

RESOLUTION NO. 2011-25

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK
ESTABLISHING PROCEDURES FOR THE CONDUCT OF PROTEST HEARINGS
PURSUANT TO PROPOSITION 218 FOR NEW OR INCREASED PROPERTY-
RELATED FEES AND CHARGES**

WHEREAS, Article XIII D of the California Constitution requires that cities meet certain procedural and substantive requirements when adopting a new or increased property-related fees or charges, and the Proposition 218 Omnibus Implementation Act (Government Code §53750 and following), as amended, provides additional guidance as to the procedures to be followed; and

WHEREAS, in order to comply with those procedures and conduct fair and accurate protest hearings, the City Council wishes to adopt local procedures;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park as follows:

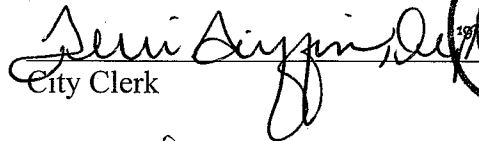
Section 1. The City Council hereby approves the "Procedures for Conducting Protest Hearings for Proposed New or Increased Property-Related Fees and Charges" as set forth in Exhibit "A" attached to this resolution and a part of it.

Section 2. The City Council hereby declares its intent, in adopting this resolution, to adopt procedures that are consistent with, and in compliance with, Article XIII D of the California Constitution and the Proposition 218 Omnibus Implementation Act.

Section 3. The City Council finds that this project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15273 of the CEQA Guidelines.

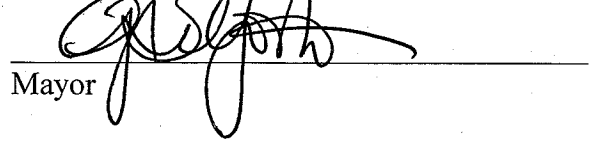
DULY AND REGULARLY ADOPTED this 22nd day of March, 2011.

ATTEST:

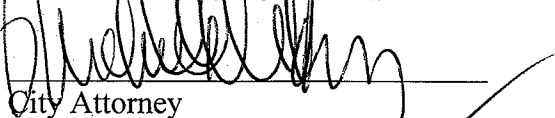

City Clerk



CITY OF ROHNERT PARK


Mayor

APPROVED AS TO FORM:


City Attorney

AHANOTU: <u>AYE</u> CALLINAN: <u>AYE</u> MACKENZIE: <u>AYE</u> STAFFORD: <u>AYE</u> BELFORTE: <u>AYE</u> AYES: (5) NOES: (0) ABSENT: (0) ABSTAIN: (0)
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Procedures for Conducting Protest Hearings
for Proposed New or Increased Property-Related
Fees and Charges

Exhibit "A"

City of Rohnert Park
Procedures for Conducting Protest Hearings
For Proposed New or Increased Property-Related
Fees and Charges

A. Definitions.

1. “Fee” or “rates” shall mean a property-related fee or charge subject to the requirements of Article XIII D §6 of the California Constitution
2. “Increase” shall mean a change in an existing property-related fee or charge that is subject to the majority protest hearing requirements of Article XIII D § 6.
3. “Public hearing” shall mean the noticed public hearing at which protests will be received.
4. “Tenant” means a real property tenant directly liable for the payment of the fee under consideration.

B. Creation of Master Mailing List.

1. The City shall prepare, or cause to be prepared, a Master Mailing List indentifying each property that would be subject to the proposed new or increased fee.
2. The Master Mailing List may be based upon the City’s account holder records if the City is currently providing a property-related service to the address. The list shall be updated no more than 30 business days before the date that notices are to be mailed. The Master Mailing List may also be based upon information in the last equalized secured tax assessment roll.

C. Notice; Right to be Heard.

1. If the Master Mailing List is created from the City’s property-related service accounts, notice shall be sent to the customary billing address for each and every account listed as authorized by Government Code §53755. The notice

may be addressed to “Record Owner/_____ Service Account Holder.”

2. Notice shall be sent via the United States Postal Service, postage prepaid, at least forty-five (45) days before the date set for the public hearing on the new or increased fee.
3. The City Clerk may post a copy of the notice on the City’s website.
4. The notice shall contain the information required by Article XIII D of the California Constitution and the Proposition 218 Omnibus Implementation Act, that is:
 - a. the amount of the new or increased fee proposed to be imposed;
 - b. the basis upon which the fee is calculated;
 - c. the reason for the fee;
 - d. the date, time and place of public hearing on the proposed fee, and such other information as the City shall determine is useful to those receiving it.
5. As provided in Government Code § 53756, the notice provided by these procedures shall supersede and be in lieu of notice required by any other statutes to levy the new or increased fees.
6. The City Clerk, or someone delegated by the City Clerk, may certify the proper mailing of notices by an affidavit, which shall constitute conclusive proof of mailing in the absence of fraud.
7. Failure of any person to receive notice shall not invalidate the proceedings.

