

RESOLUTION NO. 20-0029

A RESOLUTION OF THE MANHATTAN BEACH CITY
COUNCIL ADOPTING PROCEDURES IN CONNECTION
WITH PROPOSED SOLID WASTE HAULING FEE
INCREASES

RECITALS

WHEREAS, Article XIII D of the California Constitution and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750, *et seq.*) (the "Implementation Act") impose certain procedural and substantive requirements for imposing new or increased property-related fees and charges, as defined in Article XIII D ("Charges"), including the requirement to conduct a public hearing and majority protest proceedings for consideration of increases in rates;

WHEREAS, neither Article XIII D nor the Implementation Act provides specific guidance for the conduct of the public hearing and majority protest proceedings; and

WHEREAS, City Council desires to adopt procedures for the conduct of its public hearings and majority protest proceedings for consideration of rate increases which are consistent with Article XIII D and the Implementation Act.

NOW, THEREFORE, THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

Section 1. In accordance with Article XIII D and the Implementation Act, the City Council hereby approves the Procedures for the Conduct of a Public Hearing Relating to a Proposed Solid Waste Hauling Fees, as set forth in Attachment A, attached hereto and incorporated herein by reference (the "Procedures").

ADOPTED March 3, 2020.

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

ATTACHMENT A

PROCEDURES FOR THE CONDUCT OF A PUBLIC HEARING RELATING TO
PROPOSED INCREASES TO REFUSE COLLECTION SERVICE CHARGES

(See attached)

**PROCEDURES FOR THE CONDUCT OF A
PUBLIC HEARING RELATING TO PROPOSED
SOLID WASTE HAULING FEES**

The following Procedures have been adopted by the City Council of the City of Manhattan Beach for the purpose of conducting a public hearing required by Article XIII D of the California Constitution for consideration of the proposed increase to solid waste hauling fees (the “Proposed Increase”).

A. Definitions

1. “Customer of Record” means the person whose name appears on the City’s records as the person who contracted for, and became obligated to pay for, solid waste hauling for the Identified Parcel.
2. “Identified Parcel” means the parcel to which the Proposed Increase will apply.
3. “Proposed Increase” means a proposed increase to a charge for solid waste hauling service.
4. “Record Owner” means the owner of an Identified Parcel whose name and address appears on the last Los Angeles County equalized secured property tax assessment roll (the “Assessment Roll”), or in the case of any public entity, the State of California, or the United States, means the representative of that public entity at the address of that entity known to the City.

B. Notice of the Public Hearing on the Proposed Increase

1. Notice of the public hearing on the Proposed Increase shall be sent, postage prepaid, by first class mail at least forty-five (45) days prior to the date set for the public hearing, to the Customer of Record and to the Record Owner, if such person or entity is not the same as the Customer of Record.
2. “Record Owner” means the owner of an Identified Parcel whose name and address appears on the last Los Angeles County equalized secured property tax assessment roll (the “Assessment Roll”), or in the case of any public entity, the State of California, or the United States, means the representative of that public entity at the address of that entity known to the City.
3. Failure of any person to receive notice shall not invalidate the proceedings.

C. Eligibility to File a Protest

1. Any Customer of Record or Record Owner may file a written protest against the Proposed Increase.
2. If the owner of any Identified Parcel is not shown on the Assessment Roll, such owner may file a protest for such parcel by filing with the City Clerk a proxy from the Record Owner in a form satisfactory to the City Attorney or evidence of ownership satisfactory to the City Attorney. Any such proxy or evidence must be received by the City Clerk prior to the conclusion of the public hearing.
3. When a Customer of Record is, or an Identified Parcel is held by, a partnership, as community property, in joint tenancy, or as a tenancy in

common, any partner, spouse, joint tenant, or tenant in common, as the case may be, may file a protest for such parcel.

4. An executor, administrator, or guardian may file a protest for an Identified Parcel on behalf of the estate it represents. If such representative is shown on the Assessment Roll as paying taxes and assessments levied against the parcel, that fact shall establish the right of such representative to file the protest. If such representative is not shown on the Assessment Roll, the representative must file with the City Clerk written documentation satisfactory to the City Attorney establishing the legal representation. Any such documentation must be filed with the City Clerk prior to the conclusion of the public hearing.
5. When a Customer of Record is, or an Identified Parcel is held by, a corporation or unincorporated association, a protest may be filed by any person authorized in writing by the board of directors or trustees or other managing body thereof to take such actions. The corporation or unincorporated association must file with the City Clerk written authorization satisfactory to the City Attorney. Any such written authorization must be filed with the City Clerk prior to the conclusion of the public hearing.

D. Submission of Written Protests

1. Written protests may be mailed (via U.S. mail) to the City Clerk at City Hall or delivered in person to the City Clerk at City Hall or at the public hearing.
2. To be counted, each written protest must: (i) clearly state opposition to the Proposed Increase, (ii) identify the property covered by the protest and (iii) include an original signature (no copies) of the Customer of Record or Record Owner that is filing the written protest with respect to the Identified Parcel
3. No protest received after the close of the public hearing shall be counted in determining the existence of a majority protest. The last pick up by the City Clerk of protests mailed or delivered to City Hall will occur at 5:00 p.m. on the date scheduled for the public hearing. To ensure that protests which are mailed or delivered to City Hall are received by the City Clerk prior to the close of the public hearing, such protests must be received by the City Clerk at City Hall prior to 5:00 p.m. on the date scheduled for the public hearing. The City Clerk shall endorse on each written protest the date it is filed with the City. The City Clerk shall identify any protests which are received after the close of the public hearing.
4. Written protests may be withdrawn in writing at any time before the conclusion of the public hearing by the person who submitted the written protest.

5. For purposes of determining whether a majority protest exists, only one protest for each Identified Parcel will be counted.
6. Prior to the commencement of the public hearing, all written protests submitted shall be kept secret and confidential.
7. After the City Council opens the public hearing, all written protests shall be considered public records.

E. Conduct of the Public Hearing; Determination of A Majority Protest

1. At the time, date and place fixed for the public hearing, the City Council shall:
 - (i) Hear a staff presentation pertaining to the Proposed Increase;
 - (ii) Hear all persons interested in the matter of the Proposed Increase; and
 - (iii) Receive all written communications regarding the Proposed Increase.
2. The public hearing may be continued from time to time, as the City Council determines is necessary to complete its consideration of the Proposed Increase.
3. If the City Council determines at the close of the public hearing that written protests have been presented, and not withdrawn, by either the Record Owners or Customers of Record of a majority of the Identified Parcels (i.e., there is a majority protest), the City Council shall not approve the Proposed Increase.
4. If the City Council determines at the close of the public hearing that a majority protest does not exist among the Record Owners or Customers of Record, the City Council may adopt the Proposed Increase.