

QUESTIONS AND ANSWERS ABOUT ROAD ZONES OF BENEFIT

The County frequently receives inquiries from residents in existing zones of benefit. This list of questions and answers addresses the most common inquiries. Residents and property owners in existing zones of benefit should contact the Community Development Agency (CDA), Administration and Finance Division with specific questions, and not rely on this document for comprehensive answers to all situations.

Question: *What is a Zone of Benefit?*

Answer: A zone of benefit is a geographic area established under County Service Area law to provide funding for additional services not already being provided by any other entity, or at a higher level that might otherwise be available. Services that can be provided include road maintenance and improvement services, drainage facility, landscape, and lighting maintenance, among a few others.

If you live on a road not maintained by the County's CDA Transportation Division or some other agency, a petition may be submitted to form a zone of benefit to provide funding for road improvement and maintenance. Other documents are also required with the petition, including Irrevocable Offers of Dedication of roads to be maintained, a professionally prepared map of the proposed zone boundaries, and a legal description of the boundaries prepared by a professional surveyor. Next steps include a formation hearing and approval of the funding source for the zone. This does not mean that the County will take over maintenance of the roads. Formation of a zone simply guarantees funds will be available to pay for maintenance.

Question: *How is a zone of benefit different from a district?*

Answer: A District has a Board of Directors and is self-governing. A zone of benefit is governed by the County Board of Supervisors. The CDA, Administration and Finance Division serves as a liaison between the residents and the Board.

Question: *What are the costs associated with a road zone of benefit? Are there other fees required once the zone is established?*

Answer: An application deposit is required. This deposit will be used to defray the initial costs associated with zone formation. Formation charges exceeding the initial deposit must be paid before the formation is finalized. The applicant will be billed for any excess formation costs. Additional costs incurred in order to meet formation requirements, such as charges by an engineer to prepare a map or legal description are paid by the applicant directly to the service provider. The applicant must also pay a fee to the California State Board of Equalization, based on their fee schedule.

Once established, the zone will be charged annually as follows:

- Auditor/Controller processing costs based on a cost recovery structure; (See http://www.edcgov.us/Government/Auditor-Controller/PropTax/Policies_and_Procedures_for_Districts.aspx/Direct_Charges_Cost_Recovery_Effective_FY15/16,_dated_2/26/15).
- a proportionate amount of the cost of an insurance policy covering the zone

roads based on the mileage included in each zone;

- administration costs that are specific to the work required in each zone. Costs include:
 - staff time spent administering the zone by CDA, Administration and Finance Division. Administration includes such activities as processing purchase orders, preparing bid documents and contracts, and reviewing and monitoring the budget for each zone. Because this is a direct billing for time worked, or time and materials, this cost will vary with each zone and is dependent upon actual issues requiring staff involvement;
 - the costs associated with budget preparation, monthly reconciliation, and general zone activities, which are spread to all zones in the program;
 - other miscellaneous costs including required public noticing, administrative costs.
- Any and all road work is paid from each respective zone's account.
- All expenditures must comply with County Ordinance requirements.

Question: *Who sets and approves the amount charged for each parcel?*

Answer: There are two types of charges that can be levied, a special tax or a benefit assessment. The amount of either a special tax or benefit assessment is supported by the engineer's report submitted with the application to form zone of benefit. It must include allowance for the administrative costs previously described, as well as the maintenance costs.

A special tax requires two-thirds majority approval of the registered voters voting within the zone boundaries. A special tax is a uniform amount to each property, except that unimproved properties may be taxed at a lower rate. A special tax can be established with an escalator and/or with a "sunset clause". Any proposed increase exceeding the approved amount requires a two-thirds majority voter approval in another election.

In the case of a proposed benefit assessment, a report prepared by a licensed engineer explaining the proportional benefit received by each parcel is submitted. Each owner of interest in a parcel of land within the zone boundaries will then receive a ballot on which they express their approval of or objection to the proposed assessment. Responses are weighted, based on amount of the proposed assessment to the property and the percent of ownership interest for each ballot cast, in relation to all of the ballots cast. If a majority of the weighted ballots received protest the assessment, it cannot be levied. Any subsequent proposed increase would be subject to the same documentation requirements and approval process. Once established, benefit assessments are confirmed annual by the Board of Supervisors. Any zone resident or property owner may appear before the Board to speak on the proposed assessments.

Once approved through the appropriate process, the benefit assessment or special tax is added to the property tax bill for each parcel. The funds are collected with the property taxes and deposited into an interest bearing account for use within the zone. The CDA, Administration and Finance Division administers all funds. Monies are not placed in the General Fund and cannot be used for any other purposes.

Question: *Who determines what work needs to be done? Who pays for these services?*

Answer: As part of formation, the property owners and residents zone may recommend the Board of Supervisors appoint an Advisory Committee and identify a Key Contact to act as liaison to the County. Once appointed by the Board, members of this committee serve in an advisory capacity and, as such, are subject to the provisions of California's open meeting laws, also known as the Ralph M. Brown Act ("Brown Act"). Advisory committee members are also subject to rules regarding conflict of interest under the Political Reform Act of 1974 ("the PRA"), which is enforced in California by the Fair Political Practices Commission, and are required to complete two hours of Local Officials Political Ethics Training every two years.