C. Persons Eligible to File Protests; Right to Be Heard.

1. Members of the public are entitled to make comments at the public hearing whether or not they choose to submit a written protest.

2. **Property owners** of record are eligible to file protests. The last assessment roll of the Sonoma County Recorder is presumptive evidence of ownership of the parcel for the purposes of filing a property-owner protest. If a person filing a property-owner protest is not listed as the owner on the last equalized assessment roll, the protest must be accompanied by written proof that the person signing is the owner of record.
3. When a parcel is held as community property, or in joint tenancy, or tenancy-in-common, or by a trust, any spouse or domestic partner, joint tenant, tenant-in-common, or trustee shall be presumed to have authority to file a record-owner protest on behalf of that parcel.
4. Executors, administrators, and guardians may sign the property-owner protest on behalf of the estate represented by them, if they are shown on the latest assessment roll as paying taxes or assessments on behalf of the property owners. If not, written proof of the legal representation must be filed with the protest. Any one executor, administrator, or guardian is presumed to have authority to file a property-owner protest on behalf of such property.
5. The protest of any public or quasi-public corporation, private corporation, or any unincorporated association may be signed by any person authorized to do so in writing by the board of directors or trustees or any other managing body of it.
6. **Tenants** who are directly liable for the payment of the fee are eligible to file a tenant protest. A tenant listed as an account holder for the service for which the new or increased fee is proposed is presumed to be eligible to file a protest. If the City service account holder listed on the Master Mailing List has closed his or her account and a new person has qualified with the City as the account holder prior to the commencement of the Public Hearing, the new account holder may file a protest.
7. In any case where the documentation provided to the City Clerk in accordance with this Section C is ambiguous or unclear, the City Attorney

shall determine whether the documentation is adequate for the purpose provided.

D. Making and Counting Protests.

1. Any eligible record property owner or tenant may submit a written protest against the new or increased fee before or during the public hearing to the City Clerk.
2. Protests must:
 - a. Be in writing with the original signature from the property owner of record or tenant.
 - b. Identify the parcel for which the protest is being made, by address or Assessor's Parcel Number (APN).
 - c. State that the signer opposes the new or increased fee.
 - d. Be received at City Hall before or during the public hearing.
3. Protests delivered before the public hearing shall be hand delivered during normal business hours, or mailed, to the City Clerk at 130 Avram Avenue, Rohnert Park, California 94928.
4. Protests submitted by email, fax, or telephone, and oral protests of any kind will not be considered by the City in determining whether a majority of the owners of identified parcels have submitted protests.
5. All written protests must be submitted and received by the City Clerk before the conclusion of the public hearing. The City Clerk shall not accept any protest that is received after the conclusion of the public hearing even if postmarked before that time.
6. Any person who submits a written protest may withdraw it by submitting a request that it be withdrawn before or during the public hearing in the same manner as a protest can be made. The written withdrawal of a protest shall identify the parcel by assessor's parcel number or street address and shall identify the person withdrawing the protest as either the record owner of the

property or the tenant. The withdrawal of a protest shall only be valid if it is made by the same person who submitted the protest, or by a person with legal authority to act for that person.

7. No more than one protest shall be counted per parcel.

E. Tabulation of Protests.

1. The City Clerk shall take custody of written protests which shall remain confidential until after the close of the public hearing. From and after the time they are tabulated after the conclusion of the public hearing, the written protests shall constitute public records as defined in Government Code § 6524. The City Clerk shall establish appropriate safeguards to ensure that protests are secure and not available for examination prior to the conclusion of the public hearing. Once the protests become public records, the identities of those making protests shall be public.
2. The City Clerk shall determine the validity of all protests. The City Clerk shall not accept as valid any protest if the City Clerk determines any of the following:
 - a. The protest does not identify a parcel which is subject to the new fee, either by street address or parcel number.
 - b. The protest does not bear an original signature of the person submitting the protest.
 - c. The person signing the protest is not eligible to do so under the rules set forth in Section C above.
 - d. The protest does not state its opposition to the new or increased fee.
 - e. The protest was not received by the City Clerk before the close of the public hearing.
 - f. A valid request to withdraw the protest is received before the close of the public hearing.
3. The City Clerk's decision regarding the validity of a protest shall constitute a final action of the City and shall not be subject to the appeal to the City Council or to any other board or employee of the City.

4. The City shall prepare, or cause to be prepared, a Master Parcel List identifying each parcel subject to the new or increased fee. A majority protest exists if, with respect to a majority of the parcels subject to the new or increased fee, written protests which comply with each of the requirements of this resolution are timely submitted and not withdrawn.
5. The City Clerk shall begin tabulating written protests within twenty-four business hours following the close of the public hearing. The City Manager may retain a private firm with demonstrated experience in tabulating written protests to assist the City Clerk. If, at the conclusion of the public hearing, a cursory review of the protests demonstrates that the number received is manifestly less than one-half of the parcels that would be subject to the new or increased fee, then the City Clerk may advise the City Council of the absence of a majority protest without tabulating the protests.