (c) In the event the boundaries of a *district* managed by the City are substantially not the same as the boundaries of an established community planning group, the *property owners* within the *district* may establish their own advisory group made up of designated representatives.

*(“Property Owner Representatives” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0212 “Support of Property Owners for Administration by Non-Profit Corporations” repealed.)*

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**§65.0213 Collection of Assessments**

The collection of the *assessments* levied pursuant to this Division shall be made at the time and in the manner set forth by the City Council in the resolution of formation described in San Diego Municipal Code section 65.0209. A method for charging interest and penalties for delinquent payments of *assessments* may also be prescribed in the resolution of formation. *Assessments* may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for *assessments* levied pursuant to this Division may be charged interest and penalties.

*(“Collection of Assessments” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0213 “City Award of Contracts” repealed.)*

**§65.0214 Validity of Assessments; Contests**

The validity of an *assessment* levied under this Division shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution establishing the *district* and levying the *assessment* is adopted pursuant to San Diego Municipal Code section 65.0209 or, in the case of *existing districts*, upon adoption of the resolution pursuant to San Diego Municipal Code section 65.0211. Any appeal from a final judgment in any action or proceeding shall be perfected by the appellant within 30 days after the entry of judgment.

*(“Validity of Assessments; Contests” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. “Contracts Awarded by Non-Profit Corporations” repealed.)*

**§65.0215 District Modification; Public Hearing Required**

- (a) The City Council may modify a *district* by adopting a resolution after conducting one public hearing on the proposed modifications. The City Council may only make minor modifications to the *improvements* and *activities* to be funded with the revenue derived from the levy of the *assessments* to the extent that those minor modifications are consistent with the *engineer’s report*. The City Council may modify the boundaries of the proposed *district*, but only if the modification does not result in additional *property* being included in the proposed *district*. Notice of the public hearing and the proposed modifications shall be accomplished by a first-class mailing to all affected *property owners* of the resolution of intention to modify the *district*, as well as an official notice of the public hearing regarding the proposed modifications. If the modification includes the levy of a new or increased *assessment*, as defined in California Government Code section 53750, or if the modification is not consistent with the *engineer’s report*, then the City Council shall comply with California Government Code section 53753.

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- (b) The City Council shall adopt a resolution of intention to modify the *district* which states the proposed modification prior to the public hearing. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention to modify the district and not less than 45 days after the mailing of the notice as referenced in section 65.0215(a).

*(“District Modification; Public Hearing Required” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016.)*

**§65.0216 Establishment, Modification, or Disestablishment of Benefit Zones**

All provisions of this Division applicable to the establishment, modification, or disestablishment of a *district* apply to the establishment, modification, or disestablishment of benefit zones. In order to establish, modify, or disestablish a benefit zone, the Council shall follow the procedure to establish, modify, or disestablish a *district*.

*(“Establishment, Modification, or Disestablishment of Benefit Zones” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016.)*

**§65.0217 Administration by an Owners’ Association**

- (a) Consistent with California Streets and Highways Code section 36614.5, the *owners’ association* is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. An *owners’ association* shall comply with the Ralph M. Brown Act, California Government Code section 54950 *et seq.*, at all times when matters within the subject matter of the *district* are heard, discussed, or deliberated, and with the California Public Records Act, California Government Code section 6250 *et seq.*, for all documents relating to *improvements* and *activities* of the *district*. Board members, officers, and members of the *owners’ association* are intended and understood to represent and further the interest of the *property owners* located within the *district*. Each *property owner* or *property owner’s* representative paying the *assessment* has the right to vote in, and seek nomination in, annual elections to the board of directors of the *owners’ association*.
- (b) If the City Council determines that the *district* will be administered by an *owners’ association*, then the City Council may adopt a resolution approving an agreement with an *owners’ association* and stating that an *owners’ association* shall be responsible for administering all contracts necessary to provide the *improvements* and *activities* within the *district* as well as managing the day to day operations of the *district*.

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- (c) Upon the submission of a written petition, signed by the *property owners* who own at least 30 percent of the total number of assessed parcels in the *district*, as identified in the *district management plan* or *engineer's report*, or those *property owners* who pay at least 30 percent of the *assessments* generated in the *district*, the City may initiate proceedings to change the administrator of a *district*. If the *district* is currently administered by the City, the petition shall include a statement that the *property owners* desire to have an *owners' association* administer the *district*. If the *district* is currently administered by an *owners' association*, the petition will include a statement as to whether the *property owners* desire the City or another *owners' association* to administer the *district*.
- (1) After City staff verifies the petition sufficiency, the City Council may adopt a resolution of intention expressing its intention to change administrators of the *district*. If the *district* is currently administered by an *owners' association*, the resolution of intention shall include a statement seeking applicants from non-profit corporations who desire to act as the *district's owners' association*. The resolution of intention shall also set forth a time and place for a public hearing on the matter of changing the administrator for the *district*.
- (2) After the public hearing, the City Council may, but is not required to, change the administrator for the *district* by the adoption of a resolution changing administrators.
- (3) If there is any gap between *owners' associations* in administration of a *district*, the City shall administer the *district* until the new *owners' association* takes over administration.
- (d) Nothing in this section shall be construed as to limit the City's ability to change the administrator for the *district* at any time without a petition of the *property owners*.