The Advisory Committee is required to meet at least four (4) times each year. All meetings are open to the public and must be noticed accordingly. All property owners and residents of the zone have the right to speak and vote on these issues. The Committee develops a recommended budget, including specific projects to be completed. The committee may evaluate and make recommendations on the adequacy of the amount of revenue collected within the zone. If an increase to the previously approved benefit assessment or special tax is proposed, it must be approved through the procedures previously described.

County staff presents the zones' proposed budgets to the Board for approval annually as part of the Community Development Agency's budget.

Question: *Are we required to bring our road up to any particular standards? Is there a requirement as to the level of maintenance and/or improvements we must provide?*

Answer: At this time there is no standard established for existing zone roads, although compliance with Fire Safety Regulations is recommended. The property owners and residents in the zone determine the level of improvements and/or maintenance for roads within their zone, subject to approval of the Board of Supervisors with the annual budget.

Question: *What happens to our money if we don't use it all during the year? What if we don't have the work done that we budgeted for? Is our money lost? Can the County use it for other purposes?*

Answer: Any funds budgeted but not used within the fiscal year are carried over into the zone's account for the next year. If budgeted projects are not completed, the funds will be available for the zone's use in the next year. By law, zone funds cannot be used for any purpose other than approved work in the zone and costs associated with operation and administration of the zone. An exception would be if a zone were to dissolve with a balance remaining in their account. In that case, the excess funds at the time of dissolution would revert to the County General Fund.

Question: *Are there any restrictions on what can be done on our road?*

Answer: One requirement of formation is that irrevocable offers of dedication for road and public utility easements be granted to the County¹. Once completed, this action establishes the road as a public road, subject to provisions of applicable State laws, including but not limited to the California Vehicle Code and Streets and Highways

Code. Important provisions for public roads include:

- access to the road cannot be restricted (no gates or any other barriers);
- obstructions cannot be placed on or under the surface of the roadway which will impede the speed of vehicles in such a way as to cause discomfort or harm to persons in a vehicle (such as speed bumps, speed dips or undulations); however, rumble strips and delineators are permitted;
- guide or directional signs are permitted; regulatory signs, such as speed limit or stop signs, require approval by the County CDA Transportation Division;
- road work must be completed by a contractor under a fully executed written agreement with the County. The contractor must meet the County's insurance requirements and satisfy licensing, bonding, and prevailing wage provisions of the Public Contract Code. Projects exceeding \$45,000 may require public bid and award made to the qualified low bidder. CDA staff will determine when bidding is required based on the project proposal provided by the zone advisory committee.
- limited volunteer work is allowed, upon written approval by the County prior to the start of work; and
- procurement of contracts and materials is subject to provisions of County Ordinance and Public Contract Code.

Question: *If we cannot post a speed limit on our road, how can we control speeders? What is our liability if an accident should occur?*

Answer: The California Vehicle Code states that travel on all public roads shall be at a prudent speed that in no way endangers property or life. The California Highway Patrol is responsible for public roads and will respond to calls on zone roads.

The road zones of benefit are required to contribute to the purchase of a liability insurance policy covering all zone roads.

Question: *Once a road zone of benefit is established, can it be dissolved? If so, what is the cost and what happens to any monies we have collected? Does the road revert to being a private road?*

A road zone of benefit can be dissolved by initiation of the Board of Supervisors or by initiation of the property owners or residents. A petition signed by no less than percent (10%) of the registered voters in the zone is required to initiate the dissolution process. A public hearing is conducted by the Board of Supervisors to consider dissolving the zone. Certain findings must be made in order for the dissolution to be approved, including that the roads are not of interest for public use.

If formation of the zone of benefit was a condition of approval for a subdivision map, a waiver of that condition must be obtained under a subdivision map amendment from the CDA Development Services Division before dissolution can proceed.

A deposit of \$1,000 is required to initiate the dissolution process. The actual costs to the County, including any fees charged by the State Board of Equalization, will be taken from the initial payment. The zone must pay any costs over the deposit amount before the dissolution will be recorded and may result in additional assessments or

charges to the zone.

Any funds remaining in a zone account at the time of dissolution will be used for expenses related to the dissolution. If there are additional funds remaining once the dissolution is complete and all financial obligations met, the monies will be transferred to the County General Fund.

Because irrevocable offers of dedication¹ exist, the roads remain public unless and until the Board of Supervisors takes formal action to vacate the right of way and return in to private use.

¹This applies only to zones where irrevocable offers of dedication were made. Different circumstances exist in zones formed prior to the County's requirement for irrevocable offers of dedication from each property owner. Roads may be considered to be public through means other than an irrevocable offer of dedication, and action by an entity other than the County or its Board of Supervisors may be necessary to change the status thereof.