



RESOLUTION 1271-2015

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

WHEREAS, the City of Rio Dell provides water services and seeks to adjust water service rates; and

WHEREAS, California law regulates the process by which fees for water services are set and those processes are prescribed for in State law; and

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 Rio Dell as follows:

SECTION 1. 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 2. The City Council hereby approves the "Procedures for the Submissions and Tabulation of Protest Votes" as set forth in this Resolution and a part of it.

SECTION 3. The language of the "Procedures for the Submissions and Tabulation of Protest Votes" is as follows:

## PROCEDURES FOR THE SUBMISSION AND TABULATION OF PROTEST VOTES

### DEFINITIONS

Unless the context plainly indicates another meaning was intended, the following definitions shall apply in construction of these Guidelines:

1. "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.
2. "Record customer" and "customer of record" mean the person or persons whose name or names appear on the City's records as the person who has contracted for, and is obligated to pay for, utility services to a particular utility account.
3. "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
4. 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.

### NOTICE OF PROPOSED RATES AND PUBLIC HEARING

1. Notice Delivery
  - a. The City shall give notice of proposed charges via U.S. Mail to all record owners and customers of record served by the District
  - b. The City will post the notice of proposed charges and public hearing at its official posting site.

### SUBMISSION OF PROTEST

1. Protest submittal
  - a. Any record owner or customer of record who is subject to the proposed utility charge which is the subject of the hearing may submit a written protest to the City Clerk by
    - i. Delivery to the City Clerk's Office 675 Wildwood Ave., Rio Dell, CA
    - ii. Mail to the City of Rio Dell – RATE PROTEST, 675 Wildwood Ave., Rio Dell, CA
    - iii. 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.

## 2. Protest Requirements

- a. A written protest must include:
  - i. A statement that it is a protest against the proposed change which is the subject of the hearing
  - ii. Name of record owner or customer of record
  - iii. Identity of the affected parcel by assessor's parcel number or service address
  - iv. Original signature of the record owner or customer of record with respect to the identified parcel
- b. Protests shall not be counted if any of the required elements (I through IV) outlined in the preceding subsection "a" are omitted

## 3. Protest Withdrawal

- a. Any person who submits a protest may withdraw that protest 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.

## 4. Multiple Record Owners or Customer 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)

## 5. Transparency, Confidentiality, and Disclosure

- a. To ensure transparency and accountability in the fee protest tabulation while protecting the privacy rights of record owners and customer 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.

## TABULATION OF PROTESTS

### 1. City Clerk

- a. The City clerk shall not accept as valid any protest if he or she determines that any of the following is true:
  - i. The protest does not state its opposition to the proposed charges
  - ii. 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
  - iii. The protest does not identify a parcel served by the City which is subject to the proposed charge
  - iv. The protest does not bear an original signature of the named record owner 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 and/or the City
  - v. 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
  - vi. The protest was not received by the City Clerk before the close of the public hearing on the proposed charges
  - vii. A request to withdraw the protest was received prior to the close of the public hearing on the proposed charges

### 2. City Clerk's Decision is Final

- a. 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.

### 3. Majority Protest

- a. A majority protest exists if written protest are timely submitted and not withdrawn by the record owners or customers of record with respect to a majority (50% + 1) of the parcels subject to the proposed charge.
- b. While the district may inform the public of a number of parcels served by the District when a notice of proposed rates is mailed, the number of parcels with

active customer accounts served by the District on the date of the hearing shall control in determining whether a majority protest exists

4. Tabulation of protests

- a. 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.

5. Report of Tabulation

- a. If at the conclusion of the public hearing the City Clerk determines that he or she will require additional time to tabulate the protests, he or 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
- b. The City Clerk shall prepare, or cause to be prepared, a Master Parcel List identifying each parcel subject to the new or increased fee and also representing any protest vote for that parcel.

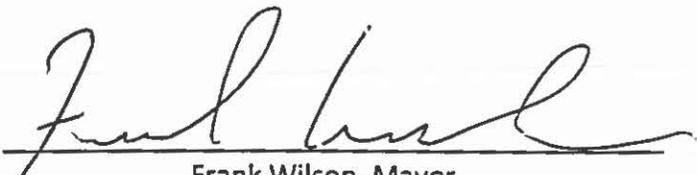
PASSED, APPROVED, AND ADOPTED by the City Council of the City of Rio Dell in the County of Humboldt, State of California, on the 6<sup>th</sup> day of October, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:



Frank Wilson, Mayor

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify that the above and foregoing to be a full, true and correct copy of Resolution 1271-2015 adopted by the City of Rio Dell on the 6<sup>th</sup> day of October, 2015.



Karen Dunham, City Clerk, City of Rio Dell