

RESOLUTION NO. R-2020-17

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PLACENTIA, CALIFORNIA ADOPTING PROCEDURES FOR
ESTABLISHING AND INCREASING PROPERTY RELATED
FEES AND CHARGES UNDER PROPOSITION 218**

A. Recitals

(i). The City Council of the City of Placentia, California ("City") hereby finds, determines, declares, and resolves as follows:

(ii). Proposition 218 was adopted on November 6, 1996, adding Articles XIII C and XIII D to the California Constitution.

(iii.) Articles XIII C and XIII D of the California Constitution requires the City to comply with the substantive and procedural requirements set forth in section 6 of Article XIII D of the California Constitution prior to imposing or increasing a fee or charge upon any parcel of property or upon any person as an incident of property ownership; and

(iv). Proposition 218 requires that the "record owner" of the parcel upon which the fee or charge is proposed for imposition or increase be notified of the amount of the fee, the basis upon which the amount of the fee was calculated, the reason for the fee, and the date, time, and location of a public hearing on the fee; and

(v.) Proposition 218 does not clearly set forth the meaning of "record owner" for purposes of the notice required by section 6 of Article XIII D; and Proposition 218 does not clearly set forth who is allowed to submit protests, the procedure for submitting protests, or how the protests are to be tabulated; and

(vi). The City Council wishes to set forth procedures for these two issues in this resolution which are intended to be consistent with both Proposition 218 and with the Proposition 218 Omnibus Implementation Act.

(vii). Proposition 218, article XIII D section 2(e) defines "fee" as any levy or charge imposed upon real property by an agency "as an incident of property ownership, including a user fee or charge for a property related service." Article XIII D section 2(h) defines "property-related service" as "a public service having direct relationship to property ownership.

B. Resolution

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLACENTIA
DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

1. The facts set forth in the Recitals, Part A of this Resolution, are true and correct.

2. The following procedures shall be used when imposing or increasing a fee or charge subject to Article XIII D of the California Constitution when notice of a public hearing with respect to the adoption or increase of water, wastewater, or solid waste utility charges has been given by the City pursuant to Article XIII D, Section 6(a) of the California Constitution, the following shall apply:

3. Definitions. Unless the context plainly indicates another meaning was intended, the following definitions shall apply in construction of these guidelines:

(a). "Parcel" means a County Assessor's parcel the owner or occupant of which is subject to the proposed charge that is the subject of the hearing.

(b). "Record customer" and "customer of record" mean (i) the person or persons whose name or names appear on the City's records as the person who has contracted for, or is obligated to pay for, utility services to a particular utility account or (ii) another person who demonstrates to the reasonable satisfaction of the City Clerk that he, she, or it is a tenant of real property directly liable to pay the proposed fee.

(c). "Record owner" or "parcel owner" means the person or persons whose name or names appear on the County Assessor's latest equalized assessment roll as the owner of a parcel.

(d) A "fee protest proceeding" is not an election, but the City Clerk will maintain the confidentiality of protests as provided below and will maintain the security and integrity of protests at all times.

4. Protest Submittal:

(a). Any record owner or customer of record who is subject to the proposed utility charge that is the subject of the hearing may submit a written protest to the City Clerk, by:

- Delivery to the City Clerk's Office at Placentia City Hall, 401 East Chapman Avenue, Placentia, CA 92870 during published business hours
- Mail to City Clerk, 401 East Chapman Avenue, Placentia, CA 92870 or
- Personally submitting the protest at the public hearing.

(b). Protests must be received by the end of the public hearing, including those mailed to the City. No postmarks will be accepted; therefore, any protest not actually received by the close of the hearing, whether or not mailed prior to the hearing, shall not be counted.

(c). Emailed, faxed and photocopied protests shall not be counted.

(d). Although oral comments at the public hearing will not qualify as a formal protest unless accompanied by a written protest, the City Council welcomes input from the community during the public hearing on the proposed charges.

