

CITY OF WHITTIER

POLICY REGARDING THE ESTABLISHMENT OF STREETLIGHTING DISTRICTS

Purpose:

The purpose of this document is to set forth a local policy governing when the City Council will consider the establishment of a street lighting district to fund the installation and maintenance of street lighting in a developed neighborhood.

Background:

The Landscaping & Lighting Act of 1972 (Streets & Highways Code Section 22500 *et seq.*), permits the City to establish assessment districts that fund the installation and maintenance of street lighting. Maintenance costs are funded through an annual assessment against the property owners within the district. Installation costs can be collected from property owners in annual assessment installments over five years. Assessments are collected by the County from property owners on their property tax bills.

The establishment of assessment districts is further governed by Article XIII D of the California Constitution, which is commonly referred to as "Proposition 218." Among other things, Proposition 218 requires that: (i) any new assessment be supported by a detailed engineers' report prepared by a licensed professional engineer; (ii) only special benefits can be assessed; and (iii) a property owner mail ballot proceeding must be conducted prior to the approval of a new assessment. Costs associated with preparing an engineers' report, conducting an assessment ballot proceeding, and otherwise complying with the requirements of Proposition 218 can run in the tens of thousands of dollars. If a city fronts these costs, and then property owners reject the assessment at the mail ballot proceeding, there is no way for the city to recover these costs from the property owners.

Goal:

The goal of this policy is to ensure that, before the City begins incurring costs in connection with the establishment of a street lighting district, affected property owners have shown that support for the establishment of the district is substantial.

Policy:

1. The owners of property in a residential area may petition for the establishment of a street lighting district in the area.
2. The petition must be in the form provided by the City's Department of Public Works.

3. The petition must include a description or map showing the street segments on which lighting is proposed for installation and maintenance. In general, all segments must be contiguous with each other. For purposes of this paragraph two segments that are not physically contiguous shall be considered contiguous if they are connected by segments that already have streetlighting and will be outside of the new district.

4. The petition must include a description or map showing the parcels proposed for inclusion in the district. All parcels that front upon any street segment that is proposed for the installation and maintenance of lighting facilities must be included in the proposed district. No other parcels may be included.

5. If the City receives a petition that is signed by the owners of at least 50% of the parcels proposed for inclusion in a district, the City Council will consider initiating proceedings to establish the district.

6. Any petition submitted pursuant to this policy must be accompanied by a deposit of \$20,000 to defray the City's costs of (i) conducting proceedings to establish the proposed district, (ii) preparing (or causing a consultant to prepare) the engineer's report for the proposed district, (iii) conducting a property owner mailed ballot protest proceeding, and (iv) providing notices and communications to property owners in connection with the proceedings. The deposit should indicate the person or entity that has made the deposit. The deposit (less costs already incurred by the City) will be refunded to that person or entity if the City Council decides not to move forward with proceedings, if the City Council concludes proceedings and establishes the assessment district, or if (prior to the adoption of a resolution of intention) the person or entity requests that proceedings be terminated. To the extent practicable and permissible under law, any assessment will be sized to reimburse the City for the costs that have been deducted from such deposit, and, as the City receives such reimbursements from the assessment proceeds it will use those funds to repay money that has been withheld by the City from the deposit. Such assessment funds will not be available if the assessment is not approved by property owners at the assessment ballot proceeding or if the assessment is for any reason not approved or levied. The City may require that the person or entity seeking to make a deposit enter into a deposit and reimbursement agreement with the City in connection with the deposit.

7. Due to engineering constraints, the requirements of Proposition 218, and other policy considerations, if the City Council initiate proceedings, the proposed district that is the subject of the proceedings may include boundaries and street segments that are modified from those proposed in the petition.

Relation of Policy to State Law:

Any proceedings commenced in response to a petition pursuant to this policy will be conducted pursuant to the requirements of the Landscaping & Lighting Act of 1972, Proposition 218, and other applicable state law. Nothing in this policy should be interpreted to: (i) require that the City Council adopt any resolution (including a resolution initiating proceedings) if the City Council it does not support that resolution or (ii) permit the City Council to establish an assessment district without conducting the noticed protest hearing and mail ballot proceeding required by Proposition 218.