(“Administration by an Owners’ Association” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016.)

(Amended 11-1-2016 by O-20737 N.S.; effective 12-1-2016.)

### §65.0218 Terms of Agreement between the City and the Owners’ Association

- (a) Notwithstanding any other provision of the San Diego Municipal Code, the agreement between the City and the *owners' association* for administration of the *district* may be awarded without a competitive process.

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- (b) The agreement with the *owners' association* shall require the *owners' association* to indemnify, defend, and hold the City free and harmless from and against any and all claims, demands, liens, or judgments for death of or injury to any person or damage to any property whatsoever alleged to be caused, or caused, by any act or omission of the *owners' association* or any officer, contractor, agent, or employee of the *owners' association*.
- (c) The agreement shall require the *owners' association* to obtain a comprehensive public liability insurance policy satisfactory to the City Manager and the City Attorney, naming the City as an additional insured. The *owners' association* shall provide the City Manager a copy of a certificate of such insurance each year and, upon request, shall provide the City Manager a complete copy of the insurance policy.
- (d) The agreement shall require the *owners' association* to maintain worker's compensation insurance for its employees.
- (e) The agreement shall provide that neither the *owners' association* nor any of its board members shall have a financial interest in any contract awarded for the *district*.
- (f) The agreement shall provide that the *owners' association* agrees to conduct at least one noticed meeting per year which shall include the *property owners*, any applicable property owners' designated representatives pursuant to San Diego Municipal Code section 65.0212, and City staff, to discuss the budget, *improvements*, and *activities* for the following fiscal year.
- (g) The agreement shall require the *owners' association* to hold at least three other noticed meetings per year, in addition to the one required in section 65.0218(f), open to the public and *property owners* within the *district* to receive comments on all matters related to the *district*, including input on bids or proposals received by the *owners' association* for any contracts for *improvements* and *activities* of the *district*, evaluation of the performance of any contractor for the *district*, and advice to the *owners' association* regarding the *improvements* and *activities* for the *district*.
- (h) The agreement shall require the *owners' association* to submit to the City Manager a prospective annual report pursuant to section 65.0220 for the *improvements* and *activities* for the *district* no later than April 1 of each year for the following *fiscal year*. The City Manager may modify the annual budget prior to submitting it to the City Council for consideration.

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- (i) The agreement shall require the *owners' association* to maintain separate books and records for the *district* which shall be available for audit at any time during normal business hours and as often as the City deems necessary. All records shall be made available within the City of San Diego, and the City or its designee shall be allowed to audit, examine, and make excerpts from such data pertaining to all matters covered by the agreement. The *owners' association* shall maintain such books and records for a period of three years following completion of the agreement. The *district* shall pay for the costs of any audit performed by or at the direction of the City.
- (j) The agreement shall require the *owners' association* to timely provide an audited financial statement of all reimbursements and working capital advances paid to the *owners' association* with *district* funds within the timeframe specified in the agreement. The financial statements must be prepared in accordance with Generally Accepted Accounting Principles (GAAP) and audited by an independent Certified Public Accountant (CPA) as selected or approved by the City in accordance with Generally Accepted Auditing Standards (GAAS).
- (k) The agreement shall provide that failure of the *owners' association* to comply with any terms or conditions of the agreement may result in termination of the agreement.
- (l) The agreement shall provide that if the *owners' association* receives revenue directly generated by *activities* carried out with any *district assessment* funds, then a portion of that revenue must be returned to the *district* account based on the *district's* participation in the funding of the activity generating the revenue.
- (m) The agreement shall have a term not to exceed five years.
- (n) The agreement shall allow the City Manager to terminate the agreement for cause with 30 days' written notice to the *owners' association*. The City Council may terminate the agreement for convenience by resolution after first adopting a resolution of intention to terminate and giving 30 days' written notice of a public hearing on the matter to the *owners' association*.  
(*"Terms of Agreement between the City and the Owners' Association"* added 6-1-2016 by O-20653 N.S.; effective 7-1-2016.)