5. Protest Withdrawal. Any person who submits a protest may withdraw it by submitting to the City Clerk a written request that the protest be withdrawn. The withdrawal of a protest shall contain sufficient information to identify the affected parcel and the name of the record owner or customer of record who submitted both the protest and the request that it be withdrawn.

6. Multiple Record Owners or Customers of Record:

(a) . Each record owner or customer of record of a parcel served by the City may submit a protest. This includes instances where:

(i) A parcel is owned by more than a single record owner or more than one name appears on the City's records as the customer of record for the parcel, or

(ii) A customer of record is not the record owner, or

(iii) A parcel includes more than one record customer, or

(iv) Multiple parcels are served via a single utility account, as master-metered multiple family residential units.

(b). Only one protest will be counted per parcel as provided by Government Code Section 53755(b).

7. Transparency, Confidentiality, and Disclosure:

(a). To ensure transparency and accountability in the fee protest tabulation while protecting the privacy rights of record owners and customers of record, protests will be maintained in confidence until tabulation begins following the public hearing.

(b). Once a protest is opened during the tabulation, it becomes a disclosable public record, as required by state law.

8. City Clerk. The City Clerk shall not accept as valid any protest if he or she determines that any of the following is true:

(a). The protest does not state its opposition to the proposed charges.

(b). The protest does not name the record owner or record customer of the parcel identified in the protest as of the date of the public hearing.

(c). The protest does not identify a parcel served by the City that is subject to the proposed charge.

(d). The protest does not bear an original signature of the named record owner of, or record customer with respect to, the parcel identified on the protest. Whether a signature is valid shall be entrusted to the reasonable judgment of the City Clerk, who may consult signatures on file with the County Elections Official.

(e). The protest was altered in a way that raises a fair question as to whether the protest actually expresses the intent of a record owner or a customer of record to protest the charges.

(f). The protest was not received by the City Clerk before the close of the public hearing on the proposed charges.

(g). A request to withdraw the protest was received prior to the close of the public hearing on the proposed charges.

9. City Clerk's Decisions Final. The City Clerk's decision that a protest is not valid shall constitute a final action of the City and shall not be subject to any internal appeal.

10. Majority Protest:

(a). A majority protest exists if written protests are timely submitted and not withdrawn by the record owners of, or customers of record with respect to, a majority (50% plus one) of the parcels subject to the proposed charge.

(b). While the City may inform the public of the number of parcels served by the City when a notice of proposed rates is mailed, the number of parcels with active customer accounts served by the City on the date of the hearing shall control in determining whether a majority protest exists.


11. Tabulation of Protests. At the conclusion of the public hearing, the City Clerk shall tabulate all protests received, including those received during the public hearing, and shall report the results of the tabulation to the City Council. If the total number of protests received is insufficient to constitute a majority protest, the City Clerk may determine the absence of a majority protest without validating the protests received but may instead deem them all valid without further examination. Further, if the number of protests received is obviously substantially fewer than the number required to constitute a majority protest, the City Clerk may determine the absence of a majority protest without opening the envelopes in which protests are returned

12. Report of Tabulation. If at the conclusion of the public hearing, the City Clerk determines that she will require additional time to tabulate the protests, she shall so advise the City Council, which may adjourn the meeting to allow the tabulation to be completed on another day or days. If so, the City Council shall declare the time and

place of tabulation, which shall be conducted in a place where interested members of the public may observe the tabulation, and the City Council shall declare the time at which the meeting shall be resumed to receive and act on the tabulation report of the City Clerk.

13. This resolution will become effective immediately upon adoption.

APPROVED and ADOPTED this 21st day of April 2020



Ward L. Smith, Mayor

ATTEST:



Robert S. McKinnell, City Clerk



STATE OF CALIFORNIA
COUNTY OF ORANGE

I, Robert S. McKinnell, City Clerk of the City Of Placentia do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council held on the 21st day of April 2020 by the following vote:

AYES:	Councilmembers:	Green, Shader, Wanke, Yamaguchi, Smith
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None
ABSTAIN:	Councilmembers:	None



Robert S. McKinnell, City Clerk

APPROVED AS TO FORM:



Christian L. Bettenhausen, City Attorney