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**§65.0219 Meetings between City and Property Owners; Notice**

- (a) Representatives of the City shall participate in or conduct at least one publicly noticed meeting with the *property owner* representatives of the *district* or, absent *property owner* representatives, the *property owners* within each *district* to discuss the budget, *improvements*, and *activities* for the following *fiscal year*.
- (b) For any *contracts* awarded by the City, or *activities* provided by the City, or *improvement* installed or provided by the City pursuant to this Division, representatives of the City should meet on a regular basis with the advisory group or, absent an advisory group, *property owners* within the *district* to evaluate the performance of the contractor or the City and to advise the representatives of the City regarding *improvements* and *activities* for each *district*.
- (c) Upon receipt of bids or proposals for a *contract* for *improvements* or *activities*, representatives of the City should meet with the *property owner* representatives of the *district* or, absent *property owner* representatives, the *property owners* within the *district* to review the bids or proposals.

(“Meetings between City and Property Owners; Notice” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0219 “Assessment Recorded; Notice; Late Charge” repealed.)

**§65.0220 Annual Report**

- (a) The City Council shall approve a prospective annual report for each *fiscal year*, except the first year, for which *assessments* are to be collected to pay the costs of the *improvements* and *activities* described in the report.
- (b) The report shall be consistent with the *engineer’s report*, filed with the City Clerk after City Council approval but prior to August 10 each year, refer to the *district* by name, specify the *fiscal year* to which the report applies, and, with respect to that *fiscal year*, shall contain all of the following information:
  - (1) The *improvements* and *activities* to be provided for that fiscal year;
  - (2) An estimate of the cost of providing the *improvements* and *activities* for that fiscal year;

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- (3) The method and basis of levying the *assessment* in sufficient detail to allow each *property owner* to estimate the amount of the *assessment* to be collected from him or her for that fiscal year;
  - (4) The estimated amount of any surplus or deficit revenues to be carried over from the previous fiscal year;
  - (5) The estimated amount of any contributions to be made from sources other than *assessments* collected pursuant to this Division; and
  - (6) A list of parcels within the *district* as indicated on the last equalized secured property tax assessment roll.
- (c) The City Council may approve the report as filed or may modify any portion of the report and approve it as modified.

*(“Annual Report” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0220 “Waiver of Delinquent Payments” repealed.)*

#### **§65.0221 Disestablishment of District; Procedures**

- (a) Any *district* established pursuant to the provisions of this Division may be disestablished by resolution of the City Council after a public hearing on the disestablishment of the *district*.
- (b) The City Council may, at its sole discretion, initiate the process to dissolve a *district*.
- (c) Section 65.0221(b) notwithstanding, *property owners* interested in dissolving a *district* shall provide a written petition to the City Manager verifying that *property owners* who own at least 30 percent of the total number of assessed parcels in the *district*, as identified in the management plan or *engineer’s report*, or those *property owners* who pay at least 30 percent of the *assessments* generated in the *district*, support dissolution of the *district*.
  - (1) The petition shall contain the name, signature, address, and parcel number of each *property owner* signing the petition. The City Council will not act on a resolution to dissolve a *district* until the City Manager or his designee has verified the contents of the petition.
  - (2) All costs of mailing and printing the petition, and all costs incurred by the City in administering, mailing, printing, and tabulating the petition and providing notice, shall be paid from *district assessments*.

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- (d) Upon verification of the petition, the City Council shall adopt a resolution noticing the public hearing on the subject of dissolution. The resolution shall state the time and place of the public hearing and shall contain a proposal to dispose of any assets acquired with the revenues of the *assessments* levied within the *district*. The notice of the hearing on disestablishment shall be given by mail to the *owner* of each *property* subject to *assessment* in the *district*. The City Council shall conduct the public hearing not less than 30 days after the mailing of the notice to the *property owners*. The public hearing shall be held not more than 60 days after the adoption of the resolution noticing the public hearing.

*(“Disestablishment of District; Procedures” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0221 “Alternate Method for Collecting the Assessment” repealed.)*

*(Amended 11-1-2016 by O-20737 N.S.; effective 12-1-2016.)*

#### **§65.0222 Disestablishment; Refund of Assessments**

Upon disestablishment of the district and after all outstanding debts, including administrative costs incurred on behalf of the *district* and the costs of disestablishing the *district*, are paid, any remaining revenues derived from the levy of *assessments*, or derived from the sale of assets acquired with the revenues, shall be refunded to the *property owners* then located within the *district* in which *assessments* were levied. Such refunds shall be distributed by applying the same method and basis that was used to calculate the *assessments* collected in the fiscal year in which the *district* is disestablished. If the disestablishment occurs before an *assessment* is collected for the fiscal year, the method and basis that was used to calculate the *assessments* collected in the immediate prior fiscal year shall be used to calculate the amount of any refund. All outstanding *assessment* revenue collected after disestablishment or expiration shall be spent on *activities* specified in the *engineer’s report*. All general benefit contributions shall be returned to their originating fund. Interest earned on any reserve shall be returned to the City’s originating fund.

*(“Disestablishment; Refund of Assessments” added 6-1-2016 by O-20653 N.S.; effective 7-1-2016. Former Section 65.0222 “Notice of Sale of Delinquent Property” repealed.